



337 E. Bennett Avenue, Cripple Creek, CO 80813  
CRIPPLE CREEK CITY COUNCIL  
January 15, 2025  
5:30 PM – REGULAR MEETING

Join City Council Regular Meeting By ZOOM

Meeting ID: 832 4951 8040

Passcode: 116061

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PUBLIC COMMENT**

**APPROVAL OF MEETING MINUTES** from the December 18, 2024, CCCC Regular Meeting

**REPORTS**

City Administrator

Finance Director

**PRESENTATIONS**

**NEW BUSINESS**

- A. Consider Dedicating Cripple Creek as Part of the Purple Heart Trail; Administrator Salvato (A)
- B. Consider Approval of Two (2) Professional Service Agreements; Butte Manager Smith (A)
  - a. Chameleon Arts & Entertainment
  - b. Green Glass Productions
- C. Consider Approval of a Lease Agreement with Friends of the Butte; Butte Manager Smith (A)
- D. Consider Approval of Resolution 2025-01 Establishing the Designated Public Locations for the Posting of City Meeting Notices as Required by the Colorado Open Meetings Law; City Clerk Gish (A)

**ADJOURNMENT**

Posted Friday January 10, 2025 at Cripple Creek City Hall, the Cripple Creek Post Office  
and on the City of Cripple Creek Website [www.cityofcripplecreek.com](http://www.cityofcripplecreek.com)

**Written comments are welcome & should be submitted to the City Clerk prior to the start of the meeting.**

**abbreviations:**

**(A) Administrative** – matters involving day-to-day decisions such as approving contracts, hiring staff and the procurement of goods and services. Administrative actions generally do not require formal actions by the elected body.

**(L) Legislative**- typically in the policy arena; legislative matters affect large areas and large groups of people, such as enacting dog regulations or amending the City code. Legislative action generally involves motions, resolutions and ordinances.

**(QJ) Quasi-Judicial** - apply general rules to a specific interest, such as zoning change affecting a single piece of property, or a special use permit. Quasi-Judicial actions generally involve adjudication, sometimes in writing, but not a resolution or ordinance. Decision for Quasi-Judicial proceedings are made exclusively based upon the testimony presented on the record. Ex-parte communication (communication outside the official hearing) between elected officials and citizens is not permitted on Quasi-Judicial.



### **DECEMBER 18, 2024, Regular Meeting Minutes**

Mayor Durham called the regular meeting to order at 5:30 PM and led with the Pledge of Allegiance. City Clerk Gish called roll. Councilmember Trenary was absent. Staff present in Council Chambers were Administrator Salvato (via ZOOM); City Clerk Gish; Police Chief Bright; Finance Director Edwards; Planning & Community Development Manager Krochta; Director of Plant Operations Smith (via ZOOM); HR/Risk Management Director Stotts; Building Official Hartsfield; Historic Preservation Coordinator Lyons; Special Projects Director Mosher and City Attorney Smith.

**APPROVAL OF MEETING MINUTES** from the December 4, 2024, regular meeting.

**Motion** by Schwab and seconded by Bowman to approve the meeting minutes from the December 4, 2024, regular meeting. **Motion** carried 4/0

### **REPORTS**

Stotts reports in Administrator Salvato's absence. Stotts recognizes Jesse Avery for her 20 years with the city.

Edwards reports on gaming numbers.

### **PRESENTATIONS**

Sol Malick gives a legislative update.

### **NEW BUSINESS**

Consider Approval of the Proposed Updated Cemetery Rules & Regulations for the Mt. Pisgah Cemetery

Lyons explains the changes noted in the updated cemetery rules and regulations following a recent work session.

**Motion** by Bowman seconded by Brown to approve the Updated Cemetery Rules & Regulations for the Mt. Pisgah Cemetery. **Motion** carried 4/0.

Consider Approval of the Fire & Police Pension Association (FPPA) Volunteer Plan Affiliation Agreement

Edwards shares the original fire department was a volunteer department. There are 7 remaining members left that are enrolled in the FPPA. The city no longer makes contributions to the plan and the benefits are paid by the FPPA.

**Motion** by Schwab and seconded by Bowman to approve the Fire and Police Pension Association Volunteer Plan Affiliation agreement. **Motion** carried 4/0.

Consider Approval of a Water Lease Agreement with the City of Victor

**Motion** by Brown and seconded by Schwab to approve a water lease agreement with the City of Victor. **Motion** carried 4/0.

SECOND READING AND PUBLIC HEARING to Adopt Ordinance 2024-11, an Ordinance Amending Prior Ordinance Vacating a Portion of Second Street Within the City of Cripple Creek Described in this Ordinance

It is announced that there will be a combined public hearing for items D&E. Smith explains the new revisions to each Ordinance stated in the motion.

**Motion** by Schwab and seconded by Bowman to close public comment on the combined public hearing. **Motion** carried 4/0.

**Motion** by Bowman and seconded by Schwab to adopt Ordinance 2024-11 on second reading an Ordinance amending prior Ordinance vacating a portion of 2nd St. within the City of Cripple Creek described in this Ordinance with the addition of a new #5 stating; *applicant shall pay fees due and owed in the amount of \$463,182.28 in 12 monthly installments on the 15th of every month beginning January 2025.* **Motion** carried 4/0.

SECOND READING AND PUBLIC HEARING to Adopt Ordinance 2024-12 an Ordinance Amending Previous Ordinance Vacating a Portion of an Alley Within the City of Cripple Creek Described in this Ordinance

**Motion** by Brown and seconded by Schwab to approve on second reading Ordinance 2024-12 an Ordinance amending the previous ordinance vacating a portion of an alley within the city of Cripple Creek described in this Ordinance with the addition of a new #5 stating; *the applicant shall pay fees due and owed in the amount of \$463,182.28 in 12 monthly installments on the 15th of every month beginning January 2025.* **Motion** carried 4/0.

Consider Approval of a Fifth Amendment to Amend and Restated Development Agreement With FHR

**Motion** by Schwab and seconded by Brown to approve a Fifth Amendment to Amend and Restated Development Agreement With FHR. **Motion** carried 4/0.

**ADJOURNMENT** With no other business to present Mayor Durham adjourns the meeting at 6:33 pm.

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Annie Durham, Mayor

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Malissa Gish, City Clerk



TO: Mayor & City Council

FROM: Frank Salvato, City Administrator

AGENDA ITEM:

DATE: January 15, 2025

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**REQUEST:** Mayor and Council consider approval of signage provided by the Veterans Rally Committee for the Park and Cemetery.

**OVERVIEW & ANALYSIS:** The Veterans Rally Committee is offering two signs, "Cripple Creek Veterans Memorial - Purple Heart Trail", to be dedicated during the Rally for the City Park and Cemetery. The signs would be placed near both Veterans Memorials.

**BUDGET IMPACT:** The cost of two poles and staff setting the poles and attaching the signs.

**STAFF RECOMMENDATION AND COUNCIL ACTION REQUESTED:** Approve offer from the Veterans Rally Committee to provide two signs, "Cripple Creek Veterans Memorial - Purple Heart Trail", to be dedicated at the Rally.

Hi Frank-

Attached is a proof of a proposed “Purple Heart Trail” sign that we would like to dedicate at the 2025 Rally. This sign would make Cripple Creek part of the ”Purple Heart Trail” .... which follows the signs that the County put up on the roadways all over Teller. This is different than the “Purple Heart Community” signs that we (you) placed in Cripple Creek earlier this year.

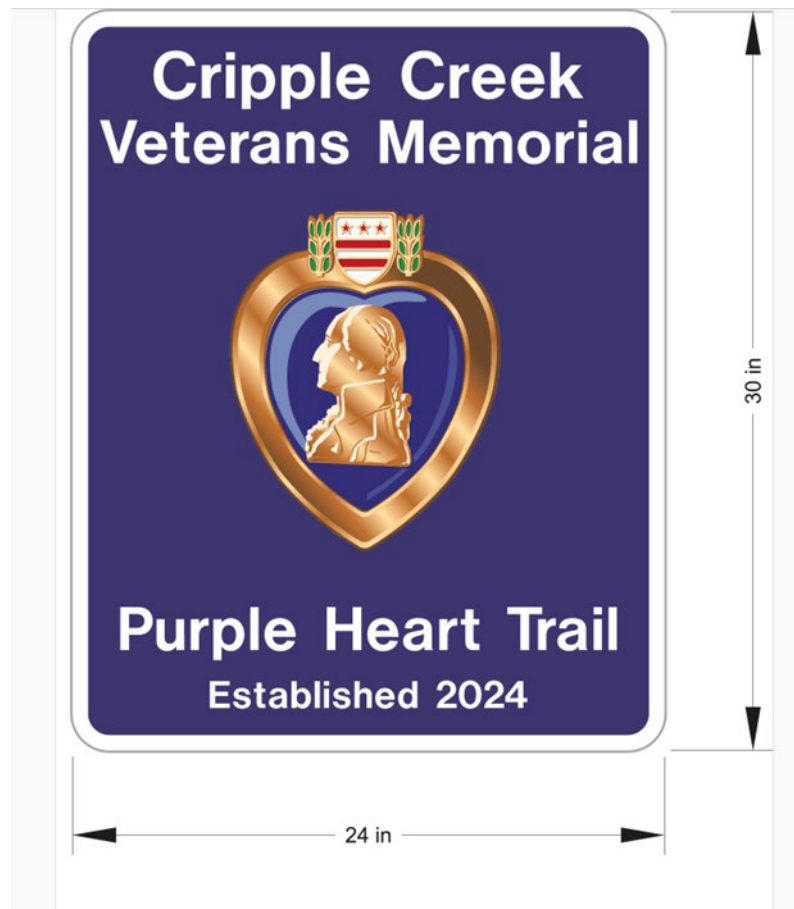
We would put this in the park - somewhere near the Memorial which was established there by the Veterans Rally back 30 years ago or so. The City (you / Connie / whomever) will have final approval on placement. There would be NO cost to the City, other than a post / pole to place the sign on and installation by City Works. We could fundraise that amount if we need to.

Please run this up / down the chain and see what comes back.

Thank you-

-JW

PS- As an aside, we should consider making the same for the Mt. Pisgah Memorial. The Rally Committee would be willing to participate.





TO: Cripple Creek City Council

FROM: Lauren Smith

DATE: 01/08/2025

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**REQUEST:** Consider approval of the Professional Season Service Agreements for 2025's Professional Season with Chameleon Arts & Entertainment and Green Glass Productions.

