



Critical to our success is an engaged community and knowledgeable and experienced staff.

Town Council Values

- *Preserve our high quality of Life*
- *Resource Efficiency/ Environmental Stewardship*
- *Support a sustainable and healthy business climate*
- *Maintain a "real" community*
- *Fiscally Responsible*
- *Historic Core*

AGENDA

Town of Crested Butte

Regular Town Council Meeting

Monday, October 20, 2014

Council Chambers, Crested Butte Town Hall

5:00 WORK SESSION

2015 Budget Discussion.

7:00 REGULAR COUNCIL MEETING CALLED TO ORDER BY MAYOR OR MAYOR PRO-TEM

7:02 APPROVAL OF AGENDA

7:03 CONSENT AGENDA

- 1) Approval of October 6, 2014 Regular Town Council Meeting Minutes.

7:05 PUBLIC COMMENTS

Citizens may make comments on item not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments may be limited to five minutes.

7:20 STAFF UPDATES

7:35 NEW BUSINESS

- 1) Resolution No. 15, Series 2014 – Resolutions of the Crested Butte Town Council Authorizing the Expenditure of Up to \$700,000.00 from the Town's Open Space Fund for the Purchase and Conservation of Approximately 93 Acres Located at Parcel No. 1, The Reserve, Town of Mount Crested Butte, Gunnison County, State of Colorado.
- 2) Resolution No. 16, Series 2014 - Resolutions of the Crested Butte Town Council Authorizing the Grant of a License to Ice House LLC to Encroach into the Second Street and Elk Avenue Public Rights of Way Adjacent to 202 Elk Avenue, Lots 15 and 16, Block 28, Town of Crested Butte.
- 3) Discussion and Possible Action Regarding Award Consulting Services Agreement to Mundus Bishop Design, Inc., a Colorado Corporation for the Big Mine Master Plan in an Amount Not to Exceed \$81,000.00.
- 4) Presentation by Richard Van Gytenbeek of Trout Unlimited, Colorado River Basin Outreach Coordinator, Requesting the Council's Support for the Core Values: Five Common Sense Principles Which Speak to Cooperation, Protection of Agriculture, Protection of Open Space and Habitat, Upgrading Irrigation Systems and Employing Innovative Water Conservation and Management Practices.
- 5) Presentation by Coal Creek Watershed Coalition on Upper Slate River Watershed Plan.

9:00 LEGAL MATTERS

9:10 COUNCIL REPORTS AND COMMITTEE UPDATES

9:25 OTHER BUSINESS TO COME BEFORE THE COUNCIL

9:45 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, November 3, 2014 – 6:00PM Work Session – 7:00PM Regular Council
- Monday, November 17, 2014 – 6:00PM Work Session – 7:00PM Regular Council
- Monday, December 1, 2014 – 6:00PM Works Session – 7:00PM Regular Council

10:00 ADJOURNMENT



Staff Report

October 16, 2014

To: Mayor and Town Council
Thru: Todd Crossett, Town Manager
From: Lois Rozman, Finance Director
Subject: Budget Work Session, Monday, October 20, 2014

Attached is a condensed summary and overview of a potential capital budget for 2015. This overview is presented from the standpoint of the sales tax initiative not passing in November.

The column marked 2015 Original Requests summarizes the requests as turned in by the various departments and shows a deficit or draw down of \$1,355,135, leaving a fund balance of \$747,474 which is below the \$1,000,000 mark set in the financial policy. All of the requests for 2015 are realistic and many of them have been put off for multiple years, however that type of draw down on the reserve would not be fiscally responsible. The column marked 2015 First Cut is the staff's stab at paring down the budget. It brings the draw down to \$497,535. This is seemingly acceptable except for the fact it simply kicks the unfunded projects down the road and they continue to pile up.

On page two of the summary, you will find the list of 2015 capital requests received from staff. Many of these projects have been repeatedly requested year after year, and some just can't be put off any longer. The second column shows the items that staff has identified to be pushed into 2016 or later. After these cuts, we are still dipping into fund balance by nearly \$500,000. Of this amount, \$110,000 will come from that reserved for the Depot and \$90,000 from the Heat System Replacement reserve. (The Heat System Replacement Reserve came from settlement money on the Entran in-floor heating system which is located 4 Town buildings.) The third column shows items that have been identified as things to be discussed for additional cuts. After capital projects and purchases, the next to be cut is services. This is extraordinarily hard to even contemplate as our parks and public spaces are major amenities for our community. However, staff has identified the following possible cuts to ongoing services:

- Flower/Garden supplies and staffing
- Reduction in seasonal staffing
- Reduction in sidewalk snow removal

In an effort to continue some necessary park maintenance projects, staff has moved some of the smaller items to the Conservation Fund (as noted on page two). Over the past several years, this fund was used as a source for matching funds for park project grants, most recently the tennis court project. This fund does not accumulate a lot of money very quickly as its source of revenue is

lottery proceeds from the State and Gunnison Metropolitan Recreation District. In moving park maintenance items to this fund, we drain the fund balance and will no longer have anything available for grant matching funds for park projects or other limited projects under the Conservation Trust Fund rules of the State.

	2013 Actual	2014 Budget	2014 Projected	2015 Original Requests	2015 First Cut
Revenue:					
SALES TAX	85,000	23,000	65,000	53,280	53,280
USE TAX	153,186	115,000	130,000	130,000	130,000
TRANSFER TAX-GEN CAP	510,496	425,000	500,000	475,000	475,000
DEBT/LEASE PROCEEDS	30,918		131,200		
GRANTS	172,952	507,972	208,884	287,292	287,292
OTHER REVENUE	79,813	63,300	61,525	57,300	57,300
Total Capital Revenue	1,032,365	1,134,272	1,096,609	1,002,872	1,002,872
EXPENSES					
STAFFING & RELATED COSTS	310,985	336,432	327,776	344,513	344,513
AUDITING	4,357	5,500	4,400	5,500	5,500
USE TAX RETURN	10,753	25,000	20,000	25,000	25,000
CAPITAL LEASE EXPENSE	21,570	57,455	37,588	46,485	46,485
INSURANCE	17,650	23,000	25,500	25,200	25,200
MARSHAL CAPITAL EQUIP	31,186	40,000	40,000	40,000	40,000
COMPUTER/OFFICE EQUIP	8,801				
CAPITAL EQUIPMENT	13,166	25,000	156,200	250,000	68,000
PARK MAINT SUPPLIES	25,201	35,000	30,000	35,000	35,000
PORTABLE TOILETS	5,983	6,000	6,000	6,000	6,000
TREE PROJECT	2,180	2,000	200	2,000	2,000
FLOWERS & SHRUBS	6,166	8,000	7,500	8,000	8,000
DOGGIE DOO PROJECT	2,080	2,500	2,000	2,500	2,500
PARK CAPITAL EQUIPMENT	47,880	9,500	9,500	109,500	109,500
PARK PROJECTS		10,000	5,000	80,000	80,000
CEMETERY	11,545	5,000	5,000	10,000	10,000
STEPPING STONE-MAINT	1,500	1,500	1,500	1,500	1,500
BUILDING/PROPERTY MAINT	36,826	50,000	50,000	100,000	100,000
CAPITAL PROJECTS	242,035	734,902	409,990	1,266,809	591,209
Total Capital Expenditures	799,864	1,376,789	1,138,154	2,358,007	1,500,407
REVENUE OVER(UNDER) EXPENSES	232,501	(242,517)	(41,545)	(1,355,135)	(497,535)
(under) = draw down on fund balance					
General Capital	1,913,867		1,902,322	747,474	1,605,074
Reserved for Depot Renovation	140,287		110,287	-	-
Reserved for Building Maintenance	178,625		178,625	178,625	178,625
Reserved for Heat System Replacement	251,211		251,211	161,211	161,211

Capital Requests 2015	2013 Actual	2014 Budget	Additional cuts/deferrals ????
Marshals Capital Equipment:			
Patrol Car	40,000		
Capital Equipment:			
Pick Up Truck - Parks	25,000	25,000	
Roller (used)	60,000		
Portable Hotsy	8,000		
Dump Truck	157,000	157,000	
Park Capital Equipment:			
Snowblowers for Bobcat	9,500		
Zturn mower	15,000	15,000	
Ice Resurfacers	100,000		100,000
Man lift	20,000	20,000	
Park Projects:			
Gothic Field Renovations	10,000		
Asphalt sealing in parks	5,500	5,500	
Gothic Field Raw Water Irrigation	40,000		40,000
Pitsker Park Irrigation Pump	30,000		30,000
Pave Park Parking gravel areas	10,000	10,000	
Deep Tine Aeration (Rainbow/Tommy V fields)	2,500	2,500	(moved to Conservation Fund)
Rainbow Park Pond Dredging	4,000	2,500	(moved to Conservation Fund)
Rainbow Park Pond Fill Valve	3,000	3,000	(moved to Conservation Fund)
Capital Projects:			
<u>Carry Over Projects:</u>			
Tennis Courts Project	39,819		
Depot Renovation	276,390		
<u>New Projects</u>			
Town Hall Lower Level Mens Room	50,000		50,000
Marshals Building Heat System	90,000		
Tony's Shed Siding	10,000		
308 Building Heat System	50,000		
308 Building Public Restrooms	50,000		50,000
Trail Kiosks	5,000		
Deli Trail Construction	10,000		
Perimeter Trail Engineering	10,000		
2 weeks of youth corps	12,600	12,600	
Elk Avenue Holiday Decorations	12,000	12,000	
Big Mine Arena Refrigeration	600,000	600,000	
Big Mine/Skatepark Bathrooms	36,000	36,000	
Big Mine Park Historic Coke Oven Entrance Feature	5,000	5,000	
Big Mine Park Concrete Driveways	10,000	10,000	
Total Capital Requests:	1,806,309		
Total Staff Deferred		916,100	
Total Possible Additional Cuts			270,000

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, October 6, 2014
Council Chambers, Crested Butte Town Hall

Mayor Huckstep called the meeting to order at 7:03PM.

