

MEMORANDUM OF UNDERSTANDING

CITY OF DOUGLAS, WYOMING WITH OUTDOOR ENTHUSIASTS OF CONVERSE COUNTY

1. PARTIES.

The parties to this Memorandum of Understanding (hereinafter referred to as "MOU" is entered into on this _____ day of _____, 2024, by and between the CITY OF DOUGLAS ("City") and OUTDOOR ENTHUSIASTS OF CONVERSE COUNTY ("OECC"). The parties' respective contact information is:

CITY OF DOUGLAS
City Manager
JD Cox
101 N. Fourth Street
Douglas, WY 86233

OECC
President
Eli Geisler
608 Osborn Drive
Douglas, WY 82633

2. RECITALS.

- A. Whereas, the City is a political subdivision of the State of Wyoming is committed to the development and improvement of outdoor recreational facilities within its jurisdiction; and
- B. Whereas, the City owns property located to the east of Washington Park and legally described as a part of the SWNE and SENE, Section 9, Township 32 North, Range 71 West of the 6th P.M.; and
- C. Whereas, the City wishes to allow the use of said property for the purpose of mountain biking and other related outdoor activities; and
- D. Whereas, the OECC is an active nonprofit corporation for public benefit in good standing dedicated to promoting environmental stewardship, community growth, and youth development through outdoor recreation and education; and
- E. Whereas, the City and the OECC both wish to establish a mountain biking trail and obstacle system, and other related activities on said site; and
- F. Whereas, City and the OECC find that the respective rights and responsibilities should be reduced to writing to facilitate such assistance.

3. PURPOSE OF MOU. This MOU is to establish the procedures for the OECC to assist in the creation and operation of a mountain biking trail system. In consideration of the covenants herein, the parties agree as follows.

A. CITY'S OBLIGATIONS.

- i. The City agrees to allow OECC to oversee the construction of the Douglas Mountain Bike Park project.
- ii. The City agrees to pay \$25,250 toward the construction costs of the accepted and approved Douglas Mountain Bike Park project.

- iii. The City agrees to maintain the parking lot and provide and service one dumpster at the parking lot.
- iv. Upon request from the OECC, the City agrees to reasonably allow the closure of the Douglas Mountain Bike Park project, including trails, as needed for construction, for maintenance, and for special events.
- v. The City agrees to consider, approve, decline or modify proposals, improvements, or other operational changes as submitted by the OECC.

B. OECC'S OBLIGATIONS.

- i. The OECC shall oversee the construction of the Douglas Mountain Bike Park in conjunction with City officials.
- ii. The OECC shall coordinate raising of funds to pay for the construction of the Douglas Mountain Bike Park through the City and other sources.
- iii. The OECC agrees to allow the City, or its agents, representatives, and/or employees, to access and inspect the property or any part thereof - at such times as the City may need
- iv. The OECC agrees to maintain the trails at the Douglas Mountain Bike Park on a regular basis.
Maintenance shall include:
 - a. General trail cleaning.
 - b. Repair of trail surface.
 - c. Repair or replacement of trail markers and signs.
 - d. Removal of down or hazard trees in trail corridor.
 - e. Limbing and removing vegetation overgrowth.
- v. The OECC agrees to build trails within accordance with “best practices” and “standards.”
- vi. The OECC shall facilitate the construction and installation of associated trail system infrastructure (i.e. trailheads, kiosks, signage, etc.) at Douglas Mountain Bike Park.
- vii. The OECC shall submit “new” trail plans to the City for approval prior to commencement.
- viii. The OECC shall submit for prior approval and coordinate with the City on any planned special events using the Douglas Mountain Bike Park.
- ix. OECC shall be aware of and comply with all applicable federal, state, and local laws and regulations. This includes, but is not limited to, laws and regulations regarding sanitation, fire suppression, environmental quality, and hazardous substances. OECC shall promptly notify City if OECC

suspects there is a violation of any such law or regulation regardless of the source of the violation.

