

**COOPERATIVE AGREEMENT**

**BETWEEN**

**THE TALLBULL MEMORIAL COUNCIL**

**THE CITY AND COUNTY OF DENVER, COLORADO**

## COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“**Agreement**” or “**Cooperative Agreement**”) is made and entered into as of the date of execution by the last party hereto, by and between the CITY AND COUNTY OF DENVER, a municipal corporation of the state of Colorado (the “**City**”), and THE TALLBULL MEMORIAL COUNCIL, a Colorado nonprofit corporation (the “**Council**”), with a business address of PO Box 2122, Englewood, Colorado 80110 (City and Council may each be referred to herein as a “**Party**” and collectively as the “**Parties**”).

### RECITALS:

A. The Council is an incorporation of organizations, indigenous nations and First Nation groups that have occupied and utilized certain lands, including lands operated by the City, with the mission of promoting and preserving native ancestral culture and traditions.

B. By Charter of the City and County of Denver, the City’s Department of Parks and Recreation (“**DPR**”) manages and operates Daniels Park, which is a part of the City’s Mountain Park system (hereinafter the “**Park**”).

C. Under a previous cooperative agreement, the Council has hosted and provided cultural events and activities for the benefit of the indigenous and native community, the Park and the general public. The Council intends to continue to provide events and activities, and the City intends to remain in cooperation with the Council for the events and activities.

D. In accordance with Article II, Part 4, Section 2.4.4(F) of the City Charter the Executive Director of DPR (“**Executive Director**”), subject to approval by City ordinance, is authorized to conduct negotiations for cooperative agreements for the development of park and recreational facilities, programs and activities.

E. It is in the best interest of the Council, the City and the general public that a new Cooperative Agreement should be entered into between the Council and the City to provide for the continued stewardship and care of the Park for certain activities, programs and cooperative stewardship work; for the enjoyment and education of the citizens of the City and the general public, in the furtherance of the Council’s mission; and as acknowledgment of the Council’s and the indigenous and native peoples of Colorado’s connection and relationship to the Park and the land.

**NOW, THEREFORE**, in consideration of the above recitals, hereby incorporated into the substantive provisions of this Agreement by this reference, and the mutual promises contained herein, for the purpose of setting forth the relationship between Council and the City with respect to the Park and related activities, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, it is mutually agreed by the City and Council as follows:

1. **ENGAGEMENT and COOPERATION**. The City hereby engages the Council for this cooperative arrangement to occupy, maintain, administer, manage, operate, develop, and control the portion of the Park set forth in **Exhibit A** (the “**TallBull Premises**”), along with the

programs, operations, and personal property located within that portion of the Park for the enjoyment, benefit and service of the Park and the public. The Council hereby accepts such engagement on the terms and conditions set forth herein. The Council may occupy, possess, manage, control and operate that portion of the Park and the activities and programming. Notwithstanding anything to the contrary in this Agreement, the rights herein granted to the Council are not, and shall not be construed as, a permanent lease, easement, or other interest in real property which extends beyond the term of this Agreement.

## **2. STATUS AND AUTHORITY OF THE COUNCIL.**

(a) Status. Council and the City acknowledge and agree that the status of the Council shall be that of an independent contractor and nonprofit corporation cooperatively working with the City as an independent entity solely for the purposes set forth in this Agreement.

(b) Authority. The scope of authority the Council may exercise with regard to the Park shall be as expressly delegated, assigned, or allowed under and necessarily implied in this Agreement. The Council shall have no authority to avoid, modify or waive any applicable City ordinances or regulatory requirements enacted or adopted under the City's police or taxing powers. This Agreement is not intended, nor shall this Agreement be construed, to establish or constitute a joint venture between the City and the Council.

(c) Contracts. The authority delegated under this Agreement shall not be construed to grant the Council the right or power to bind, or to impose any liability upon, the City through any contracts or agreements Council may make, unless the prior, written approval of the Executive Director is obtained, which approval shall not be unreasonably withheld, and the contract or agreement is in accordance with all applicable City ordinances and regulatory requirements. All contracts or agreements made by the Council regarding use of or services for the TallBull Premises, if any, shall be in the Council's name and not in the name of the City. Likewise, the City shall have no authority to bind, or to impose liability upon the Council through any contracts or agreements the City may make unless the prior written approval of the Council is obtained.

(d) Nonprofit Status. The Council shall at all times while this Agreement is in effect take such actions as may be necessary to maintain and preserve, and shall refrain from taking such actions as may be detrimental to, its status as a nonprofit corporation that qualifies as a tax-exempt entity under section 501(c)(6) of the Internal Revenue Codes (or any successor provision).

**3. TERM.** This Agreement shall commence as of the Effective Date. The term of the Agreement shall be twenty-five (25) years after execution, or shall expire upon the occurrence of an Event of Termination, including mutual termination by the Parties. The term of this Agreement shall automatically and without further action be extended on every twenty-fifth (25<sup>th</sup>) year anniversary date, unless and until either the Council or the City give the other written notice of its election that the automatic extension shall not take effect. Such notice shall be sent to the other Party no later than six (6) months prior to the intended termination. Any other change to the terms and conditions of this Agreement, other than the automatic term extensions must be approved and executed by the Parties in the same manner as this Agreement.

4. **IMPROVEMENTS TO THE TALLBULL PREMISES OR THE PARK.** The City and the Council acknowledge that the Council does not intend to perform significant capital improvements to the TallBull Premises under this Agreement. The Council may in its discretion propose certain capital improvements, projects or installations that benefit the park and the TallBull Premises. Such improvements, if any, requiring substantial modification to the TallBull Premises shall be subject to review and approval by the Executive Director and may require separate agreement between City and the Council. The design of improvements shall be coordinated with DPR. Temporary fixtures, including fixtures attached to the land, are intended to be the property of the Council and may be removed only if such removal will not result in damage to the Park or land.