Council members Present: Jim Schmidt, David K Owen, Glenn Michel, and Chris Ladoulis

Staff Present: Town Manager Todd Crossett, Town Attorney John Belkin, Town Clerk Lynelle Stanford, Town Planner Michael Yerman, Finance Director Lois Rozman, and Building and Zoning Director Bob Gillie

APPROVAL OF AGENDA

Item #4, Discussion and Possible Action Regarding Big Mine Master Plan Award for Consulting Services to Mundus Bishop for an Amount Not to Exceed \$81,000, was removed from New Business.

Owen moved and Schmidt seconded a motion to approve the agenda as amended. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

CONSENT AGENDA

- 1) **Contract Extension of Existing Contract for Phase 2 Work with the State Historical Fund for the Depot Rehabilitation.**

Schmidt moved and Michel seconded a motion to approve the consent agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENTS

Shaun Horne – 323 Whiterock

- Requested "Whatever" discussion be an agenda item.
- Mentioned he has written responses from 16 businesses, which could help to diffuse the complaint mechanism, and he wanted it to turn into a forward thinking resolution.
- Wanted to push back on the idea that there is no compensation for businesses, and there is a market value for taking business away.
- Reported that he intended to mine downtown business records to find effects of street closures to help better shape them.
- Also, mentioned his desire that two hour parking limits are enforced on Elk Avenue.

- Schmidt mentioned one of the toughest things they had to do, as a Council, was to judge publicity. Horne reported people ended up with money in their pockets, but many didn't. He said the same sector always has to pay.

STAFF UPDATES

Michael Yerman

- Reported that Rodney's crew was helping on the Deli Trail. They are working on getting fill in before the snow to allow it to settle, and the final grade would be set after winter.
- All work is being done in the CDOT right of way. None of the trail or work is occurring on easements.
- Stated there was a second Transportation Plan meeting. Said the biggest surprise from the previous meeting was that people chose the option to enforce two hour parking.
- Desire of connectivity with proposed sidewalks was re-confirmed.
- Next step in Transportation Plan is refined solution step to establish goals, objectives, and strategies. Considering Nov. 6 at 6PM after budget work sessions.

Lois Rozman

- Reminded the Council of the work session on the 15th starting at 5PM.
- Asked the Council to select members to serve on the Community Grant Committee.
- Reported to be just about completed with computer workstation upgrades.
- Sales tax was up 14.9% for August.
- Medical and retail marijuana sales accounted for \$14,000 of sales tax, which was 3.3% of the total sales tax.

Lynelle Stanford

- Reported to have narrowed it to three applicants for Deputy Clerk and intends on offering the position to the top candidate tomorrow.
- Received special event application for the KBUT Halloween Fright Parade.
- A marijuana dispensary may be adding retail sales in addition to medical sales.

Todd Crossett

- Elk will be ground sometime this week.
- Tennis courts were poured on Wednesday. Compaction testing has been done.
- During the rainstorm last week a can of diesel was spilled at the tennis courts. It was all contained with booms.
- Asked the Council to consider what might be a process moving forward regarding Whatever USA and special events in general. Said his recommendation would be to focus discussion on how Town would want to handle special events in the

future. It is important to set a rule ahead and then abide by it rather than changing course once event organizers have started down the path. He said hours upon hours of testimony were heard on that specific event, and a lot can be gained while the memory is still fresh. In terms of timing, get through budget and take it on after that. Huckstep said it would be further discussed under other business.

- McCormick ditch diversion is starting on Thursday.
- The Council requested an update on the ballot initiative that would fund parks maintenance. Crossett said the Town has done what can be done to legally inform the public. He reported there was a fairly extensive informational campaign as part of the process to come back to Council on what community thought, and it was overwhelmingly favorable at that time. Town has tried to get information out, but no one has picked up the ball to individually advocate. He said at the staff level, a couple of different budgets are being prepared. Schmidt confirmed that as far as advocating, state rules are very strict that Town funds can't be used, but council members can use their own printers or write letters to the editor.

PUBLIC HEARING

1) Transfer of Maxwell's Steakhouse Liquor License, Located at 226 Elk Avenue, From McGuffy's Restaurant Inc to B & C Restaurants LLC.

Public hearing was opened.

Huckstep asked the representative of Maxwell's, Curtis Higgins, if he was at the meeting in favor of the transfer. Higgins confirmed, "Yes." Schmidt asked Higgins if they would be operating the same way. Higgins said, "Yes," they are staying on the same route.

Public hearing was closed, and there was no further Council discussion.

Schmidt moved and Ladoulis seconded a motion to approve the transfer of a Hotel and Restaurant Liquor License for B & C Restaurants LLC DBA Maxwell's Steakhouse located at 226 Elk Avenue; Crested Butte, Colorado for the reasons stated in the staff report dated October 1, 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Ordinance No. 12, Series 2014 – An Ordinance Authorizing the Sale of Town-owned Real Property Legally Described as Unit B, Redwell Townhouses, Town of Crested Butte, for a Maximum Sale Price of \$145,000.

Public hearing was opened.

Yerman reported a change since his staff report was written: the trim on the East side of the house was nailed into the siding and is now coming off. All six windows on that side need to be re-trimmed. There was also roof damage from when the roof slid. Yerman

reported that by the Town taking on the sale of the unit it would save \$2,000. He also reported the mechanical systems are functioning fine. Yerman said two truckloads of stuff have been removed, and there was one more truckload of trash to take out. Huckstep confirmed the ordinance allowed the maximum price be set, not the minimum.

Public hearing was closed, and there was no further Council discussion.

Owen moved and Schmidt seconded a motion to approve Ordinance No. 12, Series 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Huckstep addressed Craig Geipel, owner of Alpenglow Rentals, and said the Council had heard from him at the last meeting, and they know his request is there. Geipel responded he wanted to know what the process was (to change the ordinance restricting the number of recreational vehicles parked on display in Town). He asked what he could do to help him and lobby for what he wanted done. Huckstep told him he made the request, staff made a recommendation, and it would be picked up under other business to decide if it goes to new business at a future meeting. Crossett said he talked to the Building and Zoning Department, and the ordinance pre-dates Building and Zoning Director, Bob Gillie. Gillie thought that the ordinance went back about 26 years. The Town Council adopted the ordinance to balance the ability of a vendor to put out vehicles as a form of marketing but to also to avoid having too many vehicles parked out in the Town core due to the fact they didn't like the aesthetics. Crossett said it was not the staff's recommendation to change the ordinance; it is still a reasonable balance. Schmidt recalled six to ten red or pink Jeeps parked at the Four Way. It was recalled that the Jeeps were parked in a lot that was Town property. Crossett said they would have to look at the ordinance to determine what it said about private versus public property. He said in terms of process, staff could take the request to BOZAR who would make their recommendation to the Council. It was also stated that Council could send it to BOZAR. Crossett said there was a process where Geipel could independently petition BOZAR. Huckstep said they needed more information from the attorney and from the manager to understand the interplay between BOZAR and the Council. Crossett said staff would take direction from the Council if staff time should be dedicated to this matter.

NEW BUSINESS

1) Approval of September 15, 2014 Regular Town Council Meeting Minutes.

Owen explained he requested an audio recording of the September 15th meeting. Due to the tape being erased, he was not able to get a copy of the audio recording. In lieu of the recording, he was provided with draft minutes from the meeting. Owen said he asked everyone on the Council if they knew where the direction (to change the contract) came from, and it was established that no one knew where the direction came from. Huckstep said he didn't remember individual polling. Owen said collectively no one knew where the change came from. He said he went around and remembered specifically asking everyone if they knew where the direction came from. Michel said he doesn't remember a poll. Ladoulis questioned if the minutes needed to be that precise. It was decided that rather than Owen's suggested statement: "Council was polled, and no member of the

council could remember any direction to change this clause,” it was decided that it would read: “Owen asked if any member of the Council could remember direction to make this change and no one could recall.” Also, Owen requested the fourth bullet point under council reports be deleted because he changed his statement.

Schmidt moved and Owen seconded a motion to approve the September 15, 2014 minutes as amended. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

2) Discussion of Grant Funds Language in Major Special Event Agreement with Western Colorado Events, LLC.

