

ORDINANCE NO. 12

SERIES 2010

AN ORDINANCE APPROVING THE LEASE AND MANAGEMENT AGREEMENT WITH THE TRUST FOR PUBLIC LAND (TPL) FOR THE (1) "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 (2) "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, including, without limitation, leases 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, and thereafter to have a conservation easement placed on said property

WHEREAS, the Town Council desires to purchase and acquire said property from TPL and thereafter to place a conservation easement on said property;

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 (such purchase an 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 as follows: (a) 107, more or

less, acres of the above-described property (such option to purchase transaction hereinafter referred to as "Phase II"), and (b) 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, until the Option Phases are exercised, either as to Phase I or as to both Option Phases, if at all, TPL desires to have the Town lease the subject Option Phases lands so that the same may be maintained and up-kept during the pendency of the Town's options to purchase the Option Phases properties;

WHEREAS, the Town Council has determined that it is necessary and appropriate, in furtherance to conserving the Option Phases properties, that the Town maintain and keep-up the Option Phases properties for TPL until such time as it either purchases and acquires such properties, or otherwise elects to not exercise such options to purchase the Option Phases properties; 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 Town accept a lease to maintain and keep-up the above-described Option Phases properties until such time as it either purchases and acquires such properties, or otherwise elects to not exercise such options to purchase the Option Phases properties, pursuant to the terms and conditions set forth hereinbelow.

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

Section 1. Authorization to Accept a Lease in the Option Phases Properties and to, Pursuant thereto, Enter into a Lease and Management Agreement with TPL. In order to maintain and upkeep the Option Phases properties 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), the Town Council hereby accepts a lease of the foregoing described real property, and in connection therewith authorizes the Mayor and Town Clerk to appropriately execute the attached lease and management agreement contemplating the terms of such lease in substantially the same form as Exhibit "A" attached hereto ("TPL Lease"). In connection therewith, the Town Council hereby authorizes the Mayor and the Town Clerk to execute and deliver any and all additional documents necessary and proper to consummate the transactions contemplated in the TPL Lease.

Section 2. Appropriation of Funds for Lease Payments and Any Other Amounts that Could Become Due and Owing Under Lease. The Town Council hereby appropriates any and all lease payments, and any other amounts that could

become due and owing under the TPL Lease, out of Town's Land Transfer Excise Tax Fund, and authorizes the expenditure of said sums for such purposes.

Section 3. 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 4. 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*
Leah B. Williams, Mayor

ATTEST:

Eileen Hughes
Eileen Hughes, Town Clerk

RECEIVED
MAY 20 2010



Exhibit "A"

TPL Lease

[attach here]