AMENDMENT
TO
JOINT POWERS AGREEMENT BETWEEN TETON COUNTY AND THE CITY OF DRIGGS
FOR ENHANCED LAW ENFORCEMENT SERVICES

This Amendment ("Amendment") to the Joint Powers Agreement between Teton County and the City of Driggs for Enhanced Law Enforcement Services dated October 12, 2021 ("Agreement") is made and entered into by and between Teton County (the "County"), a political subdivision of the State of Idaho; the Teton County Sheriff's Office ("TCSO"); and the City of Driggs (the "City"), a municipal corporation of the State of Idaho (together, the "Parties" and each individually, a "Party"). Capitalized terms not otherwise defined herein shall have the same meanings as in the Agreement.

RECITALS

WHEREAS, the parties wish to extend the term of the Agreement on the terms and conditions set forth below;

NOW, THEREFORE, the Parties agree as follows:

1. **Amendment of Term.** The Parties hereby amend and restate Section 7 of the Agreement in its entirety as follows:

"7**. Initial Term; Renewal Terms.** This Agreement shall begin on date of the last signature of this Agreement and continue through September 30, 2023, unless terminated earlier or automatically extended in accordance with the terms of this Agreement. Not less than sixty (60) days prior to the end of the initial or any renewal term of this Agreement, any party may notify the other party in writing that it desires to terminate this Agreement or amend certain terms of the Agreement, effective as of the end of the then current term. If no such written notification is given, this Agreement shall automatically continue with the same terms and conditions as set forth herein for an additional one (1) year renewal term."

2. **No Other Changes.** Except as provided in this Amendment, the Agreement remains in full force and effect.

3. **Governing Law.** This Amendment is to be construed and enforced in accordance with the laws of the United States and the State of Idaho without regard to its conflict of law provisions.

4. **Title and headings.** Titles and headings to the sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Amendment.

5. **Counterparts.** This First Amendment may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have signed this Amendment by their respective authorized officers as set forth below.

CITY OF DRIGGS

DATED this _____ day of _____, 2022.

_____
August Christensen, Mayor of the City of Driggs

ATTEST: KRESLYN SCHUEHLER, CITY CLERK

By: _____

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

DATED this _____ day of _____, 2022.

_____
CINDY RIEGEL, District 1, Chair

_____
MICHAEL WHITFIELD, District 2, Commissioner

_____
BOB HENEAGE, District 3, Commissioner

ATTEST: KIM KEELEY, COUNTY CLERK

By: _____
Deputy Clerk

TETON COUNTY SHERIFF

DATED this _____ day of _____, 2022.

_____
CLINT LEMIEUX, Sheriff

JOINT POWERS AGREEMENT BETWEEN TETON COUNTY AND THE CITY OF DRIGGS
FOR ENHANCED LAW ENFORCEMENT SERVICES

This Joint Powers Agreement ("Agreement") is made and entered into by and between Teton County (the "County"), a political subdivision of the State of Idaho; the Teton County Sheriff's Office ("TCSO"); and the City of DRIGGS (the "City"), a municipal corporation of the State of Idaho (together, the "Parties" and each individually, a "Party").

RECITALS

WHEREAS, for conduct committed within the City's municipal limits, the City Attorney bears the statutory duty of prosecuting state law misdemeanors and infractions charged or stemming from arrests by the city police, as well as violations of the City's ordinances;[1] and

WHEREAS, the City desires to maintain a city police force as permitted in Idaho Code § 50-209, and to hire and appoint TCSO as the City's police; and

WHEREAS, the City has hired its own criminal attorney (the "City Attorney") to prosecute misdemeanor and infraction violations of State law as well as violations of the City's municipal code within the City's municipal limits; and

WHEREAS, the Teton County Board of County Commissioners (the "Board") possesses the authority to enter this Agreement pursuant to Idaho Code §§ 31-604, 31-801, 31-828, 67-2332, and 67-2328, and the Board has approved TCSO to contract with any city in the County to provide law enforcement services; and

WHEREAS the City possesses the authority to enter this Agreement pursuant to Idaho Code §§ 50-204, 50-208A, 50-209, 50-301, 50-602, 50-606, 50-607, 67-2332, and 67-2328, and the City's council has approved appointing TCSO as the City's policemen for law enforcement purposes;

NOW, THEREFORE, the Parties agree as follows:

1. **Purpose, appointment, and authority.**

a. *Law enforcement*. The City appoints TCSO as the City's policemen as envisioned by Idaho Code § 50-209, and thus confers the City's municipal police authority on TCSO. This municipal police authority is in addition to TCSO's inherent statutory authority; this Agreement does not interfere with or limit TCSO's authority in any way.

