360 N. Main / Delta, Colorado 81416 / Phone 970.874.7566

MEMO

To: City Council
From: Elyse Casselberry
Date: November 3, 2026
Subject: Fort Uncompahgre Property Management and Access Agreement

The City has prepared a Property Management and Access Agreement with the Delta County Historical Society, doing business as Friends of the Fort Uncompahgre, for management and operation of Fort Uncompahgre, located at 440 North Palmer Street.

The agreement outlines the Manager's responsibilities for property maintenance, public programming, operations, security, and recordkeeping, as well as the City's responsibilities for utilities and property access.

Agreement Terms

The agreement provides for the Manager to retain revenue generated from tours, store sales, and rentals. The City will provide a current inventory of goods donated for sale at the on-property store. The Manager will be responsible for obtaining and maintaining a City of Delta sales tax license.

The City will provide utilities, maintain the security system, perform tree trimming, inspect the property annually, and pay approved expenses. The City will retain property access for maintenance and City functions.

Recommendation & Actions To Be Taken if Approved:

Staff requests City Council review and approval of the Property Management and Access Agreement with Friends of the Fort Uncompahgre.

PROPERTY MANAGEMENT AND ACCESS AGREEMENT

THIS PROPERTY MANAGEMENT AND ACCESS AGREEMENT ("Agreement") (hereinafter referred to as the "Agreement") is entered into on the __ day of_____, 2026 by and between the Delta County Historical Society, a Colorado nonprofit corporation ("Manager") the City of Delta, Colorado ("City"), a Colorado home rule municipality. City and Manager agree as follows:

1. Employment of Manager: The City hereby retains the Manager as its exclusive managing agent to manage, pursuant to the terms hereof, the City's property located at 440 North Palmer Street, Delta, CO and generally known as Fort Uncompahgre (hereinafter referred to as the "Property").

2. Term of the Agreement: This agreement shall become effective on_____, 2026 and shall extend through December 31, 2026. This Agreement shall automatically be renewed for successive one-year periods unless canceled in writing by either party at least 90 days prior to the anniversary date.

3. Obligations of Manager: During the term of this Agreement, the Manager shall provide the City with management services hereinafter described as specified in section 3. In the performance of the management responsibilities hereby assumed, the Manager shall have the rights, duties and obligations specified in this Agreement. The Manager is not an employee of the City but rather an independent contractor.

3.1 Maintenance by Manager: The Manager shall provide the Property with all necessary maintenance except such duties expressly assumed by the City under this Agreement. Manager's maintenance responsibilities include, without limitation, weed control, leaf pickup, fire extinguisher testing and maintenance or replacement at least annually, and general maintenance and upkeep of all buildings and structures on the Property when necessary. Manager shall make or supervise such repairs and maintenance services to the premises as may be advisable or necessary in order to maintain the Property, furniture, and furnishings in a safe and optimal condition. The Manager shall purchase all supplies necessary for the accomplishment of the above responsibilities and pay the expenses on behalf of and expensed to the City, provided that the Manager agrees to secure the prior approval of the City for all expenditures in excess of $250 for any one item not to exceed the annual budget, except emergency repairs, if in the opinion of the Manager such repairs are necessary to protect the premises from damage or to maintain services. The City shall establish and provide Manager with procedures to handle maintenance requests and authorizing work consistent with the City's general procurement policies. The Manager shall charge for all services listed above as outlined in section 4. To the extent that Manager may be able to contract with the Colorado Department of Corrections for inmate contributions to these efforts, Manager is authorized to do so.

3.2 Keeping of Live Animals Prohibited. Manager and its agents shall not permanently keep any live animals on the Property; however, temporary presence of live animals shall be permitted during events.

3.3 Security Systems. Manager shall be responsible for the security system including responding to alerts. The City staff shall be removed from the security monitoring contact list. The City will pay for the security system and any third-party monitory services provided that such expenditures must be approved in advance.

3.4 Utilities. The City shall be responsible for providing electric, water, and internet services to the Property. Manager shall be responsible for trash and phone services. The City shall provide and maintain the alarm system at the Property, but Manager shall serve as the primary point of contact for the duration of this Agreement.

3.5 Porta Potty. Manager shall arrange for a Porta-Potty onsite for the use of Manager's personnel and the public and shall be responsible for scheduling regular service of the Porta-Potty.

3.6 Fort Programming. Manager shall be responsible for establishing programming, scheduling, hours of operation, setting and collecting fees (including both day-use fees and annual memberships), and other aspects of managing the Property as a public interpretive center and providing access to and use by the public in a manner generally consistent with the historical operations of Fort Uncompahgre.

3.7 Inspection: The Manager shall inspect the Property on a regular basis when unoccupied and make a diligent effort to protect the premises against damage by utility failure, the elements, vandalism, and possible irregularities, which might be detrimental to the Property, and to monitor utilities to save on utility expenses. The City shall also inspect the Property at least annually and based on such inspection, shall provide Manager with a list of maintenance needs and priorities. Manager shall pursue such needs and priorities as part of its maintenance obligations under this Agreement.