Huckstep said there was an email from him to Belkin asking Belkin to change the language in the contract to include Mt. Crested Butte in the decision of how to allocate the gifted funds. Huckstep said the intent was that the gifted funds would fund a joint project amongst the communities. Belkin said he had no idea this was an issue at all, until the meeting. He said he typed the change in after Huckstep asked him to change it. Crossett was working around the clock on all the submittals. Owen added Huckstep mentioned it after the motion (to approve the major special event), which was the first inkling that it had changed. Owen said the contract initially indicated Crested Butte had absolute full discretion, and a day or two later the contract said to be determined by a joint committee. Owen said for Huckstep to make direction to make the change through email was usurping the authority of the Council. Huckstep responded the issue was brought up Tuesday morning at 2AM. He further expounded he was asking, not directing. Owen said he still thought an email to the attorney is direction. He felt changing the contract was a Council function, not a mayor function. Huckstep said he didn't trust Owen's motivations. Owen said motivations were irrelevant, but Huckstep's actions were not. Schmidt said they signed a contract and it was what it was. Schmidt said most of the impacts were felt in town, and nothing against Mt. Crested Butte, but he felt they should have signed their own contract. Schmidt said he realized they have the signed contract and should just work out what's best for the community. Michel said the burden was on him to read the packet. He said ideally things would be brought to the Council's attention, but things were evolving very rapidly. He wondered how to prevent this from happening again. Michel recognized that with speed and tight time frames they'd have things like this; government is meant to move slowly. Belkin addressed the Council and said they directed him to get the number increased. He made revisions to the contract that changed the letter of credit amount, made the indemnity better for the Town, and overall made changes that were better for the Town. Schmidt said Crested Butte's contract doesn't say anything about Mt. Crested Butte's contract. They okayed and signed their contract before Town did, and he hasn't heard about CBMR's contract. Huckstep said to step back and look at this. Mistakes were going to be made in the midst. He said Mt. Crested Butte's contract said \$250,000 and talked about a joint project; CBMR's contract referenced the same amount as Town's and referenced a joint project. Town made a choice to have a separate contract. Owen said the issue with this situation was the Council and the role of the mayor. He said an email about a permit before it was determined that suggested that they included language was direction. Direction needed to come from the Council. Staff's job was to deal with these kinds of things based on

direction that the Council gave. Huckstep countered that Owen directed Stanford to change the minutes and called the mayor and manager of Mt. Crested Butte. He said Owen's motivations he brought to the table were what he didn't trust. Owen said he wanted the Town to be governed in public which is the right way things work. Huckstep said the only underlying reason he saw was unilateral control of the money. Michel asked Owen what he wanted out of the discussion. Owen asked the mayor to resign. Owen said to censure the mayor to tell him he cannot ask in this way. Issues needed to come to this body, in this chamber, in the public. Ladoulis said if they wanted to do this, not to do it with two missing Council members. Huckstep said he would not accept "do as I say not as I do." Schmidt said the contract change could have been caught a couple different places: it was not redlined, Huckstep didn't send the email to everyone, and Mason noticed and didn't bring it up. Schmidt said Owen was going too far. He said to move on with the contract as it is. Owen asked how they change the procedure to not have ex parte communication in the future. Huckstep told Owen to go back to his email and figure out how many emails he sent to the Council outside of a public meeting. Huckstep said there was more than one. The discussion turned to the differences between quasi-judicial and quasi-legislative. Michel said they didn't recognize it was quasi-judicial because they all treated it as quasi-legislative. Belkin said it was just like the permits they normally have. He was deeply sorry, and had he known he would have put huge blinking lights on the change. He said the other changes were so favorable. Schmidt said there were suggestions all over the place what to do with the contract. Huckstep made a suggestion, it was fine, and the fact it wasn't flagged was the problem. Owen said he accepted Huckstep was trying to help the Council and the Town move forward, but it was a matter of not doing it in the right way. He said they couldn't have these conversations outside of the public domain. Ladoulis said the contract was a complex issue, and it needed to be better communicated. He didn't know where this communication fell. Owen said it was more than just the communication. It was about their roles, procedure, and process. He said he was trying to get Huckstep to acknowledge that he made a mistake, not that he wanted him gone. Owen said it was because Huckstep was acting outside of his role as mayor. He said not to interfere with the Council's role by telling the attorney to put a clause in the contract. Huckstep told Owen he cannot speak for the Council, and the Council spoke for the majority. Huckstep said the problem he had was Owen spoke as if he was the majority.

3) Discussion of Terms of Major Special Event Agreement with Western Colorado Events, LLC Relative to Elk Avenue Closure after Event Conclusion.

Ladoulis said this agenda item spawned from Matuszewicz's question if Town had recourse if event organizers didn't turn Elk Avenue back to how it was before the event. Belkin further explained it had to do with the closure of Elk the week after the event. Crossett said Elk Avenue opened Friday at 5, and there were partial openings throughout the process. Belkin said everything was being fixed, and they have agreed to pay for everything. He said he has been trying to accommodate the event organizers by providing paperwork for them to make a claim to have their insurance carrier pay. He said from the boards and hockey to streets and the grinding to fix the street, the Town was all covered. He said this was about business outage, and he wondered if the Council wanted to talk about it more. Ladoulis said the Elk Avenue closures were having some

direct impact. Owen said this was about additional closures that occurred because they failed to act according to the permit. Ladoulis said businesses that may have experienced a positive or negative impact during event; this is about after the event. Ladoulis wondered how would they measure and what precedent may follow. Schmidt agreed it was very difficult. Ladoulis said the challenge was how they help. The problem was that what they wanted to do, they couldn't always make happen because of unintended consequences. Owen said the impact was because of failing to abide by a permit. Ladoulis said the Town closes streets and what if they applied that measure every time a street was closed. Crossett said the unintended consequence was a pretty big liability if something went wrong within the confines of the permit. For example, if the Town can't get snow removed as fast as they would like for Big Air, albeit it's unlikely, but if someone was organizing the event, and that's a potential outcome, they would end up owing tens of thousands of dollars to people on the street. Owen reiterated the permit holder failed to meet the conditions of the permit. Belkin said he didn't like the facts on this one. Ladoulis said the Elk Avenue closure should be talked about in a broad context, possibly through a thoughtful informational session. Owen said he concurred with the Council's decision from what he heard from the attorney answering Michel's question that it was uphill and not feasible to consider reimbursing business owners for the Elk Avenue closure.

LEGAL MATTERS

None

COUNCIL REPORTS AND COMMITTEE UPDATES

Chris Ladoulis

- RTA Board is meeting on Friday. The point was raised that RTA is considering a late night bus. The Town of Mt. Crested Butte's grant supplied \$20,000 towards the late night bus. Ladoulis said there would be an ask from the Town for funds, and if Crested Butte doesn't cover the gap, there may be an ask of the business community. He said he would be attending the meeting as a business owner and not as a council member. He was supportive of a winter late night bus, but he would not be getting financial gain. He was asking for direction from the Council if anyone objected to his attendance at the meeting. No one on the Council had any objections. Schmidt said there were a couple weeks to think if anyone had a problem with Ladoulis voting on the issue.

David Owen

- Will not be attending the second meeting in November.

Glenn Michel

- Attended Transportation Plan meeting. He said public input was very useful, and he encouraged Council to attend the next one. Crossett said they amended the scope of the contractor's work, and the contractors will be lending technical information in the process.

Aaron Huckstep

- Attended the APA Conference, and Yerman played a big role.
- Mayor/Manager's meeting was last Thursday.
- Western's strategic plan is due at the end of the year. They have experienced a 13% increase in enrollment.
- Taylor and Blue Mesa reservoirs are at their targets.
- Gunnison and Mt. Crested Butte's sales taxes are up.
- Will not be attending conference in Jackson.
- Mentioned Chamber put out a survey related to Whatever USA.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Jim Schmidt

- Reminded staff and Council a priority was temporary locker rooms for hockey this winter. He said sales tax has been quite good.
- He said in terms of the support for the school's ballot measure, he would prefer to send a letter of support rather than pass a resolution.
- Offered to be on the grant committee. Owen said he would do it again if they wanted him to.
- Appreciated Mel Harper's suggestion for the light poles. He said it was a good suggestion whether if she was joking or not. On the particular pole that is painted blue, he had no problem painting it back to green to alleviate the burr, but if the majority of the Council wanted to keep it blue, he was okay to keep it, too.
- Said there needed to be time for public input on "Whatever" event. He said they owed it to the community to listen.

The discussion turned to who would serve on the joint committee with Mt. Crested Butte. Owen requested that part of the gift money went towards the Creative District. Huckstep told him to remember that was one of the million for the committee to consider.

The Council conferred on the issue of enforcement of two hour parking. Crossett said that issue fell within the context of Transportation Plan, and he said to pick up the topic under recommendations of the Transportation Plan. Ladoulis wanted to deal sooner rather than later. He said the signs were out there, and they're choosing to not enforce. Crossett said Town would need to hire someone to go out and do it. Ladoulis countered he would rather suspend the ordinance by vote, as opposed to choosing not to enforce. Schmidt said to keep the ordinance, and he hoped business owners and employees didn't decide they could park all day. Michel confirmed it was going to come up in the transportation discussion. Owen said he didn't know if there had to be a specific new hire to enforce parking regulations. Crossett said there were ordinances on the books to deal with something that's a real problem. There were also nuisance ordinances that gave staff the ability to deal with complaint driven situations. He asked the Council if this was the most important priority item. Schmidt said it was not enforced in the off-season

anyhow. He said an answer was needed by Christmas. Ladoulis said winter parking regulations were enforced all the time because they have implications for snow. But, he said two hour parking had implications for businesses. Crossett said it probably couldn't happen before winter parking enforcement. Michel said he would like to see it enforced as well. Ladoulis said choosing to enforce it zero percent and it's not complaint driven, they should clean up ordinances. People know they will be getting parking tickets during winter parking rules. Crossett said the winter parking schedule is very much snow removal driven.