5. **PERSONNEL; COUNCIL EMPLOYEES.** All personnel and contractors hired or engaged by the Council to perform work on the TallBull Premises shall be employees or independent contractors of the Council and not of the City (“**Council Employees**”). The Council shall have the sole authority to hire, engage, fix the compensation and benefits of, supervise, train, evaluate, discipline and discharge any of the Council Employees, in conformance with all laws governing private employers and independent contractors. Under no circumstances shall Council Employees be regarded as employees or contractors of the City; however, all Council Employees are expected to comply with the terms and conditions of this Agreement.

6. **REAL AND PERSONAL PROPERTY.**

(a) **Real Property.** DPR, on behalf of the City, manages and operates the Park in accordance with City Charter § 2.4.4., for the benefit of the general public, and subject to the terms of this Agreement. The City holds all right, title, and interest in the permanent improvements to and within the TallBull Premises including future improvements, installations or construction, if any; and which may be acquired in the future and during the term of this Agreement. All such improvements shall be available for use by the Council during the Term of this Agreement. The Council shall not permanently construct, install, attach, or affix anything within the TallBull Premises without obtaining City review and approval of proposed installations. The Council may not sell, lease, mortgage, encumber, hypothecate, or otherwise create or assign a property or financial or other security interest in the TallBull Premises or any part of the Park.

(b) **Personal Property.** Any equipment, furnishings, supplies or other personal property now owned or acquired in the future by the Council through purchase or by gift for use in connection with the Council’s use, shall be held in legal ownership by the Council (“**Council Personal Property**”). The bison herd on and within the TallBull Premises or any other part of the Park or Mountain Parks are and shall remain the personal property of the City, unless and until a transfer of any of the bison occurs. The Council may, from time to time (as the Council determines to be needed), replace, lend or dispose of Council’s Personal Property, through sale, purchase, trade, loan or other means of disposal or transaction. The Council, at its discretion, may cooperate with any City department willing and authorized to participate in the exchange, sharing, or loan of equipment, supplies or other personal property or in the joint purchase of equipment, supplies or other personal property, subject to all applicable Charter or ordinance requirements.

(c) **Bison Conservation Program.** City and the Council have developed and participated in a conservation program for the health, safety and protection of the bison herds currently within the Park and other Mountain Parks (“Bison Conservation Program”). As a part of

the Bison Conservation Program, City shall from time to time arrange for the donation of bison to various tribal governments or indigenous nonprofit organizations within or outside of the State of Colorado. City shall coordinate with the Council to assist in facilitating with donations. DPR will also collaborate with the Council to further develop bison conservation best practices. Council shall otherwise have no responsibility or liability regarding the Bison Conservation Program.

## **7. GENERAL MAINTENANCE AND REPAIR.**

(a) The Council shall maintain the TallBull Premises in safe condition and good repair, including, without limitation, trails, fencing (except bison fencing), structures and landscaping within the TallBull Premises. The Council and the City will make all reasonable efforts to share responsibility for the repair and maintenance of the wellhouse, based on the level of prior historical efforts provided by either Party, located within the TallBull Premises. The Council may in its discretion request installation of or repairs fixtures or other facilities within the TallBull Premises or may request that the Council perform certain installations or repairs. The Council shall make all reasonable efforts to report to the City's Risk Management Office damage to the TallBull Premises that may be covered by City insurance. In the event that the Council proposes to perform improvements or proposes to make any significant or substantial repairs to the TallBull Premises, the Council shall provide sufficient advance notice to the City to allow the City to coordinate and assist with the work.

(b) Contracting. All work or service which the Council performs under this Agreement may be contracted and shall, unless specific waiver is granted in writing by the City, be subject by the contract terms to each and every provision of this Agreement that would apply to such work or service as if being performed by the Council. Any such service or work contract shall also be subject to Applicable Law (as defined herein), including competitive selection of service providers, Prevailing Wages, Minimum Wages, and the provision of bond or other surety if applicable. Compliance with the terms of this Section 7(b) is the responsibility of the Council. The Council shall, upon request, provide the City a copy of any written contract or agreement for work or services provided.

(c) Competitive Selection. As a part of the advance notice to and coordination with the City regarding improvements and repairs, City and the Council will determine whether to develop procedures for the competitive selection of service providers related to proposed work. The City shall provide guidance to the Council on competitive selection, or the City shall conduct the competitive selection for the work. Selection shall comply with the City's Charter, ordinances, Executive Orders, rules, regulations and policies with regard to competitive selection, Prevailing Wage requirements, Minimum Wage requirements, and contracting procedures.

## **8. COMMUNITY BENEFIT; PARK PURPOSE.**

(a) The Council shall use all reasonable efforts to conduct activities and make the TallBull Premises available for public use and enjoyment, whether by the Council's use and operation of the TallBull Premises, or by entering into separate agreements with third parties, which in the Council's discretion may be charged a reasonable rate consistent with the purposes of this Agreement and the Council's mission. Any such charges or rates are subject to City's prior review and approval, and may require approval by City Council. Such public and community purposes include but need not be limited to publicly accessible activities, gatherings or events

regarding education, equity, culture, arts and crafts, youth support and empowerment, local affairs, and other activities for public benefit; for the acknowledgement and celebration of indigenous and native community and culture; and to secure contributions of funding, sponsorships and support consistent with the Council's mission.

(b) Council Planning and Use. The Parties hereby agree and acknowledge that the Council's planned use and activities regarding the TallBull Premises are approved by the Executive Director. Any material change in any approved use, including any material changes to related agreements, shall be reviewed and approved by the Executive Director. Review and approval by the Executive Director shall be subject to this Agreement and consistent with DPR rules, regulations and policy, including whether the Executive Director recommends that a public process should be utilized. If DPR and the Council agree to utilize a public process, Council and DPR shall cooperate in conducting the public process.

(c) Approval Process; Material Change. For any proposed material changes to existing use or activities regarding the TallBull Premises, the City and Council shall confer and develop an approval process including but not limited to review and approval time periods and discussions regarding a public process. A "material change" to existing use shall mean modifications to or expansion of one or more material aspects of previously approved or existing use. Decisions made and actions taken by Council in the normal course of and for the day-to-day maintenance, management, operation, and use of the TallBull Premises, or in implementing or conducting existing use, shall not be deemed a "material change". Council's annual planning and budgeting process, including matters reported in accordance with Section 19, shall not be deemed to be a "material change" except to the extent that such planning and budgeting results in an action, strategy, or decision directly contrary to or inconsistent with an existing use.