[1] *See* Idaho Code §§ 50-208A(2), 31-2604(2), and *Clyde Hess Distrib. Co. v. Bonneville Cty.*, 69 Idaho 505, 511-513 (1949).

b. *Enhanced enforcement.* The City desires additional, or enhanced law enforcement services beyond those available under the TCSO existing staffing and funding, and its duties. This Agreement provides for these enhanced services.

c. *Prosecution*. As required by law, the City Attorney will prosecute misdemeanor and infraction violations of State law and City ordinances occurring within the City's municipal limits,[2] and the Teton County Office of the Prosecuting Attorney ("TCPA") will pros[redacted]ony offenses within the City's municipal limits.[3] To the extent that a case involves cond[redacted]ch could be charged as one or more felony offenses as well as one or more misd[redacted]r or infraction violations, the City Attorney will consult with TCPA to determine whe[redacted]A or the City Attorney will prosecute the misdemeanor and infraction offenses. Und[redacted]he City Attorney bears the responsibility of providing TCSO, as the City's Police, with lega[redacted] and drafting services related to search warrants and arrest warrants within the City'[redacted]pal limits. The City Attorney or other City staff shall provide the victim services for misd[redacted]r and infraction violations, as required by statute[5] and the Idaho constitution.

[phone redacted]

d. *No entity created*. This Agreement does not create any separate legal or administrative entity.

2. **Law enforcement services.** TCSO shall provide the following services within the City's municipal limits:

a. *Dedicated patrol*. TCSO shall provide the City with dedicated patrol services within the City's municipal limits for a minimum of 20 hours per week. Patrol services include but are not limited to the following, with the specific type of patrol being determined in the sole discretion of TCSO, yet taking into consideration specific areas or types of concerns of the City as may be noted from time to time.:

i. Visible physical police presence.
ii. Traffic enforcement, with emphasis on trouble spots or specific issues as called out from time to time by the city.
iii. Proactive patrol to prevent and deter criminal activity.
iv. Reactive patrol to enforce state laws.
v. Reactive patrol to enforce the City's ordinances, subject to the limitations noted in this Agreement, if and when TCSO and TCPA have both provided written approval of proposed changes to the City's ordinances, and the amended ordinances have been adopted in accordance with law.
vi. Community crime prevention undertakings.

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[2] Idaho Code § 50-208A(2).
[3] Idaho Code § 31-2604(2).
[4] Idaho Code § 50-208A(1).
[5] Idaho Code § 19-5306.

vii. Investigation of crimes, including crime analysis, suspect identification, evidence control, and submission of evidence for testing to the state lab.
viii. Application for search warrants and arrest warrants relating to conduct or violations within City municipal limits;
ix. Critical Incident operational services.
x. Follow-up work including but not limited to report writing, logging evidence, correspondence with state laboratories, preparation for court and court testimony, even when such activities are not performed in the City's municipal limits, where the follow-up work arises directly out of the additional services rendered under this Agreement in the City's municipal limits.

b. *Administrative*. In addition to patrol services, TCSO shall provide the following crucial law enforcement services to the City:

i. Communications services, including call receiving, dispatch, and associated report generation.
ii. Subpoena control.
iii. Training of officers and law enforcement support staff.
iv. Media relations.
v. Fleet control.
vi. Equipment maintenance.
vii. Records retention.
viii. Inspections and internal investigations.

c. *Reports*. On or before the 10th day of each fiscal quarter, TCSO shall provide the City with a written report containing the following information for the previous quarter of services:

i. A log of the hours of physical police presence maintained in the City's municipal limits.
ii. The type and number of incidents handled by TCSO in the City's municipal limits.
iii. The number and type of calls for service in the City's municipal limits.
iv. The number of citations issued and complaints filed, by crime type, by TCSO in the City's municipal limits.
v. Any specific requests, areas or items of concern, or recommendations for changes or improvements in city transportation network, or ordinances.