**OVERVIEW & ANALYSIS:** For the 2025 Professional Season, the Butte is looking to contract 2 professional theater production companies, Chameleon Arts & Entertainment (a contractor for the 2024 Professional Season) and Green Glass Productions. Chameleon A&E will produce the Summer Melodrama and Green Glass will produce the remainder of the 2025 Professional Season. Green Glass Productions is a newly formed production company by Nick and MJ Madson, who worked with Chameleon (Betsy McClenahan) for the 2024 Summer Season. Now operating as two separate companies, the producers are viewing their work at the Butte as a collaborative experience with the Butte & the city and with each other to ensure we reach the united goal of bringing high quality, top tier professional productions to Cripple Creek. With experience working with the Butte and the City of Cripple Creek in 2024 and their local connections (both companies are Colorado Springs based), it is our belief that they are the perfect companies to usher the Butte into its next era.

**BUDGET IMPACT:** The 2025 Professional Season is slated to cost \$270,000 across 4 productions. This leaves a remainder of \$10,000 in the Professional Season line item to use for drop-in performances at the Butte Manager's discretion.

**STAFF RECOMMENDATION AND COUNCIL ACTION REQUESTED:** Staff recommends approval of the contracts.

## **AGREEMENT FOR PROFESSIONAL SERVICES AND USE OF CITY FACILITIES**

THIS AGREEMENT FOR PROFESSIONAL SERVICES AND USE OF CITY FACILITIES (“Agreement”) is made and entered into this 15th day of January, 2025, by and between the City of Cripple Creek, a Colorado municipality, 337 East Bennett Avenue, P.O. Box 430, Cripple Creek, Colorado 80813 (the "City") and Kaleidoscope Colorado d.b.a. Chameleon Arts & Entertainment LLC, 7555 Churchwood Circle, Colorado Springs, CO 80918 ("CAE") (each referred to herein as a “Party” or collectively as the “Parties”).

WHEREAS, the City requires professional services for the production of performances (in the singular “Performance” or in the plural “Performances”) of professional theatrical production(s) as described in Section V.A.1 and Exhibit A (each professional theatrical production referred to herein as a “Show” or collectively as the “Shows”) during the professional theater season; and

WHEREAS, CAE has held itself out to the City as having the requisite expertise and experience to perform the required services; and

WHEREAS, the City owns facilities in the City of Cripple Creek known as the Butte Theater, Star Building and Victorian Lady (the "Facilities"), the addresses of which are set forth in Exhibit A; and

WHEREAS, the Butte Theater (also referred to herein as the “Butte”) is used for theatrical productions, the Star Building is used for rehearsals, office space, and other theater-related purposes, and the Victorian Lady for actor housing; and

WHEREAS, the 2025 professional theater season period is described in Exhibit A (the “Professional Season”); and

WHEREAS, CAE desires: (1) to use the Butte Theater for production of the Performances in the number and of the title as listed and described in Exhibit A during the Professional Season; (2) to use the Star Building for rehearsals, office space, storage, and other theater-related purposes during the Professional Season; and (3) to use the Victorian Lady for actor housing; during the Professional Season; and

WHEREAS, during the Professional Season, the City shall be primarily responsible for the operation and maintenance of the Butte Theater (including front-house functions, such as managing the box office). CAE shall be primarily responsible for the production of the Shows (including back-of-house functions, such as managing the back-stage areas); and

WHEREAS, The Friends of the Butte, through a separate agreement with the City will have the exclusive right to sell concessions and alcohol during the Professional Season; and

WHEREAS, the Parties share a mutual mission of maintaining and building on the Butte’s reputation as a regional theater and CAE agrees to produce a professional theatrical production that presents the Butte Theater and the City in the best light while maintaining each entity’s separate identity (i.e. the Butte Theater as a separate entity from CAE); and

WHEREAS, the City desires to allow CAE to use the Facilities, subject to the terms of this Agreement; and

WHEREAS, the City has an employee who serves as the City's Technical Operations Coordinator (the "TOC"); and

WHEREAS, the Parties acknowledge that from time to time CAE may require certain services that would be within the TOC's capability to provide above and beyond the TOC's regular duties for the City for which CAE would like the TOC to perform (the TOC Additional Services"); and

WHEREAS, the City agrees that CAE may request and where such request is approved, shall pay the City for TCO to perform the TOC Additional Services, subject to the terms of this Agreement.

NOW THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**I. SCOPE OF SERVICES**

A. CAE shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Work in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Services").

B. A change in the Scope of Services shall constitute a material change or amendment of services or work which is different from or additional to the Scope of Services. No such change, including any additional compensation, shall be effective or paid unless authorized by written amendment executed by the City. If CAE proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, *quantum meruit* or implied contract.

C. Notwithstanding any contrary provision herein, the City reserves the right to add or cancel performances of a professional theater production subject to the following: Additional performances: Where the City determines in its sole discretion that patron demand warrants it, the City shall have the right to add performances by furnishing written notice at least seven calendar days in advance of the added performance(s). CAE shall comply with all such added performance notices. Removed performances: Where the City determines based on its data and records that less than 10 tickets have been sold for a professional theater production, the City shall have the right to cancel performances of that theater production by furnishing written notice at least 24 hours before the scheduled performance. CAE shall comply with all such cancellation notices.

**II. COMPENSATION**

A. In consideration for the completion of the Scope of Services by CAE, the City shall pay CAE an amount not to exceed Sixty-Seven Thousand Five-Hundred Dollars (\$67,500) in the



method and manner as specified in **Exhibit B**, attached hereto and incorporated herein by this reference.

B. Producer Fees. The Parties acknowledge and agree that \$10,000 of the \$67,500 fee described in Article II, Section A, is designated as “Producer Fees” and is intended to cover management salaries payable to producers of CAE.

### **III. FACILITY USE**

A. Butte Theater. The City shall retain the right to use the Butte Theater and to authorize third parties, including other production companies, to use the Butte Theater during the Professional Season; provided such uses do not unreasonably interfere with CAE’s use of the Butte Theater. CAE may use the Butte Theater for Shows and rehearsals during Professional Season. For the purpose of this Agreement the City shall retain all rights and responsibilities not specifically mentioned elsewhere in this Agreement, for all public areas including box office, lobby and house seating areas even during the Professional Season.

B. Star Building. CAE shall have non-exclusive use of the Star Building for rehearsal space, production and design offices, set construction, and storage of City-owned sets, props and costumes during the Professional Season, except that the City reserves the right to the office space for the exclusive use of the Butte Theater Manager (another production company will be using the Star Building for an overlapping period). The City may terminate CAE’s right to use the Star Building upon thirty (30) days written notice at the City’s will. If the Star Building is not available to CAE for any reason, including the sale of the Star Building, the City shall use reasonable efforts to provide CAE with comparable space. The City reserves the right to condition the use of the Star Building (or replacement facility) upon the execution of a separate agreement, including but not limited to a lease or license agreement. The City will ensure all facilities are cleaned and organized in advance of CAE’s occupancy. CAE will restore facilities to the same condition by July 13, 2025.

C. Victorian Lady. CAE shall have non-exclusive use of the Victorian Lady for actor housing from May 23, 2025 through July 13, 2025 for actor housing (another production company will be using the Victorian Lady for an overlapping period). The City reserves the right to condition the use of the Victorian Lady upon the execution of a separate agreement, including but not limited to a lease or license agreement. CAE shall pay a refundable cleaning and damage deposit of \$1,000.00 prior to CAE occupying the Victorian Lady. CAE and a representative of the City shall perform a full photographic walk-through both prior to CAE occupation and following CAE vacating of the premises. Cleanliness of facility upon CAE vacating the premises will be equal to that of the cleanliness of the facility on the date CAE commenced occupying the facility. Damages will be assessed by, and the City may offset such damages against the Producer’s Fee, the City Representative using comparative photographs from the two photographic walk-throughs. For the purposes of this Agreement “damages” excludes normal wear and tear. The City representative will present an invoice for any necessary cleaning and/or damages to CAE within 10 days of CAE vacating the premises; CAE will have the option of cleaning and/or repairing damages so that the facility is in as good or better condition than when CAE commenced occupying the premises or forfeiting the aforementioned deposit.

D. Tangible Personal Property. All tangible personal property provided by the City with the Facilities and those created in the course of the Shows (such as sets, props, and costumes) shall be the property of the City.

E. Marijuana and Tobacco Prohibited. There shall be no consumption or use of marijuana or any tobacco products inside or outside in the yards of any of the Facilities.

#### IV. CITY OBLIGATIONS

A. Butte Theater.

1. *Equipment and Services.* The City shall provide the following at the Butte Theater, and keep equipment listed below in good working order:
  - a. Stage equipment, including lighting equipment (such as board, dimmers, lamps, instruments and cables), sound equipment (such as board, speakers, microphones, and cables) Clavinova, curtains and rigging.
  - b. A properly equipped scenic & costume shop with all the standard tools and equipment including but not limited to table saw, radial arm saw, drill press, router & standard bits, cordless drills, impact drivers, hammers, screw drivers, ratchet driver socket set, pliers, wrenches, stock scenery, etc. and in the costume shop professional quality sewing machines, serger, thread, needle, scissors, fabric, accessories, costume stock, etc.
  - c. Standard stage supplies that are not specific to the Professional Season, such as gaffer's tape, standard color gels (cool and warm colors), and replacement lamps for theatrical lighting.
2. *Box Office Operations.* The City shall operate the box office for the Butte Theater, which shall include the following:
  - a. Managing all ticket sales and reservations, including an online ticketing system.
  - b. Operating reservation phone lines (currently operated out of the Heritage Center).
3. *Accounting.* The City shall account for all revenues and expenses related to the Professional Season.
4. *Marketing.* The City shall provide all marketing for Shows during the Professional Season in collaboration with CAE. The City will generate and pay for all marketing materials for the Shows. The City shall provide reasonable marketing and promotion of the Professional Season, by advertising in local and regional press and media, as well as including information relating to the

Shows in the general marketing plan for events in Cripple Creek. By way of example only, the City may market and promote the Shows as follows:

- a. Inclusion of shows on posters and marketing materials promoting events and activities in Cripple Creek.
  - b. Promoting the Shows via photo-boards provided by CAE at the Heritage Center, the Welcome Center, and City Hall.
  - c. Using production photos provided by CAE on City brochures, mailers, posters, and other promotional material.
  - d. Listing the Shows as a tourist attraction in City marketing material, including online media.
  - e. Provide Show information and links to online ticketing on City owned websites.
  - f. Create the artwork for marketing materials for the show to include, show posters, rack cards, programs, print ads, etc.; and, subject to CAE's approval as provided for in Section V.D., provide the artwork to the Theater Manager to be used for the generation of materials for the marketing of the shows with local businesses and media contacts.
5. City-Made Photos and Videos. Notwithstanding any contrary provisions, the City shall have the right to take photographs and videos of each professional theatrical production during such times as the City determines in its sole discretion and shall have the right to use the photos and videos for promotional purposes solely within the City's discretion. Regarding photographs taken by the City: If CAE provides notice to the City along with a request for distribution of the photos to the cast in advance of the City's taking such photos, the City will make the photos available to CAE. Under no circumstances will the City distribute the City-made video to the cast or CAE

B. All Facilities.

1. *Utilities.* The City shall provide and pay for existing sewer, water, and electricity serving the Facilities.
2. *Care and Maintenance.* CAE acknowledges that the Facilities are in good order and repair, inclusive of Section VIII.A of this Agreement. The City shall, at its own expense and at all times, maintain the Facilities in good and safe condition, including plate glass, electrical wiring, stairs & walkways, plumbing and heating installations and any other system or equipment upon the premises; provided that CAE shall be responsible for any damages directly attributable to CAE, or their employees, agents, or contractors.