(d) Implementation and Compliance. The Parties acknowledge and agree that Council shall not be obligated to implement any particular proposed use of the TallBull Premises, or any particular change in use of the TallBull Premises, but the Council shall not take any actions to make material changes to or pursue programmatic strategies contrary to or inconsistent with the provisions of this Section 8.

**9. EMERGENCIES**. In the event of an existing or imminent emergency where the TallBull Premises or public safety are at substantial risk, or neighboring property or residents are at substantial risk, due to unsafe or unhealthy conditions of the TallBull Premises, either Party is authorized, without notice to the other Party, to take such prompt and prudent measures as necessary to secure, protect, and preserve the TallBull Premises, neighboring property, and public health and safety, including any necessary capital improvements or work. Notice shall be provided as soon as reasonably possible to the other Party as to reasons for the emergency work, the time, place, and manner of the emergency work, and the costs incurred due to the emergency work. The City and the Council shall discuss and agree upon responsibilities for performance and costs of emergencies that result in the need for capital improvements.

## **10. GENERAL OPERATIONAL REQUIREMENTS**

(a) Community Cooperation. To the extent possible and consistent with Council programs, Council shall reasonably cooperate with community, charitable, educational and other organizations, institutions (including state or national groups), DPR, and other entities

in the Denver metropolitan area, in Douglas County with respect to common interests in community programs, activities and scientific studies at no additional substantial cost to Council. Council shall provide access to the TallBull Premises to the extent its resources may permit and as may be compatible with programs and use of the TallBull Premises and the interests of the general public.

(b) Political Activity. No City funds received by Council shall be used by Council in connection with any activities of a political nature, including, but not limited to, any activity to further the appointment, election, defeat, or removal of any applicant, incumbent, or candidate for public office or any activity undertaken to influence the passage, defeat, or final content of any legislation or ballot proposal. A strict accounting of all other funds associated with this Agreement used by Council for political activity, if any, shall be maintained and available for public review upon request.

(c) Governance. Council shall be governed by its bylaws (“**Bylaws**”). Council shall provide a copy of its Bylaws, and any modification or amendments thereto, to the City upon request.

(d) Cooperative Statement. Council and the City acknowledge that the following is an accurate summary of the basis for this Agreement:

The TallBull Premises and portions of Daniels Park are utilized and maintained by the TallBull Council, a Colorado nonprofit corporation, for the people of the City and County of Denver and for the general public in cooperation with the Denver Parks and Recreation Department.

Council shall include the foregoing statement in postings and signs at the TallBull Premises and documentation prepared for the TallBull Premises and Council’s programs where it is appropriate to acknowledge the nature of the relationship, including letterhead, annual or institutional reports, websites, newsletters, program materials, periodicals, grant applications, and other materials distributed generally by Council and Council’s partners and other partners to community and other organizations, institutions, and the public. It is understood Council may, from time to time, be expected or obligated to include other statements of support and cooperation (e.g., by specific donors) and Council may combine the above statement with such other statements of support and cooperation. Where practical the following shorter version of the cooperative statement may be used in lieu of that set forth above:

In Cooperation with the City and County of Denver.

Postings shall conform, in graphic design and quality, to uniform standards established by Council and approved by the Executive Director. The Executive Director shall approve or disapprove Council’s uniform standards by no later than thirty (30) calendar days after receipt. The Executive Director may, in the Executive Director’s sole discretion, waive all or any of the requirements of this Section 10(d), subject to such terms or conditions as the Executive Director may specify.

(e) City Access. The Mayor, members of the Denver City Council, the Executive Director, and other representatives of appropriate City departments including City

agency partners shall, at all reasonable times and upon reasonable notice, have access to the TallBull Premises for the purposes of visitation and inspection.

## **11. COUNCIL EVENTS AND FUNDRAISERS; PERMITTING.**

(a) Collection and Harvest of Native Plants and Trees. This Agreement shall authorize the Council and its members and representatives to continue its collection and harvesting of native plants and trees within the TallBull Premises, within the Park, and in the Mountain Parks for educational and ceremonial purposes. Such authorization shall remain in effect unless this Agreement is terminated or other permission or agreement is provided.

(b) Council Events & Fundraisers. Council shall have the right to organize and stage its own events, including fundraising events for the benefit of Council and the TallBull Premises, and including presentation of artistic or cultural displays, performances or events on or at the TallBull Premises, or concessions. Council may provide or enter into third-party agreements to provide for concessions and other similar services for sale related to events. The events held by Council shall be consistent with park purposes, Council purposes, and other events permitted by the City in the City's other parks and park facilities.

(c) Programs and Activities Charges. Council shall have the right to establish a schedule of reasonable fees and charges for public participation in programs and activities conducted by Council.

## **12. GIFTS; SPONSORSHIPS; AND GRANTS.**

(a) Gifts and Sponsorships. Council shall have the right to accept and utilize, for the benefit of Council and the TallBull Premises gifts, donations, and contributions of money and personal property (“**Gifts**”) and money and personal property, which may include certain benefits or recognition (as limited by this Agreement) being a condition of providing the money or personal property (“**Sponsorships**”). The term or length of any Sponsorship agreement or arrangement may not exceed the Term of this Cooperative Agreement. Council may, in its discretion, refuse to accept any Gift or Sponsorship if Council determines that such Gift or Sponsorship would not be in the best interests of the Council or the TallBull Premises. Council shall follow DPR's Gifts, Naming and Corporate Sponsorship Policies, or develop policies regarding the solicitation and use of Gifts and Sponsorships, acceptability of and compliance with any terms and conditions on Gifts or Sponsorship, and any formal recognition or acknowledgments associated with Gifts or Sponsorships as appropriate for the Park. Separate policies developed by Council must be submitted to and approved by the Executive Director or designee, and in conformance with the terms and conditions of this Agreement and with City laws, rules and regulations.