The discussion turned to Alpenglow Rentals. Crossett said the current ordinance allowed a reasonable balance, and staff doesn't recommend a change. Owen said he wanted it to go through some sort of process. Ladoulis said the core area of town was mentioned in an email, and the owner of Alpenglow Rentals mentioned town limits. He said town limits and town core might have different aesthetics. Ladoulis said he should be taken through the process and see why it's there. Schmidt asked if they wanted to allow a used car lot in town. He asked if the ordinance talked about different zones. He was happy to hear BOZAR's recommendation. Huckstep said he didn't support pushing it off to BOZAR. Ladoulis said it would be fair to give the business owner some options. Owen suggested directing staff to determine what the process would be. Crossett reminded him that getting direction would be taking staff away from other things. Huckstep said they were not going into the high season of Jeep rentals, and it was not something they needed to hear about anytime soon. Owen said to start the business owner in the process, and by the next season, he might have an answer. Michel said Gillie would get the pulse of BOZAR, and Council would do any change to the ordinance. Owen asked if they give him a process or tell him no. Schmidt said to ask BOZAR if there's a zone in which it would be appropriate. Huckstep said just because someone comes in to ask, doesn't mean yes.

Owen moved and Ladoulis seconded a motion to direct staff to determine what the process is to change the ordinance to allow Alpenglow Rentals to display more than two recreational vehicles on the property he is leasing or elsewhere in Town. Michel, Huckstep, and Schmidt voted, "No." Ladoulis and Owen voted, "Yes." **Motion denied.**

Schmidt moved and Owen seconded a motion to ask BOZAR to consider what zones parking more than two recreational vehicles might be appropriate in and if any are deemed appropriate, look at what limits exist in each zone. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

It was decided Schmidt and Owen would be on the grant committee, and if Owen couldn't serve, they would ask Mason.

They discussed if support for 3B would be a resolution or letter of support. Schmidt said it should be a letter of support. Ladoulis said they should make sure that Matusiewicz and Mason are in favor, too. Owen said timing with the election would be problematic.

Schmidt moved and Owen seconded a motion to direct the mayor to sign a letter of support for initiative 3B. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council discussed Whatever USA and what should happen with the light pole that was left blue. It was suggested the topic be put on the agenda at the next meeting. Crossett said staff could not be more ambivalent. Staff would paint it whatever color the Council wanted. Schmidt said he liked the idea of different colored light poles for different things. Shaun Horne, business owner present at the meeting, said painting the light poles, as part of the Creative District was a way to develop retail. Huckstep said they could make the poles a public art installation. Owen said it could create some practical issues. Schmidt said everyone would be in charge of his or her pole. Horne said it could be a chance to engage the community. Michel reminded the Council of the historical aspect. He said a busy streetscape would degrade effort they put in to the historical district. Schmidt countered the light poles were not historic. Ladoulis reminded the Council the reason the light pole was blue was they're giving a nod to the event organizers. Crossett referenced letters, which say it's a breach of contract. He said leaving it blue came from numerous requests to leave all the poles blue. Huckstep said he was tired of the vitriol that comes in emails. Ladoulis said he was beginning to feel ambivalent. Huckstep asked if anyone objected to painting it back to green. He said doing something with the light poles was not off the table. Michel said he was not against something periodically, but not a full time installation.

Huckstep said the committee on the gifted dollars from the event doesn't work any differently than the committee for community grants awards in that the recommendation is brought to the Council. He said CBMR doesn't need to be a part if it was a small committee, but if it was a large committee they wanted to be included. Schmidt suggested there should be at least one more additional member from each Council. Owen stated he was uncomfortable with the mayor being on the committee. He recommended Schmidt and Matusiewicz. Owen said to Huckstep that he directed that committee to exist. Owen said there should be two members of the Council on the committee, other than the mayor. Schmidt said he had no problem with the mayor on the committee, but he thought one more council member should also be appointed. Michel suggested they wait for the full Council to be in attendance to decide. Ladoulis suggested one council member and Crossett. Owen agreed with Michel and said Mason and Matusiewicz should be there to ask them to help decide. Owen wondered if they should let the next council decide on how to spend this money. Neither Huckstep nor Schmidt thought that a good idea. The Council decided to wait until Mason and Matusiewicz were in attendance to make a further decision.

Huckstep told the Council they needed to focus discussion on how special events are handled going forward. He asked if they wanted to address before or after budget. Owen said it had to be discussed sooner rather than later. Ladoulis suggested mid November to mid December. Michel said there were legitimate gripes, and Council has an obligation to listen to direct staff on how to improve the process. Ladoulis said people felt differently about special events and major special events. A big corporation only

does a major special event, and there are philosophical questions. He said they needed a conversation about major special events, and they didn't want to comingle them. Crossett said it has to do with closing Elk, and what it is being closed for. For example, the Pro Challenge did not have an immediate benefit to everyone. In terms of staff, if they had the discussion the staff needed clarity. He said there are two signals: if it's someone we know make it easy and don't throw up hurdles, if it's someone we don't know, make it difficult. He asked what the overarching mission was, and were we trying to encourage special events or not. Huckstep said they owed it to the community to ask if they wanted to do this again. He said they needed to have this level of discussion. He asked what the parameters were for saying no. He said it would help elected officials in the town now and in the future. Crossett agreed and said next time they're ahead of the program. Ladoulis said they needed to talk philosophically. Crossett said they needed to set whatever parameters are moving ahead. Huckstep said the Council and the mayor should take the lead. Crossett said he was reluctant to over-commit staff. Huckstep said they can do due diligence and report back at the next meeting. Horne said there were 15 to 20 businesses that were hurt. He said these special events were very complicated, and the business community can tell the Council exactly how it worked out. Huckstep suggested point people could present from certain constituent groups. Schmidt said he would be taking a shot at the agenda and would report back at the next meeting.

Huckstep mentioned the sales tax initiative, and how as the fourth task there would be presentations to various working groups and boards. He expressed concern it has fallen off. Crossett said the Town's role was to educate people, not to advocate. He said they have struggled getting on people's agendas. Schmidt added that personal advocacy is up to individual council members. There hasn't been a committee set up, and he couldn't think of anything particular they can really do. Crossett said as the budget comes out, information would come forward. The intention is to make two separate budgets.

Schmidt revisited the discussion of the temporary locker room solution at Big Mine, and said he was envisioning rental trailers plopped down for winter. He said construction trailers might be cheap. Crossett said there was an opportunity with the Big Mine master plan to focus on a larger solution to see what the final answer should be. Crossett reminded the Council they would need to spend additional money for temporary solutions. He wondered if money would be freed up. He said the ballot issue would determine if citizens recommend Town spend less money on parks and not more. Ladoulis said every street corner has "Yes - 3B," and this one is unnoticed. Crossett answered they are constrained by law what can be done. He said 3B has a group separate from the school that has led the charge. Town cannot go out and directly do that. Huckstep said the concern was Big Mine from a greater perspective, not just locker rooms, and he wanted to remind Council what they thought priorities were. Owen said he was interested in a temporary solution. Huckstep said they have an actual plan instead of "frankensteining."

**DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND
COUNCIL MEETING SCHEDULE**

- Monday, October 20, 2014 – 5:00PM Work Session – 7:00PM Regular Council
- Monday, November 3, 2014 – 6:00PM Work Session – 7:00PM Regular Council
- Monday, November 17, 2014 – 6:00PM Work Session – 7:00PM Regular Council

ADJOURNMENT

Mayor Huckstep adjourned the meeting at 10:08PM.

Aaron J. Huckstep, Mayor

Lynelle Stanford, Town Clerk (SEAL)



Staff Report

October 20, 2014

To: Mayor and Town Council
From: Michael Yerman, Town Planner
Subject: Promontory Ranch Funding Agreement
Date: October 20, 2014

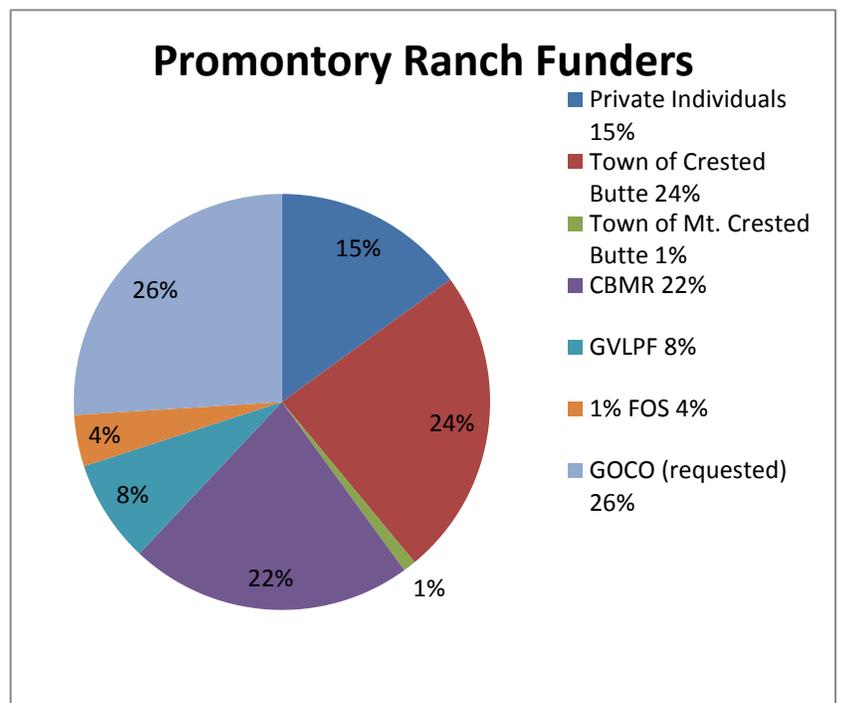
Background:

The Promontory Ranch open space purchase will protect 98 acres of open space adjacent to the Town of Mt Crested Butte and secure access to the Snodgrass Trail. Two additional parcels (totaling 15 acres) including the Ingraham Trust Parcel and Parcel 2 may be included in the open space purchase however, Town funds will only be used for the purchase of Parcel 1. A map showing the 3 Parcels being considered for purchased is attached to this staff report.