3. *Housing.* The City shall provide housing for all CAE actors, staff & crew working on the Shows. Housing for actors and CAE producer staff shall include living quarters, fully functional kitchen, laundry facilities and shall be fully furnished including but not limited to linens, pillows, towels, cookware, plates, cutlery, etc. (in clean and good condition). The City does not guarantee any living quarters will be single occupancy. Where single occupancy living quarters are available, the City reserves the right to limit single occupancy living quarters to the actors and CAE producer staff. Living quarters for others, including crew and technicians, will be double occupancy except where the City determines in its sole discretion that single occupancy living quarters are available for others, including crew and technicians.

## V. CAE OBLIGATIONS

### A. Shows.

1. *Genres.* CAE shall produce the Show described in Exhibit A CAE hereby agrees and acknowledges that the Butter Theater Manager or such other City representative as the City Administrator may designate (“City Representative”) will be involved and shall have input into show selection and show scheduling. The City shall retain the right to make the final decision on which melodrama will be produced and on the public rating of all shows.
2. *CAE Covenant.* CAE covenants with and warrants to the City that it will not deviate from the Shows described in Exhibit A above and will not substitute the Show with different plays/theatrical productions, without the City’s prior written approval. The City may withhold its approval in its sole discretion and may treat such deviation and/or substitution as a material breach hereunder. In that event, the City may terminate this Agreement without notice and/or may in addition exercise any and all rights and remedies available to the City in law or in equity.
3. *Casting and Staffing.* CAE shall be responsible for recruiting and casting all performers, crew and staff necessary to produce the Show. Local talent will also be given the opportunity to audition for and be considered for all Shows being produced during the Professional Season. CAE is responsible for the actions of said cast, crew and staff (both professional and community volunteers) who are therefore answerable solely to CAE. It will be the sole responsibility of CAE to take appropriate and/or corrective action to ensure the professional quality and artistic integrity is maintained. CAE shall have final artistic and creative decision on all community Shows, in which CAE cast, crew and staff are involved or participating.
4. *Community Participation.* CAE will cast community actors in the Professional Season to perform and give the local talent the opportunity to grow by working

with the other actors, directors and other professional staff. During the Professional Season, CAE shall continue its pro-community policies and practices of having CAE staff work with community arts organizations, and schools, and by encouraging direct community involvement with the Professional Season.

B. Back-of-House Maintenance. CAE shall maintain the following areas during the Professional Season:

1. Stage (including apron);
2. Backstage and wings;
3. Green Room;
4. Dressing Rooms; and
5. Stairs from Green Room to Stage.
6. CAE actors who work in concessions shall be responsible for cleaning the auditorium after each Performance with assistance from Box Office Staff during two-show days.

C. No Concessions. CAE shall have no right to sell concessions or alcohol.

D. Marketing.

1. CAE shall maintain its identity separate from The Butte Theater in the public eye. Accordingly, provided the billing does not conflict with or violate contractual provisions included in royalty rights contracts, all marketing materials subsidized by the City of Cripple Creek shall read as follows:

The City of Cripple Creek's Butte Theater  
presents a  
Chameleon Arts & Entertainment LLC production...  
[NAME OF PLAY]

2. The City Representative will provide notice along with artwork for marketing materials for each Show to include, show posters, rack cards, programs, print ads, etc. CAE shall, no later than 5:00 PM on the fifth day after the date of said notice, or such other deadline as the Parties may agree on, give its final approval of the artwork. If CAE fails to provide timely approval of the artwork, then the artwork shall be deemed approved as of midnight on the date of the aforementioned deadline.

3. CAE is responsible for postering and handing out rackcards and posters to local businesses in the Teller County and Colorado Springs area. City has final say on all

marketing material and must approve of all proofs before printing.

E. Production Meetings. The City representative and the CAE representatives will hold weekly production meetings, not to exceed 2 hours, in which all areas of the production will be discussed i.e. to discuss marketing strategies to collaborate on; or should need arise to trim, cut, or change elements of the show that are not maintaining the professional level of theater that CAE is being paid for; or should building or equipment elements of the Theater need to be fixed or updated.

F. Producer On-Sight. CAE is required to have a producer on-site for all Performances. This producer must have the necessary background and skills relating to theater production to maintain the quality of the productions;

G. Show Specific Budget. CAE shall prepare a budget and submit it for the City's approval. The approved budget shall constitute the Show Specific Budget. This Agreement shall be amended to include in Exhibit C the Show Specific Budget for each Show.

H. Financials. CAE shall no later than 30 days after the end of the Show run a budget for the Show, including but not limited to, salaries (broken down by individuals), materials, and projected expenses and provide such to the City (the "Show Specific Budget Reconciliation").

I. Rehearsals and Brush-Up Rehearsals. CAE agree that should the City's Representative determine, at their sole discretion, a rehearsal or performance is in need of holding additional rehearsals to maintain or enhance the quality of the show, be it in regard to: choreography, acting, volume, length of show, lighting, sound design issues, or any issues that arise related to the quality of the show, it will be CAE's sole financial responsibility to hold additional rehearsals within 24 hours of the City Representative's giving notice to CAE to address issues related to quality of the show.

J. Services. In addition to the CAE's duties and obligations described in paragraphs A through E of this Article III, and A through I of this Article V, CAE shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from **Exhibit A**.

K. TOC Additional Services. To avail itself of the TOC Additional Services, CAE shall submit its request for such work using the form substantially as shown in Exhibit D at least 7 calendar days in advance of when CAE desires the work to be performed. All such requests are subject to the approval of the City Representative. CAE shall pay the City for the TOC Additional Services at the rate of time and a half (currently \$30.91/hour) within 10 calendar days of the City presenting notice of payment due and an invoice.

L. Cancellation of Show-Liquidated Damages. If, after one or more tickets have been sold for a Show, CAE cancels any Performance for any reason other than an Act of God or emergency order issued by Teller County Public Health Department or the State of Colorado, CAE understands and agrees that as a result of such cancellation the City and the Butte Theater will suffer substantial losses and damages, including the loss of ticket sale revenue, loss of other revenue incidental to such cancellation, reduced public confidence, adverse public relations and damage to the City's and the Butte Theater's reputations. CAE agrees to pay the City as liquidated

damages for any such cancellation \$2,200.00.

**VI. TERM**

This Agreement shall be effective as of January 15, 2025, and shall terminate on December 31<sup>st</sup>, 2025; provided that the Parties may mutually agree in writing to subsequent annual renewals. Either party may terminate this Agreement only after giving 60 days written notice to the other Party.

**VII. INTELLECTUAL PROPERTY RIGHTS**

A. The City shall gain no intellectual property rights relating to the Shows by way of this Agreement.

B. CAE shall obtain all necessary rights and licenses to produce and perform the Shows in accordance with this Agreement. As such, CAE shall have full discretion and final decision (after producer consults with City Representative and giving full consideration to the City Representative's input, feedback and suggestions) with respect to creative and artistic decisions concerning show production (including but not limited to casting, staffing, lighting, costuming, photography, music, staging, content and artwork including promotional art).

C. CAE shall not infringe any copyright, trademark or service mark right, trade dress right, artistic and moral rights, mask right, trade secret right, character right, right of publicity, privacy right, or any other proprietary right of any person or organization. CAE shall obtain all necessary rights and permissions to perform the Shows. The City has no obligation to obtain any rights or permissions for the Shows, and CAE assumes sole responsibility for obtaining the required rights or permissions.

**VIII. ALTERATIONS OR IMPROVEMENTS**

A. The Facilities shall be delivered "as is" with no warranties made relating to the condition of the Facilities. CAE shall not, without first obtaining the written consent of City, which the City may withhold in its sole discretion, make any alterations, additions, or improvements, in, to or about the Facilities.

B. CAE shall not suffer nor permit any mechanic's liens or public works claims to be filed against the Facilities by reason of work, labor, service or materials supplied or claimed to have been supplied to CAE as a result of an agreement with, or the assent of CAE. Nothing in this Agreement shall be construed as constituting the consent or request of City, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration, or repair of or to the Facilities or any part thereof. Nothing in this Agreement shall be construed as giving CAE any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's liens or public works claims against City's interest in the Facilities. If any such mechanic's lien or public works claims shall at any time be filed against the Facilities, CAE shall cause the same to be discharged of record within thirty (30) days after the date CAE has knowledge of such filing.

If CAE shall fail to discharge such mechanic's lien or public works claims within such period, then, in addition to any other right or remedy of the City, the City may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien.

#### **IX. NO JOINT VENTURE**

No joint venture is created by this Agreement. Neither party is an employee or agent of the other. Each Party shall be an independent entity. All personnel (cast, crew, staff & administrative) hired or assigned by CAE to perform work under the terms of this Agreement shall be, and remain at all times, employees, agents, or volunteers of CAE for all purposes. All personnel assigned by the City to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of the City for all purposes. Neither Party shall represent that it is an employee of the other, nor that it is a manager or supervisor of the employees of the other, or that any joint venture exists for any purposes.

#### **X. INSURANCE**

A. CAE shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by CAE under this Agreement, including the following, at a minimum:

1. Worker's compensation insurance as required by law.
2. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and general aggregate naming the City and the City's officers, employees, and consultants as additional insureds. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion; and

B. Any insurance carried by the City, its officers, or its employees or contractors in excess and not contributory insurance to that provided by CAE. CAE shall be solely responsible for any deductible losses pertaining to staged productions. The City shall be solely responsible for any deductible losses pertaining to facilities, specifically the front-of-house, auditorium, restroom and lobby areas.

C. CAE shall provide to the City a certificate of insurance as evidence that required policies are in full force and effect.