(b) Grants. Council shall have the right to apply for, accept and utilize, for the benefit and use of the TallBull Premises grants and other governmental or private financial assistance (“**Grants**”). Council and the City may collaborate and support each other's efforts to obtain Grants for the TallBull Premises and for the support and enhancement of programs and activities conducted by Council on the TallBull Premises. Any matching fund requirement of a Grant shall be the responsibility of Council unless the City has approved the matching fund requirement in accordance with City ordinance and appropriated its share of the matching funds.

Any Grant which requires certain covenants or other restrictions be imposed on the TallBull Premises or other park land, in whole or part, as a condition of obtaining the Grant must be approved by the City through the City's established contract process.

(c) Compliance. For all Gifts, Sponsorships, and Grants accepted and utilized by Council, including any donations of money and grant money received by the City for the TallBull Premises and turned over to Council, Council shall be responsible for complying with the terms and conditions of those Gifts, Sponsorships, and Grants.

**13. FUNDING.** In order for Council to achieve and continue the purpose of this Agreement, funding shall be provided or permitted from the following sources to be expended for the purposes stated in this Agreement:

(a) Appropriations made annually at the discretion of the City which may be made available in such amounts as the City determines, in its reasonable discretion, to be necessary or desirable to pay costs and expenses for the management, operation, maintenance, modification, and improvement of the TallBull Premises. Appropriations may be applied by the City in the manner specified in the appropriation.

(b) Fees, charges for use of the TallBull Premises, programs, and activity participation at rates that may be set by the Council shall be collected and deposited by Council in accounts held by Council.

(c) Funds accepted by Council for Gifts, Sponsorships, and Grants, income earned by Council on its investments, and all other operating net revenues received by Council shall be retained and deposited by Council in accounts held by Council.

(d) Funds contributed to the Council by cooperating local governmental entities to support the Council's activities under this Agreement. Nothing in this Agreement shall diminish or eliminate any or all of the City's rights or interests, or be considered as a waiver thereof, that the City may have concerning the TallBull Premises or the Park.

It is understood that neither the City nor Council is hereby obligated to provide any specific level of funding for the purposes set forth in this Agreement, and if either Party for any reason reduces any funding previously provided, the other Party shall not be obligated to increase its funding as a result thereof.

**14. UTILITIES AND OTHER SERVICES.** The City shall assure access to connection to utilities reasonably needed to operate and maintain the TallBull Premises. City shall pay for electrical service to the TallBull Premises and well maintenance on the TallBull Premises. The Council shall be responsible for solid waste removal. The City may provide to Council other services supplemental to those of Council, to the extent agreed upon by the Parties from time to time.

**15. COUNCIL INSURANCE.**

(a) General Conditions. Council agrees to secure, at or before the time of execution of this Agreement the following insurance covering all operations, goods or services provided pursuant to this Agreement. Council shall keep the required insurance coverage in force

at all times during the term of the Agreement, or any extension thereof. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-”VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Parties identified in the Notices section of this Agreement and shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Council shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City’s contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by Council. Council shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Council. Council shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

(b) Proof of Insurance. Council shall provide a copy of this Agreement to its insurance agent or broker. Upon City’s request at any time during the term of this Agreement, Council shall provide a current certificate of insurance evidencing Council’s compliance with all insurance requirements of this Agreement. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Section 15(b) shall not act as a waiver of Council’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. Risk Management may require additional proof of insurance, including but not limited to policies and endorsements.

(c) Additional Insureds. For Commercial General Liability, Council and subcontractor’s insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as an additional insured.

(d) Waiver of Subrogation. For all coverages required under this Agreement, Council’s insurer shall waive subrogation rights against the City.

(e) Subcontractors; Subconsultants. All subcontractors or subconsultants (including independent contractors, suppliers, or other entities providing goods or services required by this Agreement) shall procure and maintain applicable insurance. Council shall ensure all such Subcontractors and Subconsultants include both Council and the City and County of Denver as an Additional Insured on their policies (with the exception of Workers’ Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Subcontractors and Subconsultants and agree to provide proof of insurance upon request by the City.

(f) Workers’ Compensation/Employer’s Liability Insurance. The parties recognize and agree that the Council is engaged in an independent occupation and profession and is free from control and direction in the performance of the services contracted for herein consistent with that mandated by C.R.S. §8-40-202(2)(a). It is understood and agreed by the parties that the

City does not (1) require the Council to work exclusively for the City, provided that the Council may have elected to work exclusively for the City for the period of time specified in the term of this Agreement; (2) establish a quality standard for the Council, provided that the parties agree that while the City may provide plans regarding its expectancy of the work to be performed by the Council, the City will not oversee the actual work of the Council or instruct the Council as to how the work will be performed; (3) pay a salary or hourly wage to the Council instead of the fixed contract rate stated herein; (4) terminate the work of the Council for cause during the term of this Agreement unless the Council violates the terms of the Agreement or fails to produce a work product or result that meets the specific terms provided in the Agreement; (5) provide any training for the Council other than minimal orientation to the site or other parameters of the Council activity; (6) provide tools or benefits to the Council; (7) dictate the time of performance; except that the Agreement completion date together with the range of negotiated and mutually agreeable work hours has been established herein; (8) pay the Council personally instead of making City warrants payable to the professional name of the Council, except that in this Agreement the Council is an individual and sole proprietor; and (9) combine the regular operation of the City in any way with the professional or business operations of the Council instead of maintaining office operations separately and distinctly.

These provisions are separately stated in **Exhibit B**, “Separate Declaration Regarding Independent Status”, constituting the writing mandated by C.R.S. 8-40-202(2)(b), which must be signed and notarized by the Council and the Manager. The Mayor hereby delegates to the Manager the authority to execute on behalf of the City **Exhibit B**, “Separate Declaration Regarding Independent Status.”

(g) Commercial General Liability: Council shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

(h) Personal Automobile Liability: Council shall ensure personal automobile insurance is in force with current state minimum limits for all vehicles used in performing services under this Agreement. Council represents, as material representations upon which the City is relying, that Council does not own any fleet vehicles and that in performing Services under this Agreement, Council’s owners, officers, directors, and employees use their personal vehicles. Council shall ensure that any person operating a motor vehicle in performing Services under the Agreement shall keep in full force Personal Auto Liability coverage with minimum required limits.