Funding:

With a total purchase price of \$2.9 million, there are several partners who are making substantial contributions for the purchase of this land. The following organizations are contributing to complete this purchase:

- The Town of Crested Butte \$700,000
- Great Outdoors Colorado is considering a funding request of \$725,785
- Generous private individuals have committed \$307,661
- The Gunnison Valley Land Preservation Board \$225,000
- Town of Mt. Crested Butte \$30,000
- CBMR has committed to donate up to 25% of the appraised value of the land to the Land Trust in a bargain sale transaction
- 1% for Open Space \$125,000



Promontory Ranch Parcel 1 Purchase Structure:

The Land Trust will first purchase a Conservation Easement which will protect the following conservation values:

- Open space that preserves scenic views for the general public and is pursuant to a clearly delineated governmental policy;
- Relatively natural habitat for fish, wildlife and plants; and
- Outdoor recreation by, and the education of, the general public.

The Land Trust will then purchase fee title and direct that fee title be conveyed to the Town of Mt. Crested Butte subject to the terms of the Conservation Easement. The Land Trust will hold and manage the conservation easement in perpetuity. Mt Crested Butte will hold title to the land, and not the Conservation Easement because they currently do not have a program to monitor conservation easements.

The closing for the property is scheduled for January 15, 2015. At closing the full funding from GOCO, the Town of Mt. Crested Butte, and private individuals will be used at closing. Funds available from the Town of Crested Butte (\$400,000), 1% for Open Space (\$75,000) and the GVLPF \$98,000 will be used at closing. A bridge loan will be secured at closing while remaining pledged funds from the Town of CB, GVLPF and 1% or Open Space are secured. The Town will endeavor to pay the remaining balance of its funds over the coming year in quarterly payments of \$75,000 until the remaining balance of the funding agreement is paid off.

A bridge loan will be used to secure the remaining funding by utilizing another property owned by the Land Trust as collateral. Called Trade Lands, this may include the Colonel's Property, located on Highway 135 just south of Cement Creek, if it's accepted by the lender as collateral. If a different property is chosen, staff will update the Council in writing per the funding agreement prior to closing.

Promontory Ranch Parcel 2 and Ingraham Trust Parcel Purchase Structure:

The Land Trust is also under contract on Promontory Ranch parcel 2 and a private inholding. If negotiations are successful and funding is secured, the Land Trust will purchase a conservation easement on Promontory Ranch parcel 2; then purchase fee title for the land to be conveyed directly to the Town of Mt. Crested Butte. The Land Trust may also purchase fee title to the inholding. The inholding may be used as collateral to leverage a bridge loan while awaiting full payment from the pledges made by the Town of Crested Butte, 1% for Open Space, and the Gunnison Valley Land Preservation Fund. Once full funding is received, the Land Trust will convey the inholding to the Town of Mt. Crested Butte, and immediately place a conservation easement on the property which the Land Trust will hold. Funds for the private inholding are being requested from private individuals and 1% for Open Space.

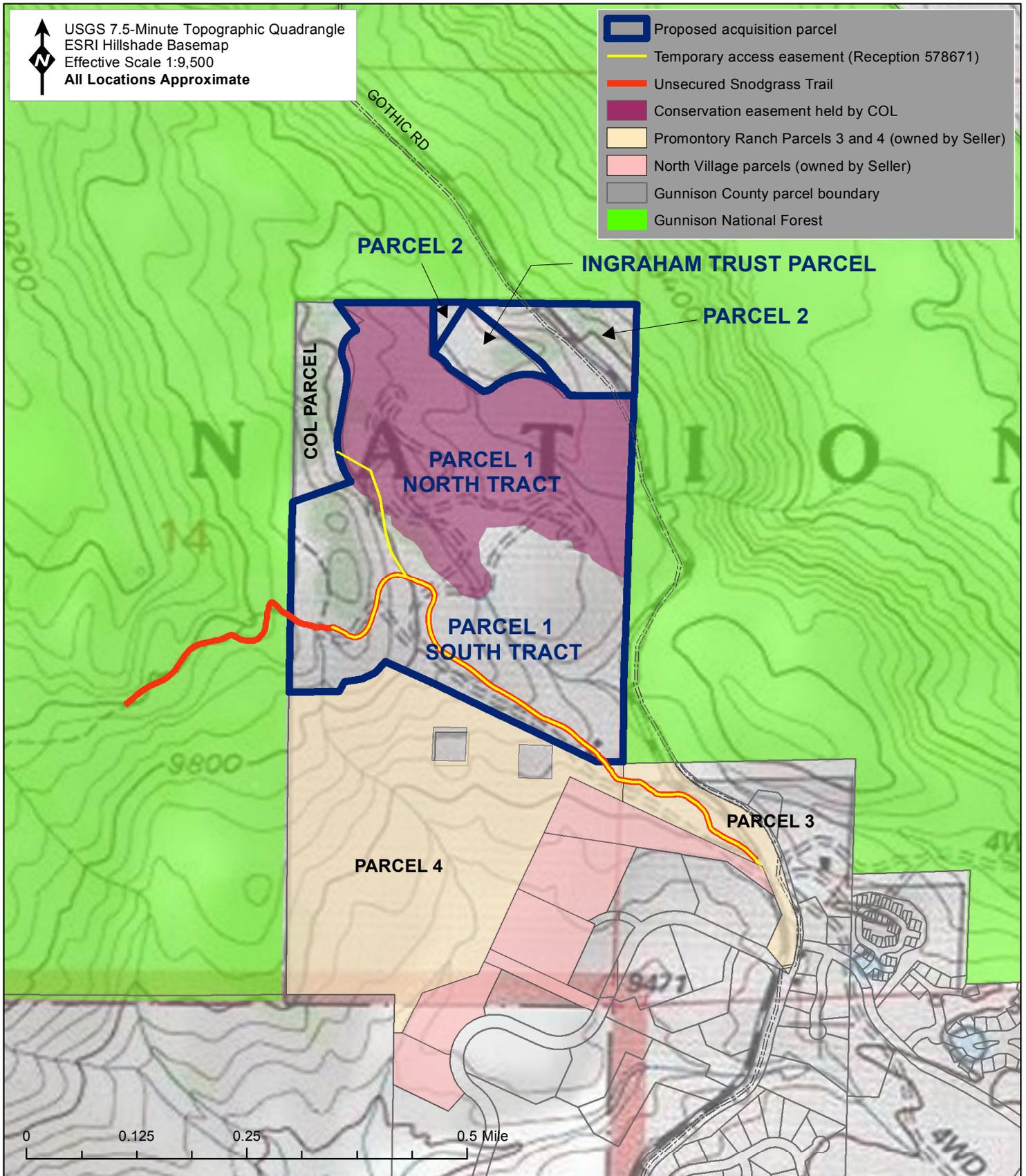
Recommended Action:

Staff recommends a motion "to approve Resolution 2014-15, a Resolution of the Crested Butte Town Council Authorizing the Expenditure of Up to \$700,000.00 from the Town's Open Space Fund for the Purchase and Conservation of Approximately 98 Acres Located at Parcel No. 1, The Reserve, Town of Mount Crested Butte, Gunnison County, State of Colorado."



USGS 7.5-Minute Topographic Quadrangle
 ESRI Hillshade Basemap
 Effective Scale 1:9,500
 All Locations Approximate

-  Proposed acquisition parcel
-  Temporary access easement (Reception 578671)
-  Unsecured Snodgrass Trail
-  Conservation easement held by COL
-  Promontory Ranch Parcels 3 and 4 (owned by Seller)
-  North Village parcels (owned by Seller)
-  Gunnison County parcel boundary
-  Gunnison National Forest



DATE: August 2014
 DRAWN BY: D. Reeder

 RARE EARTH SCIENCE
 PO Box 1245
 Paonia, Colorado 81428
 (970) 527-8445
 dawn@rareearthscience.com

TOPOGRAPHIC MAP
PROMONTORY PROPERTY
PROPOSED CONSERVATION ACQUISITION
 Gunnison County, Colorado

FIGURE
2

Crested Butte Land Trust offering free house to any taker

Affordable housing, anyone?

by Aleesha Towns

Need a house? The Crested Butte Land Trust may have a deal for you.

The non-profit organization is seeking a person to remove a house from a two-and-half-acre property it purchased this summer near Crested Butte South. The 1,600-square-foot house is free, but any taker must pay for the three-bedroom, two-bath building to be moved.