#### **XI. INDEMNIFICATION**

CAE agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representatives, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out





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Any such notice shall be deemed to be given when (i) personally delivered, (ii) on the date of courier pick-up by overnight courier as shown on the air bill, or, (iii) in the case of notice by mail, upon the date deposited in the U.S. mail as shown on the postmark, postage prepaid, certified, return receipt requested. Any Party may give notice at any time to change the address to which future notices are to be sent by giving notice as hereinabove provided.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either party without the written consent of the other.

I. Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, or otherwise available to the City and its officers or employees.

J. Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted.

K. Subject to Annual Appropriations. Consistent with Article X, § 20 of the Colorado Constitution, financial obligations of the City, if any, not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first set forth above.

**CITY OF CRIPPLE CREEK, COLORADO**

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Annie Durham  
Its: Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**KALEIDOSCOPE COLORADO D.B.A.  
CHAMELEON ARTS & ENTERTAINMENT LLC**

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

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_ as \_\_\_\_\_ of Kaleidoscope Colorado d.b.a. Chameleon Arts & Entertainment LLC.

My commission expires:

(S E A L)

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

**EXHIBIT A**  
**SCOPE OF WORK**

Facilities Addresses: Butte Theater: 139 E Bennett Avenue, Cripple Creek, CO 80813  
Star Building: 143 E Bennett Avenue, Cripple Creek, CO 80813  
Victorian Lady: 127 W Carr Avenue, Cripple Creek, CO 80813

**Show:**

Except as otherwise provided in accordance with Section I.C. of this Agreement, in accordance with the dates and Schedule of Services herein, CAE shall provide the City the following product(s) (collectively, the "Products") or service(s) (collectively, the "Services"):

CAE shall produce one (1) Show for the 2025 Professional Season as follows:

Summer Melodrama  
Title: The Colorado Colleen (the "Show")  
Allotted Budget: \$67,500

Important Dates:  
Estimated Rehearsal Start Date: May 23rd, 2025  
Production Run Dates: June 13<sup>th</sup> - July 13th, 2025  
Total number of performances: 24

**Responsibilities:**

CAE shall:

- Secure rights and permissions for the Show.
- Contract Directors, Actors, Choreographers & Musical Directors for the Show.
- Hire and Contract Technical Specialists (i.e. Lighting, Sound, Set Design, Master Carpenter, Costumer, etc.)
- Hire and Contract Crew (i.e. Stage Manager, Production Assistant, Assistant Stage Manager, etc.)
- Design and Construct Set
- Create and Perform Sound Design for the Show
- Create and Perform Lighting Design for the Show
- Create or Source Costumes for the Show
- Create or Source Props for the Show
- Perform 24 Performances of the Show
- Assist the Butte Theater in Marketing (Social Media, Postering, Sparking, etc.)

**Services Schedule Including Period for Performances:**

CAE shall perform the Services according to the following timeline:

<b>Milestone</b>	<b>Due Date</b>	<b>Responsible Party</b>
Set 2025 Melodrama Show Title and CAE Submits Budgets for City Approval	February 13, 2025	City & CAE
Content for Local Audition	February 23, 2025	CAE
Hire/Contract Artistic & Designer Staff	May 2, 2025	CAE
Hire/Contract Cast & Crew	May 2, 2025	CAE
Program Content	May 14, 2025	City & CAE
Period for Performances	June 13 through July 13, 2025	CAE

**Acceptance Criteria:**

The City will consider the Products or Services provided by Chameleon Arts & Entertainment LLC satisfactorily completed if the following conditions or criteria are met for each Show:

- All 24 performances of the Shows performed/executed according to Services Schedule, subject to the provisions of Section I.C of this Agreement; and
- CAE strictly adheres to the Show Specific Budget for the Show, which Show Specific Budget, in the form approved by the City is attached hereto as Exhibit C.

**EXHIBIT B  
PAYMENT SCHEDULE**

Payment shall be made to the CAE in the total amount of \$67,500 according to the following schedule and conditions and provided that the Acceptance Criteria provided in **Exhibit A** are met:

<u><b>Date/Event/Milestone</b></u>	<u><b>Payment Amount</b></u>
03/11/2025: Start Up Payment	\$11,000.00
04/16/2025: Payment for Show	\$46,500.00*
05/23/2025: First Half Producer Fee for Show	Up to \$5,000.00
See below**: Second Half Producer Fee for Show	Up to \$5,000.00

\*Conditions: In the event a Show or Shows is/are cancelled by the City due to an Act of God or emergency order issued by Teller County Public Health Department or the State of Colorado, the City shall be entitled to and CAE shall pay a refund of any portion of the \$46,500 that has not been actually spent by CAE as of the date of such cancellation. The City is entitled to audit CAE's Show expense records and CAE shall allow the City to inspect such records within three business days of the City's request for such inspection.

\*\*Conditions: The City will pay the Second Half Producer Fee following receipt of the Reconciled Show Specific Budget and the City's satisfaction that CC has met the Acceptance Criteria.

**EXHIBIT C**  
**APPROVED SHOW SPECIFIC BUDGET(S)**

**EXHIBIT D**  
**TOC ADDITIONAL SERVICES REQUEST FORM**  
**REQUEST ORDER #\_\_**

Work to be performed between \_\_/\_\_/2025 and \_\_/\_\_/2025 *[To be completed prior to submittal to City]*

Work Description: *[To be completed prior to submittal to City]*

Estimated hours: \_\_\_\_\_ *[To be completed prior to submittal to City]*

Estimated payment CAE owes to City: \_\_\_ Hours x \$30.91/hour = \$ \_\_\_\_\_ *[To be completed prior to submittal to City]*

Approved by City Representative: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Actual hours: \_\_\_\_\_ *[To be completed by CAE after work is performed]*

Payment CAE owes to City: \_\_\_ Hours x \$30.91/hour = \$ \_\_\_\_\_ *b [To be completed CAE after work is performed]*

Approved by City Representative: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

RECEIPT OF PAYMENT BY: \_\_\_\_\_ ON: \_\_/\_\_/2025  
*[To be completed by City Finance Department]*



## **AGREEMENT FOR PROFESSIONAL SERVICES AND USE OF CITY FACILITIES**

THIS AGREEMENT FOR PROFESSIONAL SERVICES AND USE OF CITY FACILITIES (“Agreement”) is made and entered into this 15th day of January, 2025, by and between the City of Cripple Creek, a Colorado municipality, 337 East Bennett Avenue, P.O. Box 430, Cripple Creek, Colorado 80813 (the "City") and Green Glass Productions LLC, 2087 Bristlecone Drive, Colorado Springs, CO 80919 ("GG") (each referred to herein as a “Party” or collectively as the “Parties”).

WHEREAS, the City requires professional services for the production of performances (in the singular “Performance” or in the plural “Performances”) of professional theatrical production(s) as described in Section V.A.1 and Exhibit A (each professional theatrical production referred to herein as a “Show” or collectively as the “Shows”) during the professional theater season; and

WHEREAS, GG has held itself out to the City as having the requisite expertise and experience to perform the required services; and

WHEREAS, the City owns facilities in the City of Cripple Creek known as the Butte Theater, Star Building and Victorian Lady (the "Facilities"), the addresses of which are set forth in Exhibit A; and

WHEREAS, the Butte Theater (also referred to herein as the “Butte”) is used for theatrical productions, the Star Building is used for rehearsals, office space, and other theater-related purposes, and the Victorian Lady for actor housing; and

WHEREAS, the 2025 professional theater season period is described in Exhibit A (the “Professional Season”); and

WHEREAS, GG desires: (1) to use the Butte Theater for production of the Performances in the number and of the title as listed and described in Exhibit A during the Professional Season; (2) to use the Star Building for rehearsals, office space, storage, and other theater-related purposes during the Professional Season; and (3) to use the Victorian Lady for actor housing; during the Professional Season; and

WHEREAS, during the Professional Season, the City shall be primarily responsible for the operation and maintenance of the Butte Theater (including front-house functions, such as managing the box office). GG shall be primarily responsible for the production of the Shows (including back-of-house functions, such as managing the back-stage areas); and

WHEREAS, The Friends of the Butte, through a separate agreement with the City will have the exclusive right to sell concessions and alcohol during the Professional Season; and

WHEREAS, the Parties share a mutual mission of maintaining and building on the Butte’s reputation as a regional theater and GG agrees to produce a professional theatrical production that presents the Butte Theater and the City in the best light while maintaining each entity’s separate identity (i.e. the Butte Theater as a separate entity from GG); and

WHEREAS, the City desires to allow GG to use the Facilities, subject to the terms of this Agreement; and

WHEREAS, the City has an employee who serves as the City's Technical Operations Coordinator (the "TOC"); and

WHEREAS, the Parties acknowledge that from time to time GG may require certain services that would be within the TOC's capability to provide above and beyond the TOC's regular duties for the City for which GG would like the TOC to perform (the TOC Additional Services"); and

WHEREAS, the City agrees that GG may request and where such request is approved, shall pay the City for TCO to perform the TOC Additional Services, subject to the terms of this Agreement.

NOW THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## **I. SCOPE OF SERVICES**

A. GG shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Work in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Services").

B. A change in the Scope of Services shall constitute a material change or amendment of services or work which is different from or additional to the Scope of Services. No such change, including any additional compensation, shall be effective or paid unless authorized by written amendment executed by the City. If GG proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, *quantum meruit* or implied contract.

C. Notwithstanding any contrary provision herein, the City reserves the right to add or cancel performances of a professional theater production subject to the following: Additional performances: Where the City determines in its sole discretion that patron demand warrants it, the City shall have the right to add performances by furnishing written notice at least seven calendar days in advance of the added performance(s). GG shall comply with all such added performance notices. Removed performances: Where the City determines based on its data and records that less than 10 tickets have been sold for a professional theater production, the City shall have the right to cancel performances of that theater production by furnishing written notice at least 24 hours before the scheduled performance. GG shall comply with all such cancellation notices.

## **II. COMPENSATION**

A. In consideration for the completion of the Scope of Services by GG, the City shall pay GG an amount not to exceed Two Hundred Thousand Five Hundred Dollars (\$202,500.00) in

the method and manner as specified in **Exhibit B**, attached hereto and incorporated herein by this reference.

B. Producer Fees. The Parties acknowledge and agree that \$30,000 of the \$202,500.00 fee described in Article II, Section A, is designated as “Producer Fees” and is intended to cover management salaries payable to producers of GG.

### III. FACILITY USE

A. Butte Theater. The City shall retain the right to use the Butte Theater and to authorize third parties, including other production companies, to use the Butte Theater during the Professional Season; provided such uses do not unreasonably interfere with GG’s use of the Butte Theater. GG may use the Butte Theater for Shows and rehearsals during Professional Season. For the purpose of this Agreement the City shall retain all rights and responsibilities not specifically mentioned elsewhere in this Agreement, for all public areas including box office, lobby and house seating areas even during the Professional Season.