(i) Personal Property Insurance. Council shall maintain insurance, on a replacement cost basis, for contents and personal property owned by the Council.

(j) Other: To the extent reasonable to protect City rights or property, the insurance requirements set forth in this Section 15 shall survive the expiration or earlier termination of this Agreement. If it is determined Council insurance is insufficient for purposes of this Agreement, the City shall provide reasonable notice to Council and an opportunity to cure the deficiency. The City shall be entitled reimbursement of its reasonable costs if the City deems it necessary to remedy Council’s deficiency.

## **16. DEFENSE AND INDEMNIFICATION.**

(a) Council hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed by the Council, its employees, contractors and agents, under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Council or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

(b) Council’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Council’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

(c) Council will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

(d) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Council under the terms of this indemnification obligation. Council shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

(e) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

**17. IMMUNITY AND CLAIMS.**

(a) Immunity. The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations (presently \$150,000 per person, \$600,000 per occurrence) and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S., and any other applicable law.

(b) Claims. In the event that any claim, demand, suit or other action is made or brought in writing by any person, firm, corporation or other entity against Council related in any way to this Agreement or the operation of the Premises, Council shall give written notice thereof to the City within five (5) working days after being notified of such claim, demand, suit or other action. Such notice shall state the date and hour of notification and shall include a copy of any such claim, demand, suit, or other action received by Council. Such written notice shall be submitted, as provided in this Agreement, to the Executive Director and the City Attorney, 1437 Bannock Street, Room 353, Denver, Colorado 80202.

**18. TAXES; LICENSES; LIENS; DEBTS.**

(a) Taxes. Council shall collect and remit all sales taxes and other taxes as required by law (local, state, or federal), shall promptly pay all taxes and excise and license fees of whatever nature applicable to this Agreement including but not limited to possessory interest taxes, and shall not permit any of said taxes and excise and license fees to become delinquent.

(b) Licenses. Council shall obtain, keep current, and comply with all licenses, permits, or other authorizations (local, state, or federal) required for the performance of this Agreement, if any. The Executive Director will endeavor to facilitate Council's effort to obtain any such license, permit, or other authorization.

(c) Liens. Council shall not permit any mechanic's or materialman's lien or any other lien to be imposed upon the property of the City and remain for more than ninety (90) days after notice to Council, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any person, partnership, association, company, corporation, or other entity to or for Council, either pursuant to C.R.S. § 38-26-107, as amended, or by other authority; provided, however, that if any such lien should, at any time, be filed, Council shall not be in violation of this subsection (c) if Council causes the same to be discharged of record or posts a bond and commences contest of the same within the foregoing 90-day period.

(d) Debts. Council shall promptly pay, when due, all bills, debts, and obligations incurred in connection with its management or administration of the Facilities and shall not permit the same to become delinquent. Council shall suffer no lien, mortgage, judgment, execution, or adjudication of bankruptcy that would, in any way, impair the rights of the City under this Agreement or its rights to the Facilities.

(e) Final Adjudication. Council may, diligently and in good faith, challenge, disclaim or contest the application or imposition of any such tax, fee, lien, debt, or obligation, in which case the City shall not be considered due, owing or imposed for the purposes of this Agreement until final adjudication of validity. Council may likewise, diligently and in good faith, appeal any judgment, execution, or adjudication of bankruptcy, in which case the same shall not be regarded as impairing the City's rights until final adjudication.

## **19. REPORTS; AUDITS AND BUDGETS.**

(a) Council shall, on an annual basis no later than April 1, provide to the Executive Director a comprehensive written report of its activities from the preceding year (the "Annual Report"). The Annual Report shall contain the following:

(i) A financial report of all prior year receipts and expenditures of public and private funds associated with activities on the TallBull Premises, including but not limited to all revenue and funds received; all fees, rents or other charges for access to or use of the TallBull Premises from events, participation in programs or other activities; concession receipts; and Gifts, Sponsorships, and Grants;

(ii) Statement of any updates to programs, or a statement of no updates;

(iii) Amendments or modifications to governance and operational documents, or a statement of no amendments or modifications;

(iv) Proposed changes in schedule of fees, charges or rental rates, or a statement of no proposed changes;

(v) Schedule of proposed or planned events for the upcoming year, or a statement of no proposed or planned events;

(b) If any item required in Section 19(a) was omitted from the Annual Report for the reasons set forth herein, then Council shall so state in the Annual Report.

(c) Council shall, on an annual basis no later than December 15, provide to the Executive Director a finalized budget for the upcoming year (unless it is impractical to submit by December 15, in which case Council and the Executive Director shall agree on a practical date).

(d) Examination of Records and Audit. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Council's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement upon at least five (5) business days prior written notice to Council at the office of the Council. Council shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of one (1) year after the final payment or delivery of final obligations under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this section shall require Council to make disclosures in violation of state or federal privacy laws. Council shall at all times comply with D.R.M.C. 20-276.

**20. NON-DISCRIMINATION.** Council agrees to comply with all applicable laws concerning non-discrimination against persons because of their race, color, religion, national origin, gender, gender identity or gender expression, age, military status, sexual orientation, marital status, or physical or mental disability in connection with membership on Council board, access to the Premises, and participation in any public program on the Premises. In connection with the performance under this Agreement, Council agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, gender identity or gender expression, age, military status, sexual orientation, marital status, protective hairstyle, or physical or mental disability; and further agrees to insert the foregoing provision in all contracts, subcontracts, or agreements it may enter.