Land Trust president Sandy Leinsdorf says her organization purchased the lot and house in order to preserve the "Oh my god" views that greet residents and visitors on Highway 135 as they come around the corner

near Round Mountain.

"It concerned us greatly that something very complicated would muck up the beginning of [a place] that's very important to the people in the valley," Leinsdorf explains.

Land Trust director Vicki Church agrees. "We wanted to make sure that someone wouldn't block the views at any future date."

To prevent an overly large building on the site, the Land Trust purchased the 2.75-acre property and deed-restricted it to limit a potential building to a 3,000-square-foot, single-story building. The allowable building envelope will also be moved.

The organization then decided to offer the existing home for free to any community member. Leinsdorf says the building could be used as-is or even taken apart



The Crested Butte Land Trust is offering this house free to anyone who's willing to move it. Interested parties can contact the Land Trust office.

for building materials. "We feel that the building material from the house can be used by someone rather than just destroy it," Leinsdorf says. "We'd want someone to remove it at their expense and then we can offer the property for sale."

Once the current home is moved, Leinsdorf says the lot will be listed on the real estate market. The funds from the sale will benefit the Land Trust.

Church says the organization hopes the free home can be used by someone who needs it. "Maybe

somebody who has a lot but can't afford to build," she says. "We'll try to accommodate an affordable housing situation as long as the person could afford to move it."

Anyone interested in the free home can inquire about it at the Land Trust by calling 349-1206.

OPEN SPACE FUNDING AGREEMENT

THIS OPEN SPACE FUNDING AGREEMENT (the "**Agreement**") is entered into effective this ___ day of _____, 2014 (the "**Effective Date**") by and between the TOWN OF CRESTED BUTTE, a Colorado home rule municipality with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, Colorado 81224 (the "**Town**") and the CRESTED BUTTE LAND TRUST, a Colorado non-profit corporation with an address at 308 3rd Street, P.O. Box 2224, Crested Butte, Colorado 81224 ("**Grantee**"). The Town and Grantee are sometimes individually referred to herein as a "**party**," collectively as the "**parties**."

RECITALS:

A. Pursuant to §4-4-90(b), as amended, of the Crested Butte Municipal Code, the Town may, in pertinent part, fund the purchase of interests in real property to be conserved from development outside of Crested Butte and designate such other entities as it deems appropriate to acquire such interests in real property in place of the Town.

B. The Town Council, by Resolution No. 15, Series 2014, appropriated \$700,000.00 in funding to be used for Grantee's purchase of the fee title to the real property described on **Exhibit "A"** attached hereto (the "**Subject Property**").

C. The Town and Grantee desire herein to memorialize the terms and conditions upon which the Town will fund and Grantee will complete the purchase of the Subject Property.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are material terms and conditions of this Agreement and are supported by the same consideration as the other terms and conditions hereof.

2. **Grant Funds; Payment Obligation.**

A. The Town hereby grants \$700,000.00 (the "**Grant Funds**") to Grantee subject to the terms and conditions set forth in this Agreement.

B. Four Hundred Thousand and No/100 Dollars (\$400,000.00) (the "**Initial Payment**") of the Grant Funds shall be paid to Grantee at closing (the "**Closing**") on the Property; provided that, Closing shall occur on or before May 15, 2015. If Closing does not occur on or before May 15, 2015, this Agreement and the grant made herein shall terminate and be void *ab initio*, unless the Town agrees to continue this Agreement based upon a Closing after May 15, 2015.

C. Provided that Closing occurs on or before May 15, 2015, the Town shall endeavor to pay Grantee, Grantee acknowledging and agreeing that that the Town's ability to pay Grantee the remaining Grant Funds is subject to the Town having sufficient funds, as reasonably determined by the Town taking into account funds in the Town's Open Space Fund from tax received from the Town's Land Transfer Excise Tax and the need for the Town keep a reasonable balance in such Open Space Fund, the remaining \$300,000.00 in successive payments of at least \$75,000.00 on March 31 (provided that this payment will be made at the time of Closing in such Closing occurs on or before March 31, 2014, or on the date of Closing provided Closing occurs on or before May 15, 2014), June 30, September 30 and December 31, 2015. In the event that the Town does not have a sufficient funds in the Town's Open Space Fund at any time payment is due as contemplated in this subsection B., the Town shall pay what it is reasonably able to pay taking into account those qualifications described above. Notwithstanding the foregoing, in the event that the Town does not have sufficient funds to complete the payments as described above by December 31, 2015, the Town's obligations hereunder shall terminate; provided, however, it is the intent of the parties to negotiate a new funding agreement in such event.

D. Notwithstanding anything in this Agreement to the contrary, (i) nothing contained in this Agreement shall constitute a pledge of the full faith and credit of the general tax revenues, funds or moneys of the Town except the amount appropriated for the purpose of making payments hereunder during the current fiscal year, (ii) the Town is not obligated hereby to make any payments in any fiscal year beyond the fiscal year for which funds are appropriated for the payment thereof or to make payments from any funds of the Town other than funds appropriated for the payment of current expenditures, (iii) all payment obligations of the Town under this Agreement, including, without limitation, the Town's obligation to pay the Grant Funds, are from year-to-year only and do not constitute a multiple fiscal-year direct or indirect financial obligation of the Town, (iv) the agreement hereunder to pay the Grant Funds is subject to annual renewal and such agreement to pay shall be terminated upon the occurrence of an event of non-appropriation and, in such event, (x) all payments from the Town under this agreement shall terminate, and (y) Grantee expressly waives hereby all remedies and claims against the Town.

E. The Grant Funds shall be used by Grantee solely to acquire the Subject Property and to defray the costs and expenses in connection therewith, including the administration of the same. Grantee agrees that the Initial Payment shall be used to pay the purchase price to acquire the Subject Property and to defray certain direct costs of the Grantee in connection with such purchase, which amounts shall be paid at Closing on the purchase of the Subject Property.

F. Notwithstanding the foregoing, the Grant Funds may not be used for the general administration and overhead costs of Grantee.

3. **Purchase Money Loan; Conservation Easement.**

A. The Initial Payment shall be used by Grantee at Closing as partial payment of the purchase price to acquire the Subject Property and to defray certain direct costs and

expenses in connection therewith. The remaining amount of the purchase price for the Subject Property will be paid from funds received from various sources and will include loaned money not to exceed \$600,000 (the "**Loan**"). The Loan will be collateralized against other real property owned in fee by the Grantee (the "**Trade Lands**") and described to Grantor in writing to Grantor's elected officials prior to such collateralization. Grantee shall pay off the Loan against the Trade Lands as soon as reasonably possible, with reasonable efforts being made by Grantee to accomplish the same, through funding which may come from third party sources or the Town of Crested Butte, or both; except that Grantee shall not request that Grantor fund any more than the Grant Funds in connection with the acquisition and conservation of the Subject Property. Upon payment of the Loan, the lien encumbering the Trade Lands shall be extinguished and released of record by the recording of a release of such lien in the official real property records of the Clerk and Recorder of Gunnison County, State of Colorado, with notice thereof delivered to the Town.

B. As part of the Grantee's purchase of the Subject Property, Grantee shall take and hold a conservation easement on the Subject Property in substantially the same form as the Deed of Conservation Easement (the "**Conservation Easement**") in favor of Grantee attached hereto as **Exhibit "B."**

C. Neither Grantee nor the holder of fee title in the Subject Project may sell, assign, transfer or otherwise pledge, hypothecate, lien or mortgage the Subject Property or any interest therein without the express written approval of the Grantor.

4. **No Liens.** Grantee shall not allow the Subject Property to become subject to any lien or claim of lien that is not subordinate to the terms of the Conservation Easement on account of any act or omission of Grantee or any person operating under the authority of Grantee. In such case, Grantee shall be responsible for the satisfaction or payment of any such lien filed or placed of record against the Subject Property. Should any such lien or claim of lien be filed against the Subject Property, Grantee shall cause the same to be canceled and discharged of record by bond or otherwise within ten (10) days after notice of the filing thereof. Should Grantee fail to discharge such lien within such 10-day period, then the Town may discharge the same, in which event the Grantee shall reimburse the Town, on demand, for the amount of the lien or the amount of the bond, if greater, plus all costs and expenses incurred by the Town in connection therewith, inclusive of reasonable attorneys' fees, costs and expenses.

5. **Signage.** In the event that any signage is installed respecting the funding for the acquisition of the Subject Property the Town shall be listed on such signage as a grantee of such funding. Such signage shall be approved in advance by the Town, such approval to not be unreasonably withheld, conditioned or delayed.

6. **Liability.**

A. **Indemnity.** To the extent allowed by law, Grantee shall be responsible for, indemnify, defend and hold harmless the Town, its elected officials, officers, agents, employees, insurers, insurance pools and attorneys (collectively, the "**Town Parties**") from any and all liabilities, claims, demands, damages or costs (including reasonable attorneys' fees) resulting

from, growing out of, or in any way connected with or incident to Grantee's receipt of the Grant Funds and any of its acts or omissions pursuant to this Agreement. Grantee hereby waives any and all rights to any type of express or implied indemnity or right of contribution from the Town Parties, for any liability resulting from, growing out of, or in any way connected with or incident to this Agreement.

B. **No CGIA Waiver.** The parties understand and agree that the parties are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (currently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to the parties, their elected officials, officers, agents, employees, insurers, insurance pools and attorneys officers.