B. Star Building. GG shall have non-exclusive use of the Star Building for rehearsal space, production and design offices, set construction, and storage of City-owned sets, props and costumes during the Professional Season, except that the City reserves the right to the office space for the exclusive use of the Butte Theater Manager (another production company will be using the Star Building for an overlapping period). The City may terminate GG’s right to use the Star Building upon thirty (30) days written notice at the City’s will. If the Star Building is not available to GG for any reason, including the sale of the Star Building, the City shall use reasonable efforts to provide GG with comparable space. The City reserves the right to condition the use of the Star Building (or replacement facility) upon the execution of a separate agreement, including but not limited to a lease or license agreement. The City will ensure all facilities are cleaned and organized in advance of GG’s occupancy. GG will restore facilities to the same condition by December 31, 2025.

C. Victorian Lady. GG shall have non-exclusive use of the Victorian Lady for actor housing from June 30, 2025 through December 3, 2025 for actor housing (another production company will be using the Victorian Lady for an overlapping period). The City reserves the right to condition the use of the Victorian Lady upon the execution of a separate agreement, including but not limited to a lease or license agreement. GG shall pay a refundable cleaning and damage deposit of \$1,000.00 prior to GG occupying the Victorian Lady. GG and a representative of the City shall perform a full photographic walk-through both prior to GG occupation and following GG vacating of the premises. Cleanliness of facility upon GG vacating the premises will be equal to that of the cleanliness of the facility on the date GG commenced occupying the facility. Damages will be assessed by, and the City may offset such damages against the Producer’s Fee, the City Representative using comparative photographs from the two photographic walk-throughs. For the purposes of this Agreement “damages” excludes normal wear and tear. The City Representative will present an invoice for any necessary cleaning and/or damages to GG within 10 days of GG vacating the premises; GG will have the option of cleaning and/or repairing damages so that the facility is in as good or better condition than when GG commenced occupying the premises or forfeiting the aforementioned deposit.

D. Tangible Personal Property. All tangible personal property provided by the City with the Facilities and those created in the course of the Shows (such as sets, props, and costumes) shall be the property of the City.

E. Marijuana and Tobacco Prohibited. There shall be no consumption or use of marijuana or any tobacco products inside or outside in the yards of any of the Facilities.

#### IV. CITY OBLIGATIONS

A. Butte Theater.

1. *Equipment and Services.* The City shall provide the following at the Butte Theater, and keep equipment listed below in good working order:
  - a. Stage equipment, including lighting equipment (such as board, dimmers, lamps, instruments and cables), sound equipment (such as board, speakers, microphones, and cables) Clavinova, curtains and rigging.
  - b. A properly equipped scenic & costume shop with all the standard tools and equipment including but not limited to table saw, radial arm saw, drill press, router & standard bits, cordless drills, impact drivers, hammers, screw drivers, ratchet driver socket set, pliers, wrenches, stock scenery, etc. and in the costume shop professional quality sewing machines, serger, thread, needle, scissors, fabric, accessories, costume stock, etc.
  - c. Standard stage supplies that are not specific to the Professional Season, such as gaffer's tape, standard color gels (cool and warm colors), and replacement lamps for theatrical lighting.
2. *Box Office Operations.* The City shall operate the box office for the Butte Theater, which shall include the following:
  - a. Managing all ticket sales and reservations, including an online ticketing system.
  - b. Operating reservation phone lines (currently operated out of the Heritage Center).
3. *Accounting.* The City shall account for all revenues and expenses related to the Professional Season.
4. *Marketing.* The City shall provide all marketing for Shows during the Professional Season in collaboration with GG. The City will generate and pay for all marketing materials for the Shows. The City shall provide reasonable marketing and promotion of the Professional Season, by advertising in local

and regional press and media, as well as including information relating to the Shows in the general marketing plan for events in Cripple Creek. By way of example only, the City may market and promote the Shows as follows:

- a. Inclusion of shows on posters and marketing materials promoting events and activities in Cripple Creek.
  - b. Promoting the Shows via photo-boards provided by GG at the Heritage Center, the Welcome Center, and City Hall.
  - c. Using production photos provided by GG on City brochures, mailers, posters, and other promotional material.
  - d. Listing the Shows as a tourist attraction in City marketing material, including online media.
  - e. Provide Show information and links to online ticketing on City owned websites.
  - f. Create the artwork for marketing materials for the show to include, show posters, rack cards, programs, print ads, etc.; and, subject to GG's approval as provided for in Section V.D., provide the artwork to the Theater Manager to be used for the generation of materials for the marketing of the shows with local businesses and media contacts.
5. City-Made Photos and Videos. Notwithstanding any contrary provisions, the City shall have the right to take photographs and videos of each professional theatrical production during such times as the City determines in its sole discretion and shall have the right to use the photos and videos for promotional purposes solely within the City's discretion. Regarding photographs taken by the City: If GG provides notice to the City along with a request for distribution of the photos to the cast in advance of the City's taking such photos, the City will make the photos available to GG. Under no circumstances will the City distribute the City-made video to the cast or GG

B. All Facilities.

1. *Utilities.* The City shall provide and pay for existing sewer, water, and electricity serving the Facilities.
2. *Care and Maintenance.* GG acknowledges that the Facilities are in good order and repair, inclusive of Section VIII.A of this Agreement. The City shall, at its own expense and at all times, maintain the Facilities in good and safe condition, including plate glass, electrical wiring, stairs & walkways, plumbing and heating installations and any other system or equipment upon the premises; provided that GG shall be responsible for any damages directly attributable to

GG, or their employees, agents, or contractors.

3. *Housing.* The City shall provide housing for all GG actors, staff & crew working on the Shows. Housing for actors and GG producer staff shall include living quarters, fully functional kitchen, laundry facilities and shall be fully furnished including but not limited to linens, pillows, towels, cookware, plates, cutlery, etc. (in clean and good condition). The City does not guarantee any living quarters will be single occupancy. Where single occupancy living quarters are available, the City reserves the right to limit single occupancy living quarters to the actors and GG producer staff. Living quarters for others, including crew and technicians, will be double occupancy except where the City determines in its sole discretion that single occupancy living quarters are available for others, including crew and technicians.

## V. GG OBLIGATIONS

### A. Shows.

1. *Genres.* Subject to the provisions of Section I.C, GG shall produce at least 34 Performances of the Summer Musical, 24 Performances of the Halloween Melodrama and 21 Performances of the Christmas Show during the Professional Season at the Butte Theater. GG hereby agrees and acknowledges that the City Representative will be included, involved and shall have input into show selection and show scheduling. The City shall retain the right to make final decision on which Summer Musical, Christmas Show and Halloween Melodrama will be produced and on the public rating of all shows.
2. Subject to Section to the provisions of Section I.C., GG shall produce:
  - a. A Summer Musical entitled Jersey Boys (rights contingent). GG shall conduct Beginning Rehearsals on June 30<sup>th</sup>, 2025 or such other date that the Parties may mutually agree upon, and produce the Show beginning July 18, 2025 and conclude production on August 31, 2025;
  - b. A Halloween Melodrama, title to be determined. GG shall conduct Beginning Rehearsals on September 8, 2025 or such other date that the Parties may mutually agree upon, and produce the Show beginning October 3, 2025 and conclude production on August 31, 2025; and
  - c. A Christmas Show entitled White Christmas (rights contingent). GG shall conduct Beginning Rehearsals on November 10, 2025 and produce the Show beginning November 28, 2025 and conclude production on December 28, 2025.
3. Subject to the provisions of Section I.C, GG covenants with and warrants to the City that it will not deviate from the Shows described in subsections 2.a, 2.b and 2.c above and will not substitute the Shows with different plays/theatrical productions, without the City's prior written approval. The City may withhold its approval in its sole discretion and may treat such deviation and/or

substitution as a material breach hereunder. In that event, the City may terminate this Agreement without notice and/or may in addition exercise any and all rights and remedies available to the City in law or in equity.

4.  *Casting and Staffing.* GG shall be responsible for recruiting and casting all performers, crew and staff necessary to produce the Show. Local talent will also be given the opportunity to audition for and be considered for all Shows being produced during the Professional Season. GG is responsible for the actions of said cast, crew and staff (both professional and community volunteers) who are therefore answerable solely to GG. It will be the sole responsibility of GG to take appropriate and/or corrective action to ensure the professional quality and artistic integrity is maintained. GG shall have final artistic and creative decision on all community Shows, in which GG cast, crew and staff are involved or participating.
5.  *Community Participation.* GG will cast community actors in the Professional Season to perform and give the local talent the opportunity to grow by working with the other actors, directors and other professional staff. During the Professional Season, GG shall continue its pro-community policies and practices of having GG staff work with community arts organizations, and schools, and by encouraging direct community involvement with the Professional Season.

6. Back-of-House Maintenance. GG shall maintain the following areas during the Professional Season:

1. Stage (including apron);
2. Backstage and wings;
3. Green Room;
4. Dressing Rooms; and
5. Stairs from Green Room to Stage.
6. GG actors who work in concessions shall be responsible for cleaning the auditorium after each Performance with assistance from Box Office Staff during two-show days.

7. No Concessions. GG shall have no right to sell concessions or alcohol.

8. Marketing.

1. GG shall maintain its identity separate from The Butte Theater in the public eye. Accordingly, provided the billing does not conflict with or violate contractual provisions included in royalty rights contracts, all marketing materials subsidized by the City of Cripple Creek shall read as follows:

The City of Cripple Creek's Butte Theater  
presents a  
Green Glass Productions LLC production...  
[NAME OF PLAY]

2. The City Representative will provide notice along with artwork for marketing materials for each Show to include, show posters, rack cards, programs, print ads, etc. GG shall, no later than 5:00 PM on the fifth day after the date of said notice, or such other deadline as the Parties may agree on, give its final approval of the artwork. If GG fails to provide timely approval of the artwork, then the artwork shall be deemed approved as of midnight on the date of the aforementioned deadline.
3. GG is responsible for postering and handing out rackcards and posters to local businesses in the Teller County and Colorado Springs area. City has final say on all marketing material and must approve of all proofs before printing.

E. Production Meetings. The City representative and the GG representatives will hold weekly production meetings, not to exceed 2 hours, in which all areas of the production will be discussed i.e. to discuss marketing strategies to collaborate on; or should need arise to trim, cut, or change elements of the show that are not maintaining the professional level of theater that GG is being paid for; or should building or equipment elements of the Theater need to be fixed or updated.