**21. ENVIRONMENTAL COMPLIANCE.** Council shall obtain all federal, state, and local environmental permits necessary for work and shall comply with all applicable federal, state, and local environmental permit requirements. Council shall comply with all applicable local, state, and federal environmental guidelines, rules, regulations, statutes, laws, and orders (collectively, "**Environmental Requirements**"), including but not limited to Environmental Requirements regarding the storage, use, transportation, and disposal of Hazardous Materials and regarding releases or threatened releases of Hazardous Materials to the environment. The term

“**Hazardous Materials**” shall mean asbestos, asbestos-containing soils, and asbestos-containing materials, special wastes, polychlorinated biphenyls (PCBs), any petroleum products, natural gas, radioactive source material, pesticides, any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, and chemical substance as defined at 15 U.S.C. § 2602(2) of the Toxic Substances Control Act, any Colorado statutes serving a similar purpose for environmental regulation, and any guidelines issued and rules or regulations promulgated pursuant to such statutes or any other applicable federal or state statute. Notwithstanding the preceding provisions of this Section 21, Council is not responsible for curing any environmental hazard which existed on or prior to the Effective Date of this Agreement, unless Council discharges Hazardous Materials.

**22. TERMINATION.** Other than as provided in Section 3, this Agreement may be terminated only as follows:

(a) Council Default. In the event that Council shall default or breach, on its part, in the performance or fulfillment of one or more material term(s), promise(s), or condition(s) of this Agreement (“**Council Default**”) and shall failure to cure such Council Default within ninety (90) days following delivery of written notice from the Executive Director specifying Council Default and the date on which the City may exercise its right to terminate the Agreement if such Council Default is not cured, the City may, in its reasonable discretion, terminate this Agreement and may exercise any remedy available to it under this Agreement including Section 22(d) and available at law or in equity.

(b) City Default. In the event the City shall default or breach, on its part, in the performance or fulfillment of one or more material term(s), promise(s), or condition(s) of this Agreement (“**City Default**”) and shall fail to cure such City Default within ninety (90) days following delivery of written notice from Council specifying the City Default and the date on which Council may exercise its right to terminate the Agreement if such City Default is not cured, and Council may exercise any remedy available under this Agreement or otherwise at law or in equity.

(c) Other. Upon mutual agreement of the Parties, the time to cure any Council Default or City Default may be extended to a date certain and the manner and extent of cure may be modified. The deadline for any cure under this Section 22 shall not excuse the obligation of any defaulting party to take timely and proper action to prevent, stop, mitigate, or alleviate any recent or impending damage to Facilities, or neighboring property or any existing or imminent threat to public health and safety.

(d) Effect of Termination. Upon termination of this Agreement, including termination or expiration of this Agreement as provided in Section 3, the TallBull Premises and all other permanent improvements contained therein or upon any other City-owned property which belong to Council shall remain the property of the City, and all Council Personal Property as identified in Section 6(b), shall immediately become the property of the City if it cannot be removed from City land within one hundred twenty (120) days. Upon request, Council shall execute and timely deliver bills of sale to the City for the transfer of Council Personal Property. Council shall take all reasonable measures to turn over the Facilities and any other City-owned property to the City in a timely manner and in reasonably good operating condition. Any City

funds that have not been used by Council under this Agreement and not needed to cover Council's remaining obligations incurred in performing its duties under this Agreement shall be promptly returned to the City. All remaining funds (including, without limitation, funds held by Council as endowment) and other personal property held by Council (not otherwise conveyed to the City under this Section 22(d)) shall be used or distributed by Council consistent with the duties and obligations of Council towards the donors of any such funds or of any personal property and in accordance with Council's articles of incorporation and Bylaws.

### **23. GENERAL PROVISIONS.**

(a) Appropriation. Notwithstanding any provision of this Agreement to the contrary, any obligations including financial obligations of the City under this Agreement are contingent upon all funds necessary for performance under this Agreement being budgeted, appropriated and otherwise made available, and any commitments by the City to provide services is contingent upon the necessary funds being budgeted, appropriated, and otherwise made available and the necessary discretionary actions being taken by the City Council and the Mayor. The Parties acknowledge that this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

(b) Good Faith. The City and Council agree to work diligently and in good faith to perform and fulfill the duties and obligations and achieve the purposes of this Agreement and to resolve any unforeseen issues or disputes under this Agreement as quickly and fairly as possible.

(c) Assignment. Except for subcontracting allowed under this Agreement, Council shall not assign, encumber, or otherwise transfer any rights or interests granted by this Agreement, in whole or in part, without the prior written consent of the City, and unless the assignee or transferee (1) shall agree to assume, and can reasonably demonstrate the ability to perform, the obligations of Council under this Agreement and (2) shall agree to be bound by the terms, covenants, and conditions contained in this Agreement to be performed or satisfied by Council with the like force and effect as though such assignee or transferee had been originally named hereunder. No assignment, encumbrance, or transfer of any kind shall be permitted that would extend or be effective beyond the term of this Agreement. Any assignment, encumbrance, or transfer must be approved and executed in the same manner as this Agreement.

(d) Contracting or Subcontracting. Any work that is allowed to be contracted or subcontracted under this Agreement shall be subject, by the terms of the contract or subcontract, to every provision of this Agreement. Compliance with this provision shall be the responsibility of the Party who arranged the contract or authorized the subcontract. Council shall, upon request, provide to the Executive Director a copy of any written contract or subcontract entered by Council for work or services covered by this Agreement.

(e) Non-waiver. No party shall be excused from complying with any provision of this Agreement by the failure of the other party to insist upon or to seek compliance. No assent, expressed or implied, to any failure by a party to comply with a provision of this Agreement shall be deemed or taken to be a waiver of any other failure to comply by said party.

(f) Applicable Law. The Parties agree to comply with all Applicable Law in existence as of the Effective Date of this Agreement or as may be subsequently enacted or adopted

and applicable to this Agreement. The Executive Director agrees to provide Council with reasonable notice of and an opportunity to review and comment on any changes proposed by the Executive Director in City ordinances and Parks and Recreation rules, regulations, and policies applicable to the Premises before such changes are enacted or adopted. It is understood that the Executive Director will not, in any event, propose any changes in laws, rules, or regulations applicable to the Facilities as a means to depart from the express terms of this Agreement; provided, however, this provision shall not restrict any authority of the City to adopt reasonable ordinances or rules and regulations which are of general application throughout the City, including the Premises.