d. *Additional services*. For services beyond those contemplated in this Agreement (e.g., security for parades, festivals, or special city events; dignitary protection)

(hereinafter, "Additional TCSO Services"), if the City and TCSO agree in advance, TCSO shall provide overtime operational services. This type of overtime operational services, when requested, will be billable at the actual overtime rate of the officer(s) working, including benefit costs. This is only applicable when a request is made in writing to the City, and a price quote is provided, and accepted, in advance of the event or service. Absent such written advance agreement, any such services will be considered statutory services and not billable to the city.

e. *City ordinances*. City will provide copies of all ordinances which are to be enforced under this enhanced services agreement as Exhibit A, attached hereto and incorporated by reference. TCSO and TCPA will review all ordinances submitted within 30 days of approval, and may respond with questions or concerns within the 30 day period, seeking clarification or amendment. Failure to submit a response to the City within 30 days shall be interpreted as defacto acceptance of them, and agreement to enforce under this enhanced services agreement. Requests for clarification received by the City within the 30 day period will be reviewed by the City Attorney/Prosecutor, and either a correction to city code initiated, or a clarification or explanation provided to satisfy the TCSO concern expressed. Any further TCSO response must be submitted within 7 days of receipt of City Attorney's response, or the ordinance shall be deemed acceptable and enforceable under this agreement. The City may submit periodic administrative updates to Exhibit A from time to time, though generally no more frequently than quarterly. Any revisions that the City makes to the ordinances listed in Exhibit A, or proposed additions to this list of ordinances, are subject to the same review process and timelines as detailed in this paragraph.

f. *Excluded*. For the avoidance of doubt and in accordance with Exhibit A to this Agreement, in no event will TCSO issue citations enforcing the City's ordinances pertaining to zoning, building regulations, subdivisions, nuisance, junkyards, signs, business licenses, city taxes or discrimination. However, TCSO will, upon request, provide officer standby services to facilitate peaceful and orderly interactions between the City's code enforcement officer and/or other City employees and citizens allegedly in violation of the City's code.

Sheriff discretion. TCSO retains absolute discretion in decisions regarding officer staffing, issuance of citations, arrests, incarceration of offenders, investigation, control of personnel rendering services, and other matters incidental to the performance of the law enforcement services provided hereunder. In exercise of this discretion, the TCSO will collaborate and consult with the City Attorney/Prosecutor to determine the viability of the action under the law.

3. **City cases.** All arrests, citations and charges for misdemeanors or infractions that occur within the City's municipal limits and are handled primarily by the City Attorney, shall be deemed "City Cases" for the purpose of prosecution and distribution of income from penalties, fines, and forfeitures according to Idaho Code. All citation forms shall be marked accordingly.

4. **City-specific supplies**. The City shall supply to TCSO, at the City's cost and expense, any special supplies needed to perform the services contemplated in this Agreement, including

stationery, notices, forms, citations, and the like where such items must be issued in the name of the City. Any items purchased or received expressly for performance of this paragraph, for use within the City, using funds paid by the City for this Agreement, remain the property of the City, and must be mai[redacted] and inventoried in a manner which allows TCSO to account for their condition and whe[redacted]uts at any time if requested.

5. **Pay[redacted]**

a. *[redacted]mpensation amount*. In consideration for the law enforcement services described herein, [redacted]City shall pay to the County a sum of forty-five thousand dollars ($45,000.00) annu[redacted]ro-rated by month due and payable upon the last signature to this agreement. This a[redacted]t does not include any amounts due to the County for any Additional TCSO Services req[redacted] by the City and provide[redacted]O as described in section 2(d) of this Agreement. The Teton County Auditor will sen[redacted]oice to the City's Finance Director; payment is due to the Teton County Auditor with[redacted]endar days of receipt of the invoice. The City shall remit payment, plus any amounts d[redacted]dditional TCSO services, to the Teton County Auditor (150 Courthouse Dr., Rm. 208, [redacted]D 83422) for each month that this Agreement is in effect.

b. *Extraordinary investigation or litigation expenses*. If the investigation or prosecution of a City case requires an expert witness, forensic audit, lab services not provided by the State, or some other atypical service that costs $1,000 or more, TCSO may send a request to the City for approval of the anticipated expenditure. Given that investigation decisions may have to be made quickly, the City shall approve or deny the request in writing within five business days; no response by the City within that period must be deemed by the County as a denial. For approved requests, the City shall remit payment to the Teton County Auditor for up to the approved dollar amount within 30 calendar days of receipt of an invoice. The City shall pay these approved extraordinary investigation expenses in addition to the compensation listed in Section 6(a).