F. Producer On-Sight. GG is required to have a producer on-site for all Performances. This producer must have the necessary background and skills relating to theater production to maintain the quality of the productions;

G. Show Specific Budget. GG shall prepare a budget and submit it for the City's approval. The approved budget shall constitute the Show Specific Budget. This Agreement shall be amended to include in Exhibit C the Show Specific Budget for each Show.

H. Financials. GG shall no later than 30 days after the end of the Show run a budget for the Show, including but not limited to, salaries (broken down by individuals), materials, and projected expenses and provide such to the City (the "Show Specific Budget Reconciliation").

I. Rehearsals and Brush-Up Rehearsals. GG agree that should the City's Representative determine, at their sole discretion, a rehearsal or performance is in need of holding additional rehearsals to maintain or enhance the quality of the show, be it in regard to: choreography, acting, volume, length of show, lighting, sound design issues, or any issues that arise related to the quality of the show, it will be GG's sole financial responsibility to hold additional rehearsals within 24 hours of the City Representative's giving notice to GG to address issues related to quality of the show.

J. Services. In addition to the GG's duties and obligations described in paragraphs A



through E of this Article III, and A through I of this Article V, GG shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from **Exhibit A**.

K. TOC Additional Services. To avail itself of the TOC Additional Services, GG shall submit its request for such work using the form substantially as shown in Exhibit D at least 7 calendar days in advance of when GG desires the work to be performed. All such requests are subject to the approval of the City Representative. GG shall pay the City for the TOC Additional Services at the rate of time and a half (currently \$30.91/hour) within 10 calendar days of the City presenting notice of payment due and an invoice.

L. Cancellation of Show-Liquidated Damages. If, after one or more tickets have been sold for a Show, GG cancels any Performance for any reason other than an Act of God or emergency order issued by Teller County Public Health Department or the State of Colorado, GG understands and agrees that as a result of such cancellation the City and the Butte Theater will suffer substantial losses and damages, including the loss of ticket sale revenue, loss of other revenue incidental to such cancellation, reduced public confidence, adverse public relations and damage to the City's and the Butte Theater's reputations. GG agrees to pay the City as liquidated damages for any such cancellation \$2,200.00.

## **VI. TERM**

This Agreement shall be effective as of January 15, 2025, and shall terminate on December 31<sup>st</sup>, 2025; provided that the Parties may mutually agree in writing to subsequent annual renewals. Either party may terminate this Agreement only after giving 60 days written notice to the other Party.

## **VII. INTELLECTUAL PROPERTY RIGHTS**

A. The City shall gain no intellectual property rights relating to the Shows by way of this Agreement.

B. GG shall obtain all necessary rights and licenses to produce and perform the Shows in accordance with this Agreement. As such, GG shall have full discretion and final decision (after producer consults with City Representative and giving full consideration to the City Representative's input, feedback and suggestions) with respect to creative and artistic decisions concerning show production (including but not limited to casting, staffing, lighting, costuming, photography, music, staging, content and artwork including promotional art).

C. GG shall not infringe any copyright, trademark or service mark right, trade dress right, artistic and moral rights, mask right, trade secret right, character right, right of publicity, privacy right, or any other proprietary right of any person or organization. GG shall obtain all necessary rights and permissions to perform the Shows. The City has no obligation to obtain any rights or permissions for the Shows, and GG assumes sole responsibility for obtaining the required rights or permissions.

## **VIII. ALTERATIONS OR IMPROVEMENTS**

A. The Facilities shall be delivered "as is" with no warranties made relating to the condition of the Facilities. GG shall not, without first obtaining the written consent of City, which the City may withhold in its sole discretion, make any alterations, additions, or improvements, in, to or about the Facilities.

B. GG shall not suffer nor permit any mechanic's liens or public works claims to be filed against the Facilities by reason of work, labor, service or materials supplied or claimed to have been supplied to GG as a result of an agreement with, or the assent of GG. Nothing in this Agreement shall be construed as constituting the consent or request of City, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration, or repair of or to the Facilities or any part thereof. Nothing in this Agreement shall be construed as giving GG any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's liens or public works claims against City's interest in the Facilities. If any such mechanic's lien or public works claims shall at any time be filed against the Facilities, GG shall cause the same to be discharged of record within thirty (30) days after the date GG has knowledge of such filing. If GG shall fail to discharge such mechanic's lien or public works claims within such period, then, in addition to any other right or remedy of the City, the City may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien.

## **IX. NO JOINT VENTURE**

No joint venture is created by this Agreement. Neither party is an employee or agent of the other. Each Party shall be an independent entity. All personnel (cast, crew, staff & administrative) hired or assigned by GG to perform work under the terms of this Agreement shall be, and remain at all times, employees, agents, or volunteers of GG for all purposes. All personnel assigned by the City to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of the City for all purposes. Neither Party shall represent that it is an employee of the other, nor that it is a manager or supervisor of the employees of the other, or that any joint venture exists for any purposes.

## **X. INSURANCE**

A. GG shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by GG under this Agreement, including the following, at a minimum:

1. Worker's compensation insurance as required by law.
2. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and general aggregate naming the City and the City's officers, employees, and consultants as

additional insureds. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion; and

B. Any insurance carried by the City, its officers, or its employees or contractors in excess and not contributory insurance to that provided by GG. GG shall be solely responsible for any deductible losses pertaining to staged productions. The City shall be solely responsible for any deductible losses pertaining to facilities, specifically the front-of-house, auditorium, restroom and lobby areas.

C. GG shall provide to the City a certificate of insurance as evidence that required policies are in full force and effect.

## **XI. INDEMNIFICATION**

GG agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representatives, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of GG, any subcontractor of GG, or any officer, employee, representative, volunteer, or agent of GG, or which arise out of any worker's compensation claim of any employee of GG or of any employee of any subcontractor of GG.

## **XII. LIMITATION OF LIABILITY**

EXCEPT AS AGREED TO HEREIN, IN NO EVENT SHALL THE CITY, UNDER ANY CIRCUMSTANCES, BE LIABLE OR OBLIGATED IN ANY MANNER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE CITY IS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING. THIS LIMITATION IS SEPARATE AND INDEPENDENT OF ANY OTHER REMEDY LIMITATIONS AND SHALL NOT FAIL IF SUCH OTHER LIMITATIONS ON REMEDY FAILS. GREEN GLASS PRODUCTIONS LLC'S SOLE REMEDY IN THE EVENT OF A DEFAULT BY THE CITY SHALL BE TERMINATION OF THIS AGREEMENT.

## **XIII. MISCELLANEOUS**

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Teller County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.



shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted.

K. Subject to Annual Appropriations. Consistent with Article X, § 20 of the Colorado Constitution, financial obligations of the City, if any, not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

[Signature pages follow]



**EXHIBIT A**  
**SCOPE OF WORK**

Facilities Addresses: Butte Theater: 139 E Bennett Avenue, Cripple Creek, CO 80813  
Star Building: 143 E Bennett Avenue, Cripple Creek, CO 80813  
Victorian Lady: 127 W Carr Avenue, Cripple Creek, CO 80813

**Shows:**

Except as otherwise provided in accordance with Section I.C. of this Agreement, in accordance with the dates and Schedule of Services herein, GG shall provide the City the following product(s) (collectively, the "Products") or service(s) (collectively, the "Services"):

Green Glass Productions LLC shall produce three (3) Shows for the 2025 Professional Season as follows:

**Summer Musical**

Title: Jersey Boys (rights contingent)  
Allotted Budget: \$67,500

Important Dates:

Est Rehearsal Start Date: June 30th, 2025  
Production Run Dates: July 18<sup>th</sup> - August 31st, 2025  
Total number of performances: 34

**Halloween Melodrama**

Title: TBD  
Allotted Budget: \$67,500

Important Dates:

Est Rehearsal Start Date: September 8th, 2025  
Production Run Dates: October 3<sup>rd</sup> - November 2<sup>nd</sup>, 2025  
Total number of performances: 24

**Christmas Show**

Title: White Christmas (rights contingent)  
Allotted Budget: \$67,500

Important Dates:

Estimated Rehearsal Start Date: November 10<sup>th</sup>, 2025  
Production Run Dates: November 28<sup>th</sup> - December 28<sup>th</sup>, 2025  
Total number of performances: 21

**Responsibilities:**

GG shall:

- Secure rights and permissions for the Shows.
- Contract Directors, Actors, Choreographers & Musical Directors for the Shows.

- Hire and Contract Technical Specialists (i.e. Lighting, Sound, Set Design, Master Carpenter, Costumer, etc.)
- Hire and Contract Crew (i.e. Stage Manager, Production Assistant, Assistant Stage Manager, etc.)
- Design and Construct Set
- Create and Perform Sound Design for the Shows
- Create and Perform Lighting Design for the Shows
- Create or Source Costumes for the Shows
- Create or Source Props for the Shows
- Perform 24 Performances of the Shows
- Assist the Butte Theater in Marketing (Social Media, Postering, Sparking, etc.)



**Services Schedule Including Period for Performances:**

GG shall perform the Services according to the following timeline:

<b>Milestone</b>	<b>Due Date</b>	<b>Responsible Party</b>
Set 2025 Summer Musical Title and GG Submits Budgets for City Approval	February 13, 2025	City & GG
Content for Local Audition	February 23, 2025	GG
Hire/Contract Artistic & Designer Staff	May 30, 2025	GG
Hire/Contract Cast & Crew	May 30, 2025	GG
Program Content	June 19, 2025	City & GG
Period for Performances	July 18 through August 31, 2025	GG

<b>Milestone</b>	<b>Due Date</b>	<b>Responsible Party</b>
Set 2025 Halloween Melodrama Title and GG Submits Budgets for City Approval	February 13, 2025	City & GG
Content for Local Audition	July 23, 2025	GG
Hire/Contract Artistic & Designer Staff	August 8, 2025	GG
Hire/Contract Cast & Crew	August 8, 2025	GG
Program Content	September 1, 2025	City & GG
Period for Performances	Oct. 3 through Nov. 2, 2025	GG

<b>Milestone</b>	<b>Due Date</b>	<b>Responsible Party</b>
Set 2025 Christmas Show Title and GG Submits Budgets for City Approval	February 13, 2025	City & GG
Content for Local Audition	October 6, 2025	GG
Hire/Contract Artistic & Designer Staff	October 20, 2025	GG
Hire/Contract Cast & Crew	October 20, 2025	GG
Program Content	November 3, 2025	City & GG
Period for Performances	Nov. 28 - Dec. 28, 2025	GG

**Acceptance Criteria:**

The City will consider the Products or Services provided by Green Glass Productions LLC satisfactorily completed if the following conditions or criteria are met for each Show:

- All performances of the Shows performed/executed according to Services Schedule, subject to the provisions of Section I.C of this Agreement; and

- GG strictly adheres to the Show Specific Budget for each Show, which Show Specific Budgets, in the form approved by the City is attached hereto as Exhibit C.

