

ORDINANCE NO. 11

SERIES 2010

AN ORDINANCE APPROVING THE PURCHASE, SALE AND OPTION TO PURCHASE AGREEMENT BETWEEN THE TOWN OF CRESTED AND THE TRUST FOR PUBLIC LAND (TPL) FOR THE (1) PURCHASE OF "PHASE 1" OF THE KOICHEVAR PROPERTIES PURCHASE FROM TPL DESCRIBED AS TOWNSHIP 13 SOUTH, RANGE 86 WEST, 6TH P.M., SECTION 21: E1/2SE1/4NW1/4; NE1/4NW1/4; SECTION 27: S2/3NW1/4SE1/4; S1/2SE1/4 COUNTY OF GUNNISON, STATE OF COLORADO, AND (2) THE OPTION TO PURCHASE OF (A) "PHASE II" OF THE KOICHEVAR PROPERTIES PURCHASE FROM TPL DESCRIBED AS TOWNSHIP 13 SOUTH, RANGE 86 WEST, 6TH P.M., SECTION 21: E1/2NW1/4SE1/4; A PORTION OF S1/2SE1/4; SW1/4NE1/4 COUNTY OF GUNNISON, STATE OF COLORADO, AND (B) "PHASE III" OF THE KOICHEVAR PROPERTIES PURCHASE FROM TPL DESCRIBED AS A PORTION OF TOWNSHIP 13 SOUTH, RANGE 86 WEST, 6TH P.M., SECTION 28: E1/2NE1/4 COUNTY OF GUNNISON, STATE OF COLORADO

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the Constitution and the laws of the State of Colorado;

WHEREAS, the Town Council is authorized, pursuant to §§ 31-25-501 and 31-25-302, C.R.S., as amended, to enter into agreements in order to, in pertinent part, acquire interests in land, both inside and outside of the boundaries of Crested Butte, necessary, suitable or proper for the preservation or conservation of open space and vistas of recreational, aesthetic and other public interests;

WHEREAS, the Town staff has been working with The Trust for Public Lands (TPL), at the direction of Town Council, to conserve from development a certain 312.849, more or less, acres of certain real property located in the Slate River and Washington Gulch drainages, Gunnison County, State of Colorado;

WHEREAS, TPL is currently under contract to purchase and acquire said property from the record title owners thereof and, upon said purchase and acquisition, desires to convey fee title of the same to the Town to be held in a conservation easement;

WHEREAS, the Town Council desires to purchase and acquire said property from TPL to be held in a conservation easement;

WHEREAS, the Town Council, in order to effectuate said purchase and acquisition from TPL, has directed Town staff to negotiate the terms and conditions for: (1) the purchase and acquisition of 166, more or less, acres of the total 312.849 acres of the above-described property in an amount to be determined through negotiation between the Town and TPL, and based upon an appraisal thereof having been performed, such amount having been agreed to as \$3,000,000.00 (such purchase and acquisition transaction hereinafter referred to as "**Phase I**"); and (2) the option to purchase and acquire the remaining acreage of the above-described 312.849 acres in phases in amounts to be determined through negotiation between the Town and TPL, and based upon an appraisal thereof having been performed, such amounts having been agreed to as (a) \$1,700,000.00 for 107, more or less, acres of the above-described property (such option to purchase transaction hereinafter referred to as "**Phase II**"), and (b) \$649,000.00 for 40, more or less, acres of the above-described property (such option to purchase transaction hereinafter referred to as "**Phase III**"); together with Phase II, collectively the "**Option Phases**"; and

WHEREAS, the Town Council hereby finds that it is necessary, suitable and proper for the preservation and conservation of open space and vistas of recreational, aesthetic and other public interests, and therefore in the best interest of the Town and the health, safety and welfare of the residents and visitors of Crested Butte, that the above-described property constituting (1) Phase I be purchased as set forth hereinbelow, and (2) the Option Phases be placed under an option exercisable by the Town in its sole discretion as set forth hereinbelow.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Authorization to Purchase the Phase I Property. The Town Council, pursuant to the Crested Butte Municipal Code and the laws of the State of Colorado, hereby **authorizes the purchase** by the Town, for the sum of \$3,000,000.00 ("**Phase I Purchase Price**") plus customary closing costs and fees, to purchase and acquire the real property (Phase I) legally described as Township 13 South, Range 86 West, 6th P.M., Section 21: E1/2SE1/4NW1/4; NE1/4NW1/4; Section 27: S2/3NW1/4SE1/4; S1/2SE1/4 County of Gunnison, State of Colorado, and authorizes and directs the Mayor and Town Clerk to appropriately execute any and all documents necessary and appropriate to consummate said purchase.

Section 2. Appropriation of Funds for the Purchase of the Phase I Property. The Town Council hereby appropriates the sum of \$1,000,000.00 plus customary closing costs and fees for the purchase of the above-described real property (Phase I) out of Town's Land Transfer Excise Tax Fund, and authorizes the expenditure of said sum for such purpose. The remaining \$2,000,000.00 of the Phase I Purchase Price shall be granted directly to TPL by Great Outdoors Colorado (GOCO for the purpose of purchasing the Phase I property pursuant to a grant to be made, and having already been approved by, and subject to due diligence being completed by, GOCO.

Such amounts given to TPL by GOCO shall be used for the purposes of purchasing and acquiring the Phase I property on behalf of the Town.

Section 3. Authorization to Enter into an Option to Purchase Agreement with TPL to Purchase and Acquire the Option Phases Properties. The Town Council, pursuant to the Crested Butte Municipal Code and the laws of the State of Colorado, hereby **authorizes the Town to enter into an option to purchase agreement with TPL**, exercisable by the Town in its sole discretion, to purchase and acquire the real property legally described as (1) Township 13 South, Range 86 West, 6th P.M., Section 21: E1/2NW1/4SE1/4; a portion of S1/2SE1/4; SW1/4NE1/4 County of Gunnison, State of Colorado (Phase II), and (2) a portion of Township 13 South, Range 86 West, 6th P.M., Section 28: E1/2NE1/4 County of Gunnison, State of Colorado (Phase III), and authorizes and directs the Mayor and Town Clerk to appropriately execute any and all documents necessary and appropriate to consummate said option to purchase. The actual acquisition and purchase of the Option Phase properties, each of them, if at all, shall be accomplished by separate ordinance(s) in accordance with the Crested Butte Municipal Code and the laws of the State of Colorado.

Section 4. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 5. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

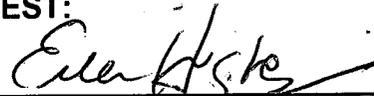
INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 17th DAY OF MAY, 2010.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 7th DAY OF JUNE, 2010.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Leah B. Williams, Mayor

ATTEST:


Eileen Hughes, Town Clerk