6. **Term.** This Agreement shall commence on October 1, 2021 and shall be for a term of one year, unless terminated earlier in accordance with the terms of this Agreement.

7. **Termination.**

a. *Material breach*. A material breach of this Agreement occurs if the City, County, or TCSO fails to comply with its obligations under this Agreement, and does not remedy the defect in performance within five business days after receipt of written notice informing it of such defects in performance. If at the end of such cure period, the offending party is still in default or noncompliance, then the offended party may terminate this Agreement in writing to be effective immediately upon delivery.

b. *For convenience*. The County or the City may terminate this Agreement at any time, with or without cause, by providing the other Party with 60 calendar days' written notice of termination.

c. *Mutual agreement*. This Agreement may be terminated immediately and at any time by mutual agreement, in writing, of all of the Parties.

8. **Duties in event of termination.**

a. *TCSO*. Upon expiration or termination of this Agreement, TCSO shall, within 30 calendar days of the last effective day of this Agreement, deliver to the City all case files (including related documents, notes, audio files, video files, photographs, but not including dispatch records) for all cases pending in court and all cases pending further investigation at that time. TCSO shall also deliver all items purchased under paragraph 4 of this Agreement, for use within the city, using city funds, or funds paid by the city relative to this Agreement.

9. **Compensation in event of termination.** Upon expiration or termination of this Agreement, the City shall pay the County for unpaid services rendered to the date of such termination within 30 calendar days of receipt of an invoice from the County, or if the City has paid in advance for services to be rendered in the future, the County shall refund to the City any advance payment for services not ultimately rendered following the early termination. Furthermore, the City shall pay the County for any vehicle and equipment lease costs and/or penalties where the leases were entered into for the purposes of performing services under this Agreement and cannot be terminated without penalty, provided, however, that in no case will the City be liable for expenses derived or applicable beyond the current fiscal year, including any penalties for early termination. Such payment shall be within 30 calendar days of receipt of an invoice from the County.

1[redacted] notices, requests, consents, [redacted] demands, waivers, and other commu[redacted]is Agreement (each, a "Noti[redacted] with the correlative meaning "Notify"[redacted]g. Notices must be addressed t[redacted]her Party at its address set forth below, [redacted]ddress that the receiving Par[redacted]designate from time to time in writing t[redacted]o the address set forth below [redacted]dified. Unless otherwise agreed herein, [redacted]e delivered by personal del[redacted]ationally recognized overnight courier, [redacted]registered mail; in each case [redacted]elivery must be return-receipt request[redacted]d. Except as otherwise provided in this Agreement, a Notice is effective only (a) [redacted]eceiving Party; and (b) if the Party giving the Notice has complied with the requ[redacted]ction.

Board:

Address: 150 Courthouse Dr., Driggs, ID 83422
Fax: [phone redacted] [phone redacted]0
Email: commissioners@co.teton.id.us
Attention: Teton County Board of County Commissioners

TCSO:	Address: 230 N. Main St., Driggs, ID 83422 Fax: [phone redacted] [phone redacted] Email: clemieux@co.teton.id.us Attention: Sheriff Clint Lemieux
Prosecutor:	Address: 230 N. Main St., Driggs, ID 83422 Fax: [phone redacted] [phone redacted] Email: baileysmith@co.teton.id.us Attention: Bailey Smith, Prosecuting Attorney
City:	Address: PO Box 48, Driggs, Idaho 83422 Fax: [phone redacted] [phone redacted] Email: Mayor@DriggsIdaho.org, [email redacted] Attention: Mayor & City Clerk

11. **Compliance with laws.** TCSO shall comply with all federal, state, and local laws, rules, and regulations.