3.8 Manager's Insurance: Throughout the term of this Agreement, the Manager agrees to cover all the employees of the Manager with adequate Workers' Compensation Insurance, and to carry a comprehensive general liability insurance policy with policy limits at least equal to the liability limits for the City under the Colorado Governmental Immunity Act, as such limits are updated by the State of Colorado from time to time. Manager shall also maintain insurance for the replacement value of personal property, including sales inventory, kept on the Property. Manager shall provide City with a certificate of insurance evidencing the liability coverage required by this Section on no less than an annual basis. Manager shall provide City with thirty (30) days prior written notice of any change or cancellation in any applicable insurance policies.

3.9 Record Keeping and Monthly Accounting: The Manager shall provide the City upon reasonable request, but at least quarterly, a statement of income and expenses for the Property over the prior 12 months.

4. Maintenance and Access by City: The City shall be responsible for any tree trimming on the Property. The City shall have the right to access the Property at any time to perform the City's maintenance obligations and to access, water, and maintain the adjacent community

garden. The City shall be provided with keys and alarm codes. The City also reserves the right to utilize the Property for City Functions at no cost to the City, provided that such functions are scheduled with reasonable advance notice and do not conflict with other previously-scheduled events.

5. Compensation: As compensation for the services to be provided under this Agreement, the City agrees to allow for Manager to retain any revenues from tours, sales of goods at the on-Property store, and rentals. The City shall provide the Manager with a current inventory of all goods held for sale at the on-Property store and authorizes Manager to sell such items and retain the revenues. Future inventory will be the responsibility of the Manager to purchase at their own expense. The Manager shall be responsible for obtaining and maintaining a City of Delta sales tax license.

6. Right of Access: The Manager shall have access to the Property during reasonable hours as may be necessary for the inspection, maintenance or making of emergency repairs. It is the Manager's duty to represent the City in acquainting anyone entering the Property, with the purpose of inspecting or making repairs, with the rules and regulations applicable to the Property. Any party or agent of Manager entering the Property shall be licensed and insured as required by law.

7. Entire Agreement: This Agreement contains the entire agreement of the parties with respect to the transactions contemplated and shall not be modified or amended except by an instrument in writing signed by or on behalf of all parties hereto; provided, however, nothing contained herein shall prohibit an additional, supplemental, verbal or written agreement for compensation for the Manager's performance of additional or supplemental services.

8. Successor or Assigns: This Agreement shall be binding upon the parties hereto, their heirs, personal representatives, successors and assigns but not upon a purchaser for value of the Property from the City.

9. Governing Law: This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Colorado. In the event of a dispute between the parties arising out of or related to this Agreement, the parties agree that Colorado shall have jurisdiction over said dispute and the venue shall be Delta County. Moreover, the prevailing party in such a dispute shall be awarded its costs and reasonable attorney's fees.

10. Waiver: The failure of any party to enforce at any time any of the provisions hereof shall not be construed to be a waiver of any right of such party thereafter to enforce such provisions and each and every other provision hereof.

11. Governmental Immunity: Nothing herein shall be construed as a waiver or limitation of the City's governmental immunity.

12. TABOR Clause. All fiscal obligations of the City under this Agreement or relating to the Property shall at all times be contingent upon annual budgeting and appropriation by the Delta City Council as required by Colorado law.

Independent Contractor. Manager and any persons employed or retained by Manager for the

performance of this Agreement shall be independent contractors and not agents or employees of the City. Any provisions in this Agreement that may appear to give the City the right to direct Manager as to details of doing work or to exercise a measure of control over the work mean that Manager shall follow the direction of the City as to end results of the work only.

A. Manager is providing services independently and, therefore, is not an employee, partner, or joint venturer with the City, and neither party has the authority to bind the other in any respect. Manager warrants to the City that Manager understands the difference in status between an independent contractor and an employee, and Manager acknowledges and stipulates that Manager is neither eligible nor entitled to statutory or legal benefits or provisions of labor codes or other such similar statutes. The parties further agree that the City shall not withhold from Manager unemployment insurance, social security, taxes or any other withholdings. Manager agrees to be responsible for all such payments required by law.

B. **Manager acknowledges and agrees to report all payments received from the City on its federal and state income tax returns and is obligated to pay any and all resulting federal and state income tax obligations. Manager will indemnify the City for any such payments required but not paid.**

C. **Manager acknowledges and agrees that it is not covered by any of the City's insurance, including the City's workers' compensation coverage, and is not entitled to any benefits otherwise provided to the City's employees, including vacation pay, sick leave, retirement benefits, social security, disability benefits, employee health benefits of any kind, and workers' compensation benefits. During the Term of this Agreement, Manager will carry any insurance required by law at Manager's own expense.**

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

CITY:

Name (printed or typed):

_____

Signature:_____Date:_____/_____/

COUNTY OF DELTA)

) ss.

STATE OF COLORADO)

Signed and acknowledged before me this __ day of _____, 2026, by _____ on behalf of the City of Delta, Colorado. Witness my hand and official seal.

My commission expires:

_____

Notary Public

_____

MANAGER:

By:_____Date:_____/_____/

_____

Heather Nieslanik

COUNTY OF DELTA)

) ss.

STATE OF COLORADO)

Signed and acknowledged before me this __ day of _____, 2026, by Heather Nieslanik on behalf of the Delta County Historical Society. Witness my hand and official seal.

My commission expires:

_____

Notary Public

_____

EXHIBIT A – RATES AND CHARGES