(g) Alcohol and Drugs Policy; Smoking Policy

(i) Except where federal or other law, rule or regulation may apply and supersede, the Council, its directors, officers, agents, and employees shall cooperate with the provisions of Executive Order No. 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Refusal to cooperate with implementation of the policy can result in the City barring the Council from City facilities or participating in City operations.

(ii) The Council agrees to comply with Executive Order No. 99 and any rules, regulations, or policies adopted by the Executive Director and generally applicable to specified facilities under the operation of Parks and Recreation.

(h) Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the United States, the State of Colorado, and the applicable provisions of the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

(i) Conflict of Interest. The Parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein, and Council further agrees not to hire or contract for services any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12.

(j) No Personal Liability. No official, officer, director, agent, or employee of either Party shall be charged personally or held contractually liable to the other Party or its officials, officers, agents, or employees under any term or condition of this Agreement or for any breach, default, or violation under this Agreement.

(k) Force Majeure. No Party shall be liable for delay or failure to perform hereunder, despite best efforts to perform, if such delay or failure is the result of *force majeure*. Notices of the occurrence and the end of such delay shall be provided by the Party asserting *force majeure* to the other party. "*Force majeure*" shall mean causes beyond the reasonable control of a Party such as, but not limited to, extreme weather conditions, unforeseen or unpredictable natural forces or disasters or the public enemy, public health or safety emergencies declared by local, state or federal government, pandemics or epidemics, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third

parties, fire or other casualty, or action of government authorities. Written notice of any claim of inability to perform or comply due to *force majeure* must be promptly given.

(l) No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties; and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such agreements. It is the express intention of the Parties that any person or entity other than the Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

(m) Notices. All notices, demands or consents required or permitted under this Agreement shall be in writing and shall be deemed delivered upon receipt, if delivered personally or by facsimile transmission (receipt verified by telephone) or electronic mail, or upon the third day following posting by certified mail, return receipt requested, to the following addresses:

If to the Council:

The TallBull Memorial Council  
PO Box 2122  
Englewood, Colorado 80110

If to the City or the Executive Director:

Executive Director of Parks and Recreation  
City and County of Denver  
201 West Colfax Avenue, Dept. 601  
Denver, Colorado 80202

With copy to:

Denver City Attorney's Office  
1437 Bannock Street, Room 353  
Denver, Colorado 80202

The address for any Party set forth above may be changed at any time by written notice in the manner provided herein to all other Parties.

(n) Entire Agreement. This Agreement, including the exhibits which are hereby incorporated into this Agreement by reference, constitutes the entire Agreement of the Parties. The Parties agree there have been no representations, oral or written, other than those contained herein and that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.

(o) Amendment. Except as expressly provided in this Agreement, this Agreement must be amended, modified, or changed, in whole or in part, only by written agreement executed by the Parties in the same manner as this Agreement.

(p) Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term or condition that will legally achieve the original intent and purposes of the Parties hereunder.

(q) Confirmation of Lawful Employment:

1) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

2) Council certifies that:

(A) At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement.

(B) It will participate in either the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., or the employment verification program established by the Colorado Department of Labor and Employment under § 8-17.5-102(5)(c), C.R.S. (the “**Department Program**”), to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

3) Council also agrees and represents:

(A) It shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.

(B) It shall not enter into a contract with a contractor or subcontractor that fails to certify to Council that it shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.

(C) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program or the Department Program.

(D) It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement.

(E) If it obtains actual knowledge that a contractor or subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, it will notify such contractor or subcontractor and the City within three days. Council will then terminate such contractor or subcontractor if within three days after such notice the contractor or subcontractor does not stop employing or contracting with the worker without authorization, unless during such three-day period the contractor or subcontractor provides information to establish that the contractor or subcontractor has not knowingly employed or contracted with a worker without authorization.

(F) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S.

(G) Council is liable for any violations as provided in the Certification Ordinance. If Council violates any provision of this paragraph or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, Council shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this paragraph or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Council from submitting bids or proposals for future contracts with the City.

(r) No Construction against Drafting Party. The Parties acknowledge that each of them and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions have been prepared by a particular Party.

(s) Headings for Convenience. Headings and titles contained herein are intended for the convenience and reference of the Parties only and are not intended to combine, limit, or describe the scope or intent of any provision of this Agreement.

(t) Authority. Each Party represents and warrants that it has taken all actions necessary or required by its applicable law to legally authorize the undersigned signatories to execute this Agreement on behalf of the Party and to bind the Party to its terms. The person(s) executing this Agreement on behalf of each Party warrants that he/she/they have full authorization to execute this Agreement.

(u) Execution of Agreement. This Agreement shall not be or become effective or binding until it has been approved by ordinance and it has been fully executed by all signatories of the Parties.

(v) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one Agreement.

(w) Electronic Signatures and Electronic Records. The Parties consent to the use of electronic signatures by the Parties. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by the Parties. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[Remainder of Page Left Intentionally Blank; Signature Page Follows]**

**Contract Control Number:** PARKS-202161608  
**Contractor Name:** Tallbull Memorial Council

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

PARKS-202161608  
Tallbull Memorial Council

By:  \_\_\_\_\_  
5ACC1852B2D44C2...

Name: Richard Tallbull  
(please print)