12. **Waiver of warranties.** THE COUNTY HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND THE COUNTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

13. **Assumption of liability.**

a. *General*. Each Party is responsible for the acts, omissions, or negligence (collectively, "acts") of its own employees. Each Party assumes no liability for the acts of the other Party or the other Party's employees. Nothing in this Agreement shall extend the liability or tort responsibility of any Party beyond that required by law, including the Idaho Tort Claims Act, Idaho Code § 6-901, et seq, and Article 8, Sections 1 and 4 of the Idaho constitution. Each Party is responsible for damage caused by its own employees in the performance of this Agreement to the property of the other Party.

b. *Legality of City ordinances*. The City specifically releases the County from and indemnifies the County against any liability or responsibility which arises from the existence or effect of the City's ordinances, policies, rules, or regulations. If the County offers the City suggested revisions to the City's ordinances, such suggestions are merely for purposes of reducing taxpayer costs and streamlining enforcement and prosecution, and are not be construed by the City as legal advice. The City must consult its own civil legal counsel regarding all ordinance revisions, and such legal counsel is solely responsible for rendering legal advice to the City for such revisions. The County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the

existence or effect of the City's ordinances, policies, rules, or regulations. If any cause, claim, suit, action, or administrative proceeding is commenced in which the enforceability, validity or legality of any such City ordinance, policy, rule, or regulation is at issue, the City shall defend the same at its sole expense, and, if judgment is entered or damages are awarded against the City, the County, TCSO, TCPA, or any combination of these entities, the City shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

c. *Legal advice rendered to TCSO*. The City specifically releases the County from and ind[redacted]s the County against any liability or responsibility which arises as a result of TCSO – in its [redacted] the City's law enforcement – acting on the advice of or under the direction of the City At[redacted]or without such advice. The County does not assume liability or responsibility for or in any [redacted]ease the City from any liability or responsibility which arises in whole or in part from di[redacted]r legal advice that the City Attorney provides TCSO when it is acting as the City's law er[redacted]ent, or failure to provide such advice. If any cause, claim, suit, action, or administrati[redacted]eeding is commenced in which the direction or legal advice from the City Attorney to T[redacted] lack thereof, is at issue, the City shall defend the same at its sole expense, and, if judgm[redacted]ntered or damages are awarded against the City, the County, TCSO, TCPA, or any combina[redacted]these entities, the City shall satisfy the same, including all chargeable costs and reasonal[redacted]rney's fees.

[phone redacted]

14. **Personal liability.** In no event will any employee of any Party be personally liable or responsible for any representation, statement, covenant, warranty, or obligation contained in, or made in connection with, this Agreement, express or implied.

15. **Waiver of consequential damages.** To the fullest extent allowed by applicable law, [redacted] Parties waive claims against each other for consequential or incidental damages, or any other [redacted]irect, special, or punitive damages whatsoever, that arise out of or are related to the [redacted]rformance of services under this Agreement. This waiver includes damages claimed in any [redacted]use of action, including but not limited to legal or equitable proceedings and claims relating to contract, tort, protests, riots and shootings.

[address redacted]

16. **Insurance.**

a. *Commercial general liability*. While this Agreement is in effect, each Party shall, at its own expense, maintain and carry insurance in full force and effect with financially sound and reputable i[redacted]s. At the time of this Agreement, each Party represents that it is a member of the Idaho C[redacted]es Risk Management Program ("ICMRP") for its insurance. The ICRMP policy provides liabilit[redacted]s of $500,000 for claims brought pursuant to the Idaho Tort Claims Act (Idaho Code Title 6[redacted]er 9) and $3,000,000 for all other covered claims. Each Party agrees that if it terminates its [redacted]bership in ICRMP, it will obtain insurance that has liability coverages and limits substantiall[redacted]ar to that provided in the ICRMP policy.

[phone redacted]

b. *Worker's compensation*. Each Party shall provide workers' compensation insurance covering its own employees, and shall provide a certificate of insurance to the other

Party evidencing such coverage within 30 calendar days of the last signature to this Agreement.

c. *Professional liability*. The City Attorney shall maintain and carry professional liability insurance coverage, including contractual liability, in the amount required by the Idaho State Bar for purposes of licensing. The City Attorney shall maintain such coverage for at least two years, from the termination of this Agreement During this two-year period, the City Attorney shall use the City Attorney's best efforts to ensure that there is no change of the retroactive date on this insurance coverage.