**EXHIBIT B  
PAYMENT SCHEDULE**

Payment shall be made to the GG in the total amount of \$202,500.00 according to the following schedule and conditions and provided that the Acceptance Criteria provided in **Exhibit A** are met:

<u><b>Date/Event/Milestone</b></u>	<u><b>Payment Amount</b></u>
01/29/2025: Start Up Payment	\$33,000.00
05/07/2025: Payment for Summer Musical	\$46,500.00*
06/30/2025: Half Producer Fee for Summer Musical	Up to \$5,000.00
07/07/2025: Payment for Fall Melodrama	\$46,500.00*
See below**: Half Producer Fee for Summer Musical	Up to \$5,000.00
09/08/2025: Half Producer Fee for Fall Melodrama	Up to \$5,000.00
09/10/2025: Payment for Christmas Musical	\$46,500.00*
See below**: Half Producer Fee Fall Melodrama	Up to \$5,000.00
11/10/2025: Half producer Fee for Christmas Musical	Up to \$5,000.00
See below**: Half producer Fee for Christmas Musical	Up to \$5,000.00

\*Conditions: In the event a Show or Shows is/are cancelled by the City due to an Act of God or emergency order issued by Teller County Public Health Department or the State of Colorado, the City shall be entitled to and GG shall pay a refund of any portion of the \$46,500 that has not been actually spent by GG as of the date of such cancellation. The City is entitled to audit GG's Show expense records and GG shall allow the City to inspect such records within three business days of the City's request for such inspection.

\*\*Conditions: The City will pay the Second Half Producer Fees following receipt of the Reconciled Show Specific Budget and the City's satisfaction that CC has met the Acceptance Criteria.

**EXHIBIT C**  
**APPROVED SHOW SPECIFIC BUDGET(S)**

**EXHIBIT D**  
**TOC ADDITIONAL SERVICES REQUEST FORM**  
**REQUEST ORDER #\_\_**

Work to be performed between \_\_/\_\_/2025 and \_\_/\_\_/2025 *[To be completed prior to submittal to City]*

Work Description: *[To be completed prior to submittal to City]*

Estimated hours: \_\_\_\_\_ *[To be completed prior to submittal to City]*

Estimated payment GG owes to City: \_\_\_ Hours x \$30.91/hour = \$ \_\_\_\_\_ *[To be completed prior to submittal to City]*

Approved by City Representative: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Actual hours: \_\_\_\_\_ *[To be completed by GG after work is performed]*

Payment GG owes to City: \_\_\_ Hours x \$30.91/hour = \$ \_\_\_\_\_ b *[To be completed GG after work is performed]*

Approved by City Representative: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

RECEIPT OF PAYMENT BY: \_\_\_\_\_ ON: \_\_/\_\_/2025  
*[To be completed by City Finance Department]*



TO: Cripple Creek City Council

FROM: Lauren Smith

DATE: 01/08/2025

---

**REQUEST:** Consider approval of lease agreement with Friends of the Butte for use of the Butte Theater in 2025.

**OVERVIEW & ANALYSIS:** We are requesting approval of the Friends of the Butte 2025 Lease Agreement for the usage of the Butte Theater for the 2025 Community Season. This lease also outlines and specifies the Friends of the Butte's access and usage terms for the Victorian Lady (127 W Carr Ave) during the community season (January – May 2025). This lease also covers the terms of the Friends of the Butte's exclusive access to running and profiting off all Bar and Concession sales for the 2025 calendar year.

**BUDGET IMPACT:** In exchange for leasing the space, the Friends of the Butte will pay the City of Cripple Creek a fee of \$10,000, adding to the revenues of the Butte Theater for the 2025 fiscal year.

**STAFF RECOMMENDATION AND COUNCIL ACTION REQUESTED:** Staff recommends approval of the Friends of the Butte Lease Agreement.

## LEASE AGREEMENT

THIS LEASE AGREEMENT (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2025, effective January 1, 2025, by and between the City of Cripple Creek, a Colorado municipality, 337 East Bennett Avenue, P.O. Box 430, Cripple Creek, Colorado 80813 (the "City") and Friends of The Butte Theater, a Colorado nonprofit corporation, 139 East Bennett Avenue, Cripple Creek, Colorado 80813 ("Friends") (collectively the "Parties").

WHEREAS, the City owns facilities in the City of Cripple Creek known as the Butte Theater, Star Building and Victorian Lady (the "Facilities"), the addresses of which are set forth in Exhibit A; and

WHEREAS, the Butte Theater (also referred to herein as the “Butte”) is used for theatrical productions, the Star Building is used for rehearsals, office space, and other theater-related purposes, and the Victorian Lady for actor housing; and

WHEREAS, the Butte Theater includes a bar and concession area which is depicted in the diagram attached hereto as Exhibit A and incorporated herein by this reference (the “Bar and Concession Area” also referred to herein as the “B&C Area”); and

WHEREAS, Friends is a federally recognized 501C# non-profit organization registered to do business in Colorado dedicated to encouraging and supporting the arts in Cripple Creek; and

WHEREAS, the City desires to lease the Facilities including the B&C Area (the Facilities and B&C Area are collectively referred to herein as the “Premises”) to Friends in accordance with the terms and conditions in this Agreement for the period from January 1st through May 18, 2025; and

WHEREAS, the City desires to lease that certain portion of the Premises defined herein as the B&C Area to Friends for purpose of operating a bar selling liquor, in accordance with its duly obtained liquor license, and operating a concessions business in connection with the theatrical productions performed at the Butte in accordance with the terms and conditions in this Agreement for the period from May 19, 2025 through December 31, 2025; and

WHEREAS, Friends desires to use the Premises for theatrical productions from January 1<sup>st</sup> through May 17, 2025; and

WHEREAS, Friends desires to use the B&C Area for bar and concession operations in connection with the theatrical productions performed at the Butte from January 1 through December 31, 2025; and

WHEREAS, the City has an employee who serves as the City’s Technical Operations Coordinator (the “TOC”); and

WHEREAS, the Parties acknowledge that from time to time Friends may require certain services that would be within the TOC’s capability to provide above and beyond the TOC’s regular duties for the

City for which Friends would like the TOC to perform (the TOC Additional Services”); and

WHEREAS, the City agrees that Friends may request and where such request is approved, shall pay the City for TCO to perform the TOC Additional Services, subject to the terms of this Agreement.

For the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**I. PREMISES USE**

A. Butte Theater. The City shall retain the right to use the Butte Theater, including the B&C Area, and to authorize third parties to use the Butte Theater, including the B&C Area, during the Community Season (January 1, 2025 – May 25, 2025) and Professional Season (May 25, 2025 – December 31, 2025); provided such uses do not unreasonably interfere with Friends’ use of the Butte Theater, during the Community Season, which Friends may determine in its sole judgment. Friends may use the Butte Theater for Shows and rehearsals during Community Season. For the purpose of this agreement the City shall retain all rights and responsibilities not specifically mentioned elsewhere in this agreement, for all public areas including box office, lobby and house seating areas even during the Community Season.

B. Star Building. Friends shall have exclusive use of the Star Building for rehearsal space, production and design offices, set construction, and storage of City-owned sets, props and costumes during the term of this Agreement, except that the City reserves the right to an office space for the exclusive use of the Butte Theater Manager. The City may terminate Friends’ right to use the Star Building upon thirty (30) days written notice at the City's will. If the Star Building is not available to Friends for any reason, including the sale of the Star Building, the City shall use reasonable efforts to provide Friends with comparable space. The City reserves the right to condition the use of the Star Building (or replacement facility) upon the execution of a separate agreement, including but not limited to a lease or license agreement.

C. Victorian Lady. Friends shall have exclusive use of the Victorian Lady for actor housing from February 1, 2025 through May 18, 2025. The City reserves the right to condition the use of the Victorian Lady upon the execution of a separate agreement, including but not limited to a lease or license agreement. Friends shall pay a refundable cleaning and damage deposit of \$1,000.00 prior to Friends occupying the Victorian Lady. Friends and a representative of the City shall perform a full photographic walk-through both prior to Friends occupation and following Friends vacating of the premises. Cleanliness of facility upon Friends vacating premises will be equal to that of the cleanliness of the facility upon Friends occupying of the facility. Damages will be assessed by the City representative using comparative photographs from the two photographic walk-throughs. For the purposes of this agreement “damages” excludes normal wear and tear. The City representative will present an invoice for any necessary cleaning and/or damages to Friends within 10 days of Friends vacating of premises; Friends will have the option of cleaning and/or repairing damages so that the facility is in as good or better condition than when they occupied premises or forfeiting the aforementioned deposit.

D. Marijuana and Tobacco Prohibited. There shall be no consumption or use of



marijuana or any other tobacco products inside or outside in the yards of any of the Facilities.

E. Facility Lease Cost. For consideration of the use of the City's Facilities, Friends agree to pay the City \$10,000. Payment will be made to the City's Historic Preservation fund and is due by December 31<sup>st</sup> of each year.

F. Grants. For consideration of the use of the city's Facilities, the Friends of the Butte Theater agree to pursue grant funding to help offset costs of putting on the Community Season. Grants will be applied for in the Friends of the Butte Theater's name, which the Friends will use to help cover the production, marketing, etc. costs of the Community Season and will pay for directly from the funds received.

## II. CITY OBLIGATIONS

### A. Butte Theater.

1. *Equipment and Services.* The City shall provide the following at the Butte Theater, and keep equipment listed below in good working order:
  - a. *Bar and Concessions*
    - a. The City shall provide access to all bar and concessions areas in the Butte Theater for use by the Friends of The Butte.
    - b. *Pop Corn Machine.* The City shall maintain a working popcorn machine suitable for use by the Friends of The Butte.
    - c. *Alcohol Lockers.* The City shall provide access to all alcohol lockers in the Butte Theater and Star Building for safe storage of alcoholic beverages.
    - d. *Malkovich Room.* The City shall provide access to the Malkovich Room located under the light and sound booth for storage of Bar and Concessions products.
2. *Box Office Operations.* The City shall operate the box office for the Butte Theater, which shall include the following:
  - a. Managing all ticket sales and reservations, including an online ticketing system.
  - b. Operating reservation phone lines (currently operated out of the Heritage Center).
3. *Accounting.* The City shall account for all revenues and expenses related to the Community Season and Professional Seasons.