- x. Insurance. It shall be the responsibility of the OECC to carry the following insurance:
 1. Comprehensive General Liability. OECC shall have and maintain comprehensive general liability insurance coverage during the entire term of the MOU against claims arising out of bodily injury, death, damage to or destruction of the property of others, including loss of use thereof and including underground, collapse, and explosion (XCU), products and completed operations, and automobile coverage in an amount not less than one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) in general aggregate. OECC shall provide the City Clerk with a copy of the certificate of commercial general liability insurance for the FSA and shall save and hold harmless the City and/or Assignee from any and all liability to persons for harm or injury resulting from the services performed under this MOU.
 2. Workers' Compensation or Employers Liability Insurance. OECC shall provide proof of workers' compensation coverage for all its employees who are to work on the projects described in this MOU, if any. OECC's coverage shall be under the Wyoming Workers' Safety and Compensation program, if statutorily required or such other workers' compensation insurance as appropriate. OECC's insurance shall include a Stop Gap coverage in the amount not less than five hundred thousand dollars (\$500,000.00) per employee for each accident and disease. OECC shall have also supply proof of workers' compensation and employer's liability insurance on each and every contractor and subcontractor before allowing that contractor or subcontractor on the job site.
 3. Coverage. All policies required under this MOU shall be in effect for the duration of this MOU. All policies shall be primary and not contributory. OECC shall pay the premiums on all insurance policies and insurance certificates must include a clause stating that the insurance may not be revoked, cancelled, amended or allowed to lapse until the expiration of at least thirty (30) days advance written notice to the City.
 4. Additional Insured. All insurance policies required by this MOU, except workers' compensation, shall name the City as an additional insured, and shall contain a waiver of subrogation against the City, its agents, and employees. OECC shall provide, upon request, a copy of an endorsement providing this coverage.
 5. City's Right to Reject. City reserves the right to reject a certificate of insurance if OECC's insurance company is widely regarded in the insurance industry as financially unstable. This would include but is not limited to insurance companies with no less than AVIII rating in the A.M.

Best insurance rating guide.

6. Cancellation. There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent to not renew insurance coverage without thirty (30) days written notice from OECC or their insurers to City. Any failure to comply with the reporting provision of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage provided to City and its division, officers and employees.
 - xi. Indemnity. The OECC agrees to indemnify and hold harmless and defend City, City's agents, officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, OECC's performance under this MOU, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the OECC, its officers, employees, agents, subcontractors, licensees, or invitees.
4. EFFECTIVE DATE AND TERM OF MOU. This MOU becomes effective upon the date of the last required signature. MOU modifications shall be made in writing and signed and dated by the City of Douglas and the Outdoor Enthusiasts of Converse County. Either party may terminate this MOU, in whole or in part, at any time and for any reason, with thirty (30) days written notice to the other party.
5. GENERAL PROVISIONS.
- A. RESERVED RIGHTS OF PROPERTY OWNER. Nothing in this Memorandum of Understanding shall be construed to limit, interfere with, or otherwise override the right of the City to maintain, use, or modify its property as it deems necessary, provided such actions are carried out in accordance with applicable laws and regulations.
 - B. AMENDMENTS. Either Party may request changes to this MOU. Any changes, modifications, revisions, or amendments to this MOU must be agreed upon by both parties. Such changes to the MOU shall be incorporated by written instrument and effective when executed and signed by all Parties to this MOU.
 - C. APPLICABLE LAW. The laws of the State of Wyoming shall govern the interpretation and enforcement of this MOU. The courts in the State of Wyoming shall have jurisdiction over this MOU and the Parties, and the venue shall be the Eighth Judicial District Converse County, Wyoming.
 - D. ENTIRETY OF AGREEMENT. This MOU represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
 - E. NONDISCRIMINATION. The parties shall not discriminate against any individual based on age, gender, gender-preference, pregnancy, color, race, religion, national

origin, or a disability that can be reasonably accommodated.

- F. SEVERABILITY. If any portion of this MOU is determined by a court with jurisdiction to be illegal or unenforceable, the remainder of this MOU shall remain in full force and effect, and, either Party may renegotiate regarding the term(s) affected by the severance.
- G. GOVERNMENTAL IMMUNITY. City does not waive and specifically retains all immunity provided by the Wyoming Governmental Claims Act, Wyo. Stat. §§ 1-39-101, et seq., and all other immunity and the right to assert immunities as a defense.
- H. THIRD PARTY BENEFICIARY RIGHTS. The Parties do not intend this MOU to create any third-party beneficiary and this MOU shall not be construed so as to create such status. The rights, duties, and obligations contained in this MOU shall operate only between the Parties to this MOU and shall insure solely to the benefit of the Parties in this MOU. The provisions of this MOU are intended only to assist the Parties in determining and performing their obligations under this MOU. The Parties in this MOU intended and expressly agree that only Party's signatory to this MOU shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this MOU or to bring an action for the breach of this MOU.
- I. SIGNATURES. In witness whereof, the Parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

For the City of Douglas, Wyoming

For Outdoor Enthusiasts of Converse County

JD Cox, City Manager

Eli Geisler, OECC President

Date

Date