17. **Independent contractor.**

a. *Right of control.* The City has no right to control or direct the details, manner, or means by which TCSO accomplishes the results of the services performed hereunder, other than otherwise outlined in this Agreement. TCSO has no obligation to work any particular hours or days or any particular number of hours or days other than otherwise outlined in this Agreement. Control of personnel standards of performance, discipline, and all other aspects of the performance of services will be governed entirely by TCSO. Allegations of misconduct will be investigated in accordance with TCSO's protocol.

b. *Relationship*. TCSO is an independent contractor and its officers are not employees, servants, agents, partners, or joint venturers of the City. TCSO will determine the legal means by which it accomplishes the work specified in this Agreement.

c. *Taxes*. The City will not withhold income taxes (federal, state, or local) or payroll taxes on behalf of the County, its employees, or its subcontractors. The City shall provide the County with an IRS Form 1099-MISC on or before the January 31 following any year in which TCSO has rendered services to the City. The County is liable for all federal, state, and local taxes for itself, its employees, and its subcontractors, as well as any self-employment (Social Security) tax. The City will not treat the County, its employees, and its subcontractors as employees of the City for the services performed hereunder for tax purposes.

d. *Benefits*. The County, its employees, and its subcontractors are not eligible for, and may not participate in, any of the City's benefits of employment, including, but not limited to, vacation, medical insurance, life insurance, disability insurance, employee pension, health insurance, or any other fringe benefit. The City is not responsible for making any insurance contributions, including for unemployment or disability, or obtaining workers' compensation insurance on behalf of the County, its employees, or its subcontractors.

18. **Property.** Unless otherwise agreed to in a writing signed by the individuals holding the positions of the signatories to this Agreement, the Parties will not jointly acquire, hold, or dispose real or personal property. Any property acquired for the express purpose of fulfilling this enhanced services agreement, and at the expense of the City, shall be solely owned by the City, and, at the conclusion of this Agreement, shall either be returned in reasonable condition, or a

depreciated value paid back to the City within 30 days. Property which has been abused or mishandled shall be replaced by the TCSO at no cost to the City.

19. **Statutory duties.** As required by Idaho Code § 67-2328(d)(3), no agreement, including this Agreement, made pursuant to Chapter 23, Title 67, Idaho Code, shall relieve any public agency of any obligation or responsibility imposed upon it by law that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder (which this Agreement does not create), said performances may be offered in satisfaction of the obligation or responsibility.

20. **Force majeure.**

a. *Required conduct*. If a force majeure event, as defined in this Agreement, prevents a Party from complying with any one or more obligations under this Agreement, that inability to comply will not constitute breach if:

i. that Party uses reasonable efforts to perform those obligations; and

ii. that Party's inability to perform those obligations is not due to its failure to (A) take reasonable measures to protect itself against events or circumstances of the same type as that force majeure event, or (B) develop and maintain a reasonable contingency plan to respond to events or circumstances of the same type as that force majeure event; and

iii. that Party complies with its obligations under this section.

b. *Duty to notify and mitigate*. If a force majeure event occurs, the non-complying Party shall promptly notify the other Party of the occurrence of that force majeure event, its effect on performance, and the expected duration of such effect. Thereafter, the non-complying Party shall update that information as reasonably necessary. During a force majeure event, the non-complying Party shall use reasonable efforts to limit damages to the other Party and to resume its performance under this Agreement.

21. **No exclusivity.** Nothing in this Agreement prevents TCSO from performing services for other cities.

22. **Nepotism.**

a. *City*. The City represents that the City's current mayor and the City's current council members are not related to any of the County's current commissioners, current TCSO staff, or current TCPA staff by blood or marriage within the second degree of kindred.

b. *County*. The County represents that the County's current commissioners, current TCSO staff, and current TCPA staff are not related to the City's current mayor or the City's

current council members by blood or marriage within the second degree of kindred.

23. **Non-discrimination.** The Parties agree that, in the performance of their respective obligations under this agreement, no person shall, except where otherwise provided by law, be discriminated against on the basis of color, race, religion, national origin, political affiliation, marital status, disability (physical or mental), age, sex, gender identity, sexual orientation, genetic information, on the basis of personal favoritism, or any other non-merit factor.

24. **Assignment.** Except with the prior written consent of the other Party, each Party may not transfer (a) any discretion granted under this Agreement, (b) any right to satisfy a condition under this Agreement, (c) any remedy under this Agreement, or (d) any obligation imposed under this Agreement. Any purported transfer in violation of this section will be void.