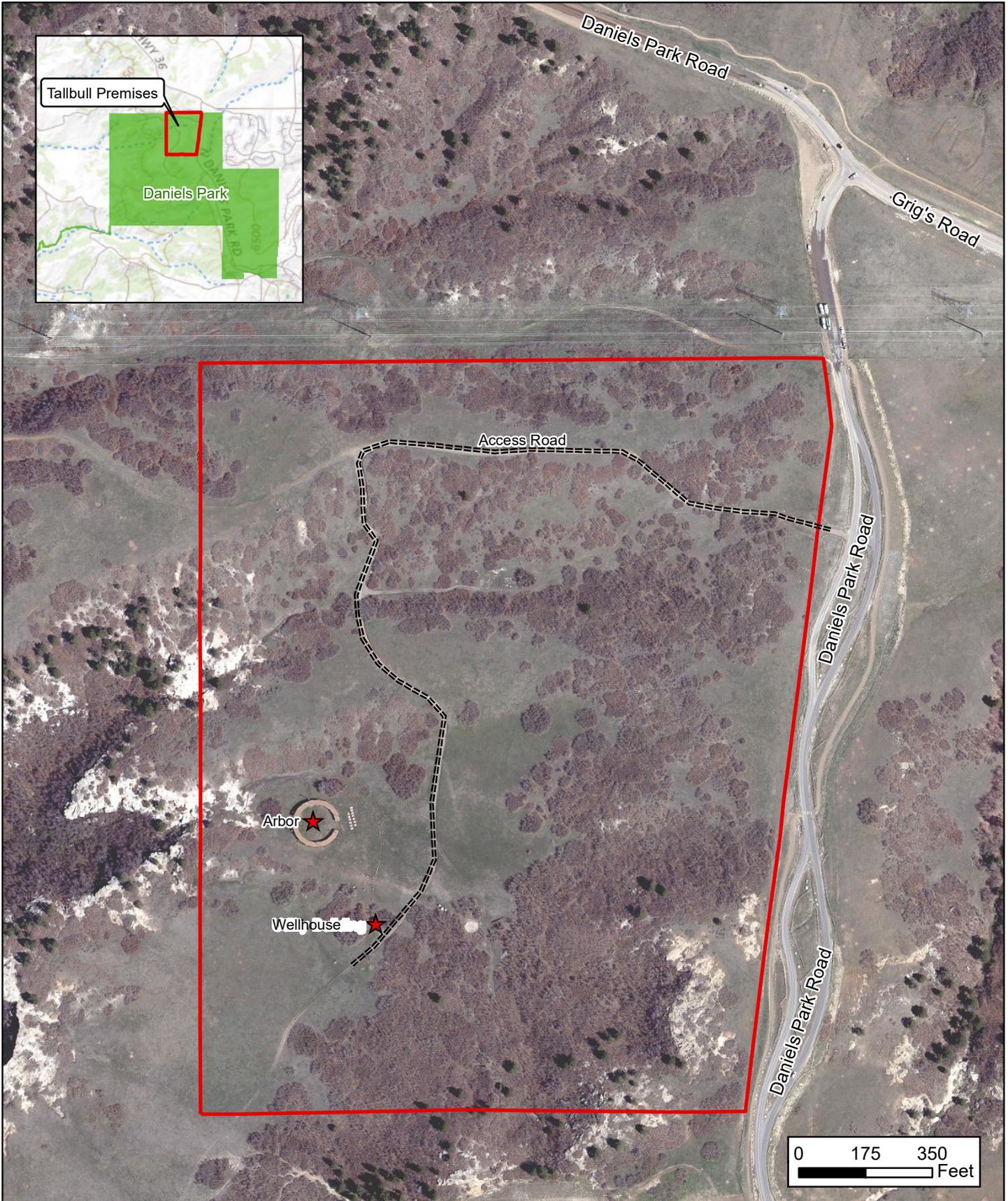
Title: Executive Director  
(please print)

ATTEST: [if required]

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



# Exhibit A: Tallbull Premises



### Separate Declaration Regarding Independent Status

It is understood and agreed by and between the City and TBMC as the "Contractor" that the status of the Contractor shall be that of an independent contractor and of a person retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1(E)(x) of the Charter of the City and it is not intended, nor shall it be construed, that the Contractor or any employee or subcontractors is an employee, officer, or agent of the City under Chapter 18 of the Denver Revised Municipal Code for purposes of unemployment compensation, workers' compensation, or for any purpose whatsoever.

**Without limiting the foregoing, the parties hereby specifically acknowledge that the Contractor is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity besides the City, that the Contractor is not entitled to workers' compensation benefits from the City, and that the Contractor is obligated to pay federal and state income taxes on any monies earned pursuant to this Agreement.**

The parties recognize and agree that the Contractor is engaged in an independent occupation and profession and is free from control and direction in the performance of the services contracted for herein consistent with that mandated by C.R.S. 8-40-202(2)(a). It is understood and agreed by the parties that the City does not (a) require the Contractor to work exclusively for the City, provided that the Contractor may have elected to work for exclusively for the City for the period of time specified in the term of this Agreement; (b) establish a quality standard for the Contractor, provided that the parties agree that while the City may provide plans regarding its expectancy of the work to be performed by the Contractor, the City will not oversee the actual work of the Contractor or instruct the Contractor as to how the work will be performed; (c) pay a salary or hourly wage to the Contractor instead of the fixed contract rate stated herein; (d) terminate the work of the Contractor for cause during the term of this Agreement unless the Contractor violates the terms of this Agreement or fails to produce a work product or result that meets the specific terms provided in the Agreement; (e) provide any training for the Contractor other than minimal orientation to the site or other parameters of the Contractor activity; (f) provide tools or benefits to the Contractor; (g) dictate the time of performance; except that the Agreement completion date together with the range of negotiated and mutually agreeable work hours has been established herein; (h) pay the Contractor personally instead of making City warrants payable to the professional name of the Contractor, except that in this Agreement the Contractor is an individual and sole proprietor; and (i) combine the regular operations of the City in any way with the professional or business operations of the Contractor instead of maintaining office operations separately and distinctly.

\_\_\_\_\_  
Manager, Department

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature of Contractor

STATE OF COLORADO )  
CITY AND )ss  
COUNTY OF DENVER )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_,  
by \_\_\_\_\_ as Manager, Department.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

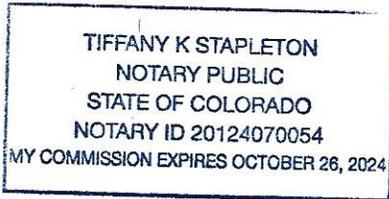
\_\_\_\_\_  
Address

STATE OF COLORADO )  
CITY AND *Douglas* )ss  
COUNTY OF DENVER )

Subscribed and sworn to before me this 23 day of March,  
~~2022~~ by Richard Tallbott, as Contractor.

Witness my hand and official seal.

My commission expires: 10-26-2024



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public  
9233 E Lincoln Ave  
Address Lone Tree, CO 80126