B. Utilities and Maintenance.

1. *Utilities.* The City shall provide and pay for existing sewer, water, and electricity serving the Premises.
  2. *Acceptance of Premises.* Friends acknowledges that the Premises are in good order and repair, inclusive of Section V.A of this Agreement. The City shall, at its own expense and at all times, maintain the Premises in good and safe condition, including plate glass, electrical wiring, stairs & walkways, plumbing and heating installations and any other system or equipment upon the premises; provided that Friends shall be responsible for any damages directly attributable to Friends, or their employees, agents, or contractors.
1. Technical Operations Coordinator. Friends may contract with the City's Technical Operations Coordinator for duties outside of the scope of what is listed above, Friends must pay the City for the Technical Operations Coordinator's hourly time and a half rate for the work. Possible duties include, but are not limited to sound design, sound board operation, lighting design, light board operation, costume repairs, carpentry work, and work as a fill-in stage manager or backstage hand. All additional work done for Friends will be paid to the Technical Operations Coordinator through the City, in addition to their normal working hours and responsibilities. Friends is responsible for reimbursing the City for the additional hours outside of the Technical Operations Coordinator's standard 40 hour work week. The current time and a half pay rate for the Technical Operations Coordinator is \$30.91/hour.

**III. Friends of the Butte Theater OBLIGATIONS**

A. Concessions.

1. *Exclusive Right.* Friends shall have the exclusive right to sell concessions and liquor during the Community Season and Professional Season. The City may sell concessions for events other than Friends shows at the Butte Theater.
2. *Alcoholic Beverages.* Friends shall comply with all applicable liquor laws if alcoholic beverages are sold at the Butte Theater by Friends. The parties agree to cooperate should the City desire to sell alcoholic beverages for events at the Butte Theater other than at Community Shows. The City may designate a person of its choice, to be approved by Friends, to serve as bartender during events other than Community Shows at which the City desires to sell alcoholic beverages. The bartender for Community Shows shall be designated by Friends. Additionally, Friends of the Butte Theater shall carry the liquor license, liquor liability insurance and bears the sole responsibility for the sale of alcohol on the premises, Friends has the right (solely at the discretion of Friends' Board of Directors) to discontinue the sale of alcohol at any function should it feel that any laws governing the sale of alcohol or any of the City or Friends policies

regarding alcohol have been breached, broken or compromised.

3. *Cleaning*. The Friends shall be responsible for cleaning the auditorium, concession area and bar area after each performance.

B. TOC Additional Services. To avail itself of the TOC Additional Services, Friends shall submit its request for such work using the form substantially as shown in Exhibit B at least 7 calendar days in advance of when Friends desires the work to be performed. All such requests are subject to the approval of the City Representative. Friends shall pay the City for the TOC Additional Services at the rate of time and a half (currently \$30.91/hour) within 10 calendar days of the City presenting notice of payment due and an invoice.

#### IV. TERM

A. Premises: For purposes of the leasing the of the Premises, this Agreement shall be effective as of January 1, 2025, and shall terminate on May 18, 2025; provided that the Parties may mutually agree in writing to subsequent annual renewals. Either party may terminate this Agreement only after giving 60 days written notice to the other party.

B. B&C Area: For purposes of the leasing of the B&C Area, this Agreement shall be effective as of January 1, 2025, and shall terminate on December 31, 2025; provided that the Parties may mutually agree in writing to subsequent annual renewals. Either party may terminate this Agreement only after giving 60 days written notice to the other party.

#### V. ALTERATIONS OR IMPROVEMENTS

A. The Facilities shall be delivered "as is" with no warranties made relating to the condition of the Premises. Friends shall not, without first obtaining the written consent of City, which the City may withhold in its sole discretion, make any alterations, additions, or improvements, in, to or about the Facilities.

B. The Friends shall not suffer nor permit any mechanic's liens or public works claims to be filed against the Facilities by reason of work, labor, service or materials supplied or claimed to have been supplied to the Friends as a result of an agreement with, or the assent of the Friends. Nothing in this Agreement shall be construed as constituting the consent or request of City, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration, or repair of or to the Facilities or any part thereof. Nothing in this Agreement shall be construed as giving the Friends any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's liens or public works claims against City's interest in the Facilities. If any such mechanic's lien or public works claims shall at any time be filed against the Facilities, the Friends shall cause the same to be discharged of record within thirty (30) days after the date the Friends has knowledge of such filing. If the Friends shall fail to discharge such mechanic's lien or public works claims within such period, then, in addition to any other right or remedy of the City, the City may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien.

## **VI. NO JOINT VENTURE**

No joint venture is created by this Agreement. Neither party is an employee or agent of the other. Each Party shall be an independent entity. All personnel (cast, crew, staff & administrative) hired or assigned by Friends to perform work under the terms of this Agreement shall be, and remain at all times, employees, agents, or volunteers of Friends for all purposes. All personnel assigned by the City to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of the City for all purposes. Neither Party shall represent that it is an employee of the other, nor that it is a manager or supervisor of the employees of the other, or that any joint venture exists for any purposes.

## **VII. INSURANCE**

A. Friends shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Friends under this Agreement, including the following, at a minimum:

1. Worker's compensation insurance as required by law.
2. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and general aggregate naming the City and the City's officers, employees, and consultants as additional insureds. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion; and
3. Liquor liability insurance with a minimum combined single limit of three hundred eighty-seven thousand dollars (\$387,000) each occurrence and one million ninety-three thousand dollars (\$1,093,000) general aggregate naming the City and the City's officers, employees, and consultants as additional insureds. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion. **This is only required if liquor will be for sale to the general public at a performance.**

B. Any insurance carried by the City, its officers, or its employees or contractors is excess and not contributory insurance to that provided by Friends. Friends shall be solely responsible for any deductible losses pertaining to staged productions. The City shall be solely responsible for any deductible losses pertaining to facilities, specifically the front-of-house, auditorium, restroom and lobby areas.

C. Friends shall provide to the City a certificate of insurance as evidence that required policies are in full force and effect.

## **VIII. INDEMNIFICATION**

Friends agrees to indemnify and hold harmless the City and its officers, insurers,

volunteers, representatives, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Friends, any subcontractor of Friends, or any officer, employee, representative, volunteer, or agent of Friends, or which arise out of any worker's compensation claim of any employee of Friends or of any employee of any subcontractor of Friends.

## **IX. LIMITATION OF LIABILITY**

EXCEPT AS AGREED TO HEREIN, IN NO EVENT SHALL THE CITY, UNDER ANY CIRCUMSTANCES, BE LIABLE OR OBLIGATED IN ANY MANNER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE CITY IS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING. THIS LIMITATION IS SEPARATE AND INDEPENDENT OF ANY OTHER REMEDY LIMITATIONS AND SHALL NOT FAIL IF SUCH OTHER LIMITATIONS ON REMEDY FAILS. FRIENDS OF THE BUTTE THEATER'S SOLE REMEDY IN THE EVENT OF A DEFAULT BY THE CITY SHALL BE TERMINATION OF THIS AGREEMENT.

## **X. MISCELLANEOUS**

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Teller County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement and any attached exhibits constitute the entire Agreement between Friends and the City, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of

the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either party without the written consent of the other.

I. Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, or otherwise available to the City and its officers or employees.

J. Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted.

K. Subject to Annual Appropriations. Consistent with Article X, § 20 of the Colorado Constitution, financial obligations of the City, if any, not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first set forth above.

[Signature Page Follows]



## **EXHIBIT A**

### **Facilities Addresses**

Butte Theater: 139 E Bennett Avenue, Cripple Creek, CO 80813

Star Building: 143 E Bennett Avenue, Cripple Creek, CO 80813

Victorian Lady: 127 W Carr Avenue, Cripple Creek, CO 80813



**[B&C Area Diagram to be added prior to signature]**

**EXHIBIT B**  
**TOC ADDITIONAL SERVICES REQUEST FORM**  
**REQUEST ORDER #\_\_**

Work to be performed between \_\_/\_\_/2025 and \_\_/\_\_/2025 *[To be completed prior to submittal to City]*

Work Description: *[To be completed prior to submittal to City]*

Estimated hours: \_\_\_\_\_ *[To be completed prior to submittal to City]*

Estimated payment Friends owes to City: \_\_\_ Hours x \$30.91/hour = \$ \_\_\_\_\_ *[To be completed prior to submittal to City]*

Approved by City Representative: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Actual hours: \_\_\_\_\_ *[To be completed by Friends after work is performed]*

Payment Friends owes to City: \_\_\_ Hours x \$30.91/hour = \$ \_\_\_\_\_ *[To be completed by Friends after work is performed]*

Approved by City Representative: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RECEIPT OF PAYMENT BY: \_\_\_\_\_ ON: / /2025

*[To be completed by City Finance Department]*



TO: City Council

FROM: Malissa Gish, City Clerk

DATE: January 15, 2025

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**REQUEST:** Approve Resolution 2025-01

**OVERVIEW & ANALYSIS:** Section 24-6-402(2)(c) CRS requires Council to annually designate, at the first meeting of each year, the public places for posting notice of meetings.

**BUDGET IMPACT:** No impact on the budget.

**STAFF RECOMMENDATION AND COUNCIL ACTION REQUESTED:**

The City Clerk recommends Council approve Resolution 2025-01.

**CITY OF CRIPPLE CREEK, COLORADO**

**RESOLUTION NO. 2025-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CRIPPLE CREEK, COLORADO, DESIGNATING THE PLACE FOR THE POSTING OF PUBLIC NOTICES FOR MEETINGS OF THE CITY COUNCIL, THE PLANNING COMMISSION, AND CITY ADVISORY BOARDS, COMMITTEES AND COMMISSIONS.**

WHEREAS, Section 24-6-402(2)(c), C.R.S., (part of the Colorado “Sunshine Law”) requires that the City Council annually designate at its first regular meeting of each calendar year the public place or places for the posting of notice of its meetings; and

WHEREAS, the City Council of the City of Cripple Creek wishes to continue providing public notice to its citizens at several convenient locations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF CRIPPLE CREEK, COLORADO:

**Section 1.** The following public places are those designated during calendar year 2023 for posting of meeting notices as required by the Colorado Open Meetings Law:

1. Cripple Creek City Hall – 337 E. Bennett Avenue
2. Cripple Creek Post Office – 319 W. Carr Avenue
3. City of Cripple Creek Website – [www.cityofcripplecreek.com](http://www.cityofcripplecreek.com)

**Section 2.** The City Clerk, or other designated City Staff, shall be responsible for posting the required notices no less than twenty-four (24) hours prior to the holding of a meeting.

**Section 3.** All meeting notices shall include specific agenda information where possible.

ADOPTED at Cripple Creek, Colorado, this 15<sup>th</sup> day of January, 2025.

CITY OF CRIPPLE CREEK, COLORADO

\_\_\_\_\_  
Annie Durham, Mayor

ATTEST

\_\_\_\_\_  
Malissa Gish  
City Clerk