25. **Entire agreement.** This Agreement constitutes the sole and entire agreement between the Parties concerning the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.

26. **Amendments.** No amendment to this Agreement is effective unless it is in writing, identified as an amendment to this Agreement, and signed by the individuals having the positions of the signatories to this Agreement.

27. **Severability.** This Agreement is intended to be as broad and inclusive as is permitted by applicable law, and if any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction for any reason, then: (a) the validity, legality, and enforceability of the remaining provisions of this Agreement (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) are not in any way to be affected or impaired thereby; and (b) to the fullest extent possible, the unenforceable provision is to be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement is to be deemed amended accordingly.

28. **Nonwaiver.** No waiver by any Party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party operates as, or is to be construed as, a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement operates as, or is to be construed as, a waiver thereof; nor does any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

29. **No third-party beneficiaries.** This Agreement benefits solely the Parties who sign this Agreement and their respective successors and permitted assigns. Nothing in this Agreement,

express or implied, confers on any third party any legal or equitable right, benefit, or remedy under or by reason of this Agreement.

30. **Controlling law.** This Agreement is to be construed and enforced in accordance with the laws of the United States and the State of Idaho without regard to its conflict of law provisions.

31. **rum.** No Party may commence any action, litigation, or proceeding against the ot any way arising from or relating to this Agreement (including all contemplated including contract, equity, tort, fraud, breach of duty, common law, and statutory y forum other than the courts of the State of Idaho sitting in Teton County, and a ourt from any thereof, or, if such court does not have subject-matter jurisdiction, th es District Court for the District of Idaho. Each Party irrevocably and unconditional the exclusive jurisdiction of such courts and must bring any such action, litigatio ing only in such courts. A final judgment in any such action, litigation, or proceeding and may be enforced in other jurisdictions by suit on the judgment or in any othe vided by law.

[phone redacted]

32. **Waiver of jury trial.** The Parties hereby waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Agreement (including all contemplated transactions, including contract, equity, tort, fraud, breach of duty, common law, and statutory claims). The Parties represent that each has reviewed this waiver and each knowingly and voluntarily waives its jury trial rights. In the event of litigation, a copy of this Agreement may be filed as written consent to a trial by the court.

33. **Attorney fees.** Reasonable attorney fees are to be awarded to the prevailing Party in any action to enforce this Agreement or to declare forfeiture or termination of this Agreement.

34. **Successors and assigns.** This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns.

35. **Authorization to proceed.** Execution of this Agreement by the Parties shall constitute authorization for TCSO to proceed with providing services.

36. **Survival.** The rights and obligations of the Parties set forth in sections 9, 10, 13, 15, 16, 17, 18(c), and 31-36 of this Agreement survive termination or expiration of this Agreement.

37. **Title and headings.** Titles and headings to the sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

38. **Definitions.** For purposes of this Agreement, the following terms have the following meanings:

a. "Employee" means and includes the elected officials, officers, directors, department administrators, supervisors, employees, volunteers, interns, externs, representatives, or agents of a Party to this Agreement.

b. "Force majeure event" means, with respect to a Party, any event or circumstance, whether or not foreseeable, that was not caused by that Party, other than a strike or other labor unrest that affects only that Party, and any consequences of that event or circumstance.

c. "Laws" means any federal, state, and local regulations, ordinances, statutes, rules, laws, constitutional provisions, and common law.

d. "Losses" means all losses, liabilities, claims, damages, and expenses, including reasonable costs of investigation and attorneys' fees.

CITY OF DRIGGS

DATED this 8th day of Sep, 2021.

HYRUM JOHNSON, Mayor of the City of Driggs

ATTEST: KRESLYN SCHUEHLER, CITY CLERK

By: _____

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

DATED this _____ day of _____, 20__.

_____
CINDY RIEGEL, District 1, Chair

_____
MICHAEL WHITFIELD, District 2, Commissioner

_____
BOB HENEAGE, District 3, Commissioner

ATTEST: KIM KEELEY, COUNTY CLERK

By: _____
Deputy Clerk

TETON COUNTY SHERIFF

DATED this _____ day of _____, 20__.

_____
CLINT LEMIEUX, Sheriff