C. **Compliance with Regulatory Requirements and Federal and State Mandates.** Grantee hereby assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination, immigration compliance, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, and other similar requirements. To the maximum extent permitted by law, Grantee hereby agrees to indemnify, defend and hold harmless the Town from any cost, expense or liability for any failure to comply with any such applicable requirements.

D. **Nondiscrimination.** During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, and shall comply with any other applicable laws prohibiting discrimination. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination.

7. **Audit and Accounting Records.** Grantee shall maintain standard financial accounts, document, and records relating to the acquisition, use, management, operation and maintenance of the Subject Property. The accounts, documents, and records related to acquisition of the Subject Property shall be retained by Grantee for five (5) years following the date of disbursement by the Town of the Grant Funds, and shall be subject to examination and audit by the Town or its designated agent during this period. All accounts, documents, and records described in this paragraph shall be kept in accordance with generally accepted accounting principles.

8. **Breach.** In addition to such other remedies as shall be available at law or in equity, in the event that Grantee breaches any of the terms or conditions of this Agreement and fails to correct the same within thirty (30) days of receipt of notice from the Town of such breach, the Town reserves the right to seek equitable relief and/or all other remedies as available to it under applicable law, including but not limited to, the return of all or a portion of the Grant Funds.

9. **Miscellaneous Provisions.**

A. **Good Faith.** Both parties have an obligation of good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.

B. **Assignment.** Grantee may not assign its rights or delegate its obligations under this Agreement without the express written consent of the Town.

C. **Applicable Law.** Colorado law applies to the interpretation and enforcement of this Agreement.

D. **Status of Grantee.** The parties acknowledge that the Town lacks the power and right to direct the actions of Grantee. Grantee acts in its separate capacity and not as an officer, employee or agent of the Town.

E. **Survival.** The terms and provisions of this Agreement and Grantee's obligations hereunder shall survive the funding of the Grant Funds and the acquisition of, and any future conveyance of, the Subject Property.

F. **Fax and Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one agreement. In addition, the parties agree to recognize signatures to this Agreement transmitted by facsimile as if they were original signatures.

G. **Third Party Beneficiary.** The parties hereby acknowledge and agree that this Agreement is intended only to cover the relative rights and obligations between the Town and Grantee, and that no third party beneficiaries are intended.

H. **Notice.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the addresses first shown in this Agreement.

I. **Construction; Severability.** Each party hereto has reviewed and revised (or requested revisions of) this Agreement, and therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement. If any provision in this Agreement is found to be ambiguous, an interpretation consistent with the purpose of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, and the balance of this Agreement shall otherwise remain in full force and effect. At any time when this Agreement refers to a party's ability to act or make determinations or decisions with discretion, this Agreement shall be construed to permit such party to act and to make such determinations and/or decisions in its sole discretion.

J. **Entire Agreement.** Except for the Conservation Easement, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes in this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

K. **Authority.** The parties represent and warrant to the other that each is duly authorized and existing business entity; each is qualified to do business Colorado; each has full right and authority to enter into this Agreement; the person signing on behalf of each party is duly authorized to do so and has obtained any and all approvals necessary to enter into and perform the obligations contained in this Agreement; and each party's compliance with the terms hereof do not violate any agreement or other obligation of such party.

L. **Prevailing Party.** In the event of any dispute arising from or related to this Agreement, the prevailing party will be entitled to recovery of all reasonable costs incurred in connection therewith, including, without limitation, court costs, attorneys' fees and other related expenses.

M. **Record Memorandum.** A record memorandum of this Agreement may be recorded by the Town in the official real property records of the Clerk and Recorder of Gunnison County, Colorado.

IN WITNESS WHEREOF, the parties by signature below of their authorized representatives execute this Agreement as of the Effective Date set forth above.

TOWN:

GRANTEE:

TOWN OF CRESTED BUTTE

CRESTED BUTTE LAND TRUST

By: _____
Todd Crossett, Town Manager

By: _____
Name: _____
Title: _____

Name: _____

ATTEST:

Lynelle Stanford, Town Clerk

[SEAL]

EXHIBIT "A"
Subject Property

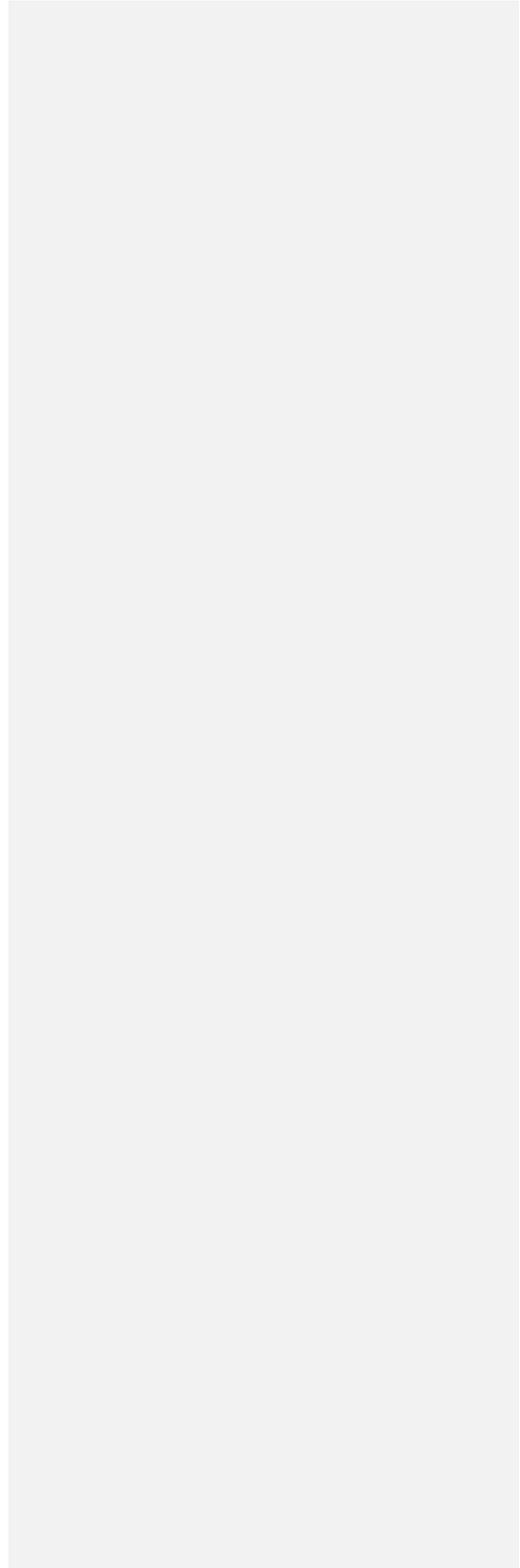


EXHIBIT "B"

Conservation Easement

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EXHIBIT A
LEGAL DESCRIPTION

(The Reserve at Promontory Parcel No. 1)

A tract of land being described as Parcel No. 1, in Special Warranty Deed recorded as Reception No. 539411, also being described as Parcel No. 2, in Quitclaim Deed recorded as Reception No. 544263, records of Gunnison County Colorado; said parcel being a portion of the S1/2NE1/4 and N1/2SE1/4 of Section 14, Township 13 South, Range 86 West, 6th Principal Meridian, being more particularly described as follows:

Beginning at the S1/16 Corner common to Sections 13 and 14, T.13 S., R. 86 W. of the 6th P.M., said point being monumented with a BLM Brass Cap;

thence N01°49'09"E a distance of 1402.43 feet along the section line common to said Sections 13 and 14 to the 1/4 Corner common to said Sections 13 and 14;

thence continuing N01°53'01"E along said common section line a distance of 840.00 feet;

thence N89°30'49"W a distance of 374.88 feet to a point on the southerly boundary line of a parcel of land described in Book 584 at Page 248 of Gunnison County records;

thence the following four (4) courses along the southerly boundary of said parcel:

- (1) 513.85 feet along the arc of said non-tangent curve to the left having a radius of 318.00 feet, a central angle of 92°34'57" and a chord which bears N83°57'02"W a distance of 459.74 feet;
- (2) thence 68.07 feet along the arc of a non-tangent curve to the right having a radius of 117.00 feet, a central angle of 33°19'56" and a chord which bears S65°54'58"W a distance of 67.11 feet;
- (3) thence N53°45'02"W a distance of 241.50 feet;
- (4) thence 129.18 feet along the arc of a non-tangent curve to the left having a radius of 187.00 feet, a central angle of 39°34'52" and a chord which bears N48°20'02"W a distance of 126.63 feet;

thence N00°39'05"E a distance of 318.32 feet to a point on the north line of the SE1/4NE1/4 of said Section 14;

thence N89°40'15"W a distance of 160.00 feet along the north line of the SE1/4NE1/4 to the NE1/16 Corner of said Section 14;

thence N89°38'26"W a distance of 405.40 feet along the north line of the SW1/4NE1/4 of said Section 14 to the most northeasterly corner of a parcel of land described in Book 393 at Page 01, records of Gunnison County;

thence the following six (6) courses along the easterly and southerly boundary of said parcel of land:

- (1) S36°18'35"E a distance of 194.66 feet;
- (2) thence 235.29 feet along the arc of said non-tangent curve to the left having a radius of 146.00 feet, a central angle of 92°20'07" and a chord which bears S21°06'25"W a distance of 210.64 feet; (3) thence 131.34 feet along the arc of a curve to the right having a radius of 210.00 feet, a central angle of 35°50'04" and a chord which bears S07°08'35"E a distance of 129.21 feet;
- (4) thence S10°46'25"W a distance of 305.50 feet;

(5) thence 342.82 feet along the arc of a non-tangent curve to the left having a radius of 415.41 feet, a central angle of $47^{\circ}16'59''$ and a chord which bears $S12^{\circ}53'35''E$ a distance of 333.17 feet;

(6) thence $S70^{\circ}12'38''W$ a distance of 402.85 feet to a point on the west line of the $E1/2SW1/4NE1/4$ of said Section 14;

thence $S01^{\circ}06'47''W$ a distance of 162.05 feet along the west line of the $E1/2SW1/4NE1/4$ to the C-W-E $1/64$ of said Section 14;

thence $S01^{\circ}03'55''W$ along the west line of the $E1/2NW1/4SE1/4$ of said Section 14 a distance of 964.17 feet;

thence $S90^{\circ}00'00''E$ a distance of 312.53 feet;

thence $N26^{\circ}31'44''E$ a distance of 66.05 feet;

thence 283.83 feet along the arc a non-tangent curve to the left having a radius of 322.17 feet, a central angle of $50^{\circ}28'40''$ and a chord which bears $N63^{\circ}14'51''E$ a distance of 274.74 feet to a point of non-tangent line;

thence $S63^{\circ}18'35''E$ a distance of 1399.44 feet to a point on the south line of the $NE1/4SE1/4$ of said Section 14;

thence $N89^{\circ}50'57''E$ along the south line of the $NE1/4SE1/4$ of said Section 14 a distance of 162.03 feet to the point of beginning,

County of Gunnison,
State of Colorado.

DEED OF CONSERVATION EASEMENT
Crested Butte Land Trust
Parcel 1, Promontory Property- Gunnison County, CO

NOTICE: THIS PROPERTY INTEREST HAS BEEN ACQUIRED IN PART WITH GRANT # _____ (“GRANT”) FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND (“BOARD”). THIS DEED OF CONSERVATION EASEMENT CONTAINS RESTRICTIONS ON THE USE AND DEVELOPMENT OF THE PROPERTY WHICH ARE INTENDED TO PROTECT ITS OPEN SPACE AND OTHER CONSERVATION VALUES. THE BOARD HAS FOUND THAT THIS DEED OF CONSERVATION EASEMENT PROVIDES BENEFITS THAT ARE IN THE PUBLIC INTEREST.

THIS DEED OF CONSERVATION EASEMENT is granted this ___ day of January, 2015, by **NORTH VILLAGE RESERVE, INC.**, a Colorado corporation, having an address of 12 Snowmass Road, Mt. Crested Butte, CO 81225, P.O. Box 5700, Mt. Crested Butte, CO 81225 (the “**Grantor**”) to and for the benefit of the **CRESTED BUTTE LAND TRUST**, a Colorado nonprofit corporation, having an address at 308 Third Street, P.O. Box 2224, Crested Butte, Colorado 81224 as grantee (the “**Grantee**”), for the purpose of forever conserving the wildlife habitat, open space character, and outdoor recreational opportunities of the subject property. Grantee acknowledges that North Village Reserve, Inc. intends to convey the Property described herein to the **TOWN OF MT. CRESTED BUTTE**, a Colorado municipal corporation, 911 Gothic Road, P.O. Box 5800, CO 81225 (the “**Town**”), subject to the terms of this Deed of Conservation Easement immediately after the recording of this Deed of Conservation Easement, and that upon such transfer the Town will be the Grantor hereunder; this initial conveyance to the Town is not a “Sale” as described in Paragraph 13, below. The Grantor and the Grantee are individually referred to herein as a “**Party**”, and are collectively referred to herein as the “**Parties**”.

The following Exhibits are attached hereto and hereby incorporated herein:

- Exhibit A - Description of Property
- Exhibit B - Map of Property, including Trail and Trailhead Locations
- Exhibit C - Acknowledgement of Baseline Report
- Exhibit D - Exceptions to Title

RECITALS:

- A) Grantor is the sole owner in fee simple of certain real property located in Gunnison County, Colorado, consisting of 48.64 acres, more or less, more particularly described in **Exhibit A** and depicted in **Exhibit B**, including Minerals, as defined herein, together with the improvements located thereon (collectively, the “**Property**”).
- B) The Property possesses natural wildlife habitat and recreational values (collectively, the “**Conservation Values**”) of great importance to the Grantee, the Town, the people of Gunnison County, the people of the State of Colorado, and the people of the United States of America, which Conservation Values are worthy of protection, and which are described in the Baseline Report, described herein. The Conservation Purposes described and detailed in these Recitals are part of the Conservation Values of the Property. The Conservation Values are the Open Space, Wildlife Habitat and Public Recreation

Conservation Values described in these Recitals. The Property is distinctive because of its importance to larger conservation efforts, and its access to public lands. For recreationists, the Property represents permanent access, therein offering the opportunity for people of all ages to form lasting connections to natural lands, fostering a culture that values biodiversity and the wild lands necessary to support it.

- C) The following Conservation Purpose, in accordance with Treasury Regulations §1.170A-14(d)(4) is furthered by this Easement: “To preserve open space (including farmland and forest land ... if such preservation is (A) Pursuant to a clearly delineated federal, state or local governmental policy” (see Recital F, below) “and will yield a significant public benefit, or (B) For the scenic enjoyment of the general public and will yield a significant public benefit. This Conservation Purpose includes at least the following “**Open Space**” Conservation Values:
- 1) Preservation of the Property will provide an important open space, scenic vista and will buffer this area from surrounding growth.
 - 2) The Property lies in a saddle between the northern edge of the Town of Mt. Crested Butte and Snodgrass Mountain. The East River snakes to the northeast and the Maroon Bells rise in its backdrop. The Property is largely surrounded by the Gunnison National Forest and other conserved natural areas that contribute to habitat connectivity and the value of the land. The Property is also a visual boundary between the Town of Mt. Crested Butte and Gothic valley, referred to as the “line of flowers”.
 - 3) The Property is visible from many public places including: (a) neighboring and nearby public lands owned by the Town of Mt. Crested Butte, and lands administered by the U.S. Department of Agriculture, National Forest Service, Gunnison National Forest (**Forest Service**”); (b) a public trail on the Property and public trails on adjoining and nearby lands; (c) Gothic Road; (d) the Town of Mt. Crested Butte; and (e) the Crested Butte Mountain Resort.
 - 4) The Property includes significant wildlife and bird habitat, and is in an area which is experiencing substantial development that has reduced open and scenic vistas available to the public; preservation of the Property is consistent with federal, state and local public conservation programs and with conservation efforts underway on adjoining or nearby properties; development of the Property would contribute to the degradation of the scenic vistas available to the public and to wildlife habitat, resulting in a loss of tourism and commerce to the area.
- D) The following Conservation Purpose, in accordance with Treasury Regulations §1.170A-14(d)(3) is furthered by this Easement: “To protect significant relatively natural habitat in which a fish, wildlife, or plant community, or similar ecosystem normally lives.” This Conservation Purpose includes at least the following “**Wildlife Habitat**” Conservation Values:
- 1) Conservation of the Property, which is located on the eastern flank of Snodgrass Mountain, will protect migration, foraging, and resting habitat for many species, including black bear, deer, and elk. The area is a migration corridor and both summer and winter range for elk. Habitat quality is high because of the wetlands, aspen and forests, and its proximity to other protected areas. Golden eagles are often seen soaring overhead. Coyote, fox, mountain lion, beavers and a host of other small mammals and birds depend on this natural area and its water

resources. The upper portions of Snodgrass Mountain are identified as habitat for the endangered Canada lynx.

- 2) Two creeks traverse the Property and feed into the East River. The Property contains over nine acres of wetlands, an important water source for wildlife and for recharging ground water supplies. At least three native willow species as well as wetlands vegetation are common throughout the meadows.
 - 3) The Property is adjacent to other lands that have been protected to preserve wildlife habitat, open space, and scenic vistas.
 - 4) Preservation of the Ranch also complements “Colorado’s Comprehensive Wildlife Conservation Strategy” (CWCS). This strategy was developed in 2006, based on the collective judgment of many Colorado scientists, who accounted for the interest of citizens concerned about Colorado wildlife conservation. The CWCS identifies the conservation of wildlife habitat as important to the state. The Ranch supports several of CWCS’s strategic directives to: conserve wildlife habitat, maintain habitat and landscape connectivity, and provide public education opportunities to benefit wildlife.
 - 5) The Wildlife Habitat Conservation Values are further detailed in the Baseline Report.
- E) The following Conservation Purpose, in accordance with Treasury Regulations §1.170A-14(d)(2) is furthered by this Easement: “The preservation of land areas for outdoor recreation by, or the education of, the general public.” This Conservation Purpose includes at least the following “**Public Recreation**” Conservation Values:
- 1) The general public shall have access to the Trail on the Property, subject to any reasonable regulations imposed pursuant to the Public Access Paragraph 9 by Grantor and Grantee necessary and appropriate to protect public health and safety. These may include any temporary or seasonal restrictions necessary to protect the Wildlife Habitat Conservation Values described in the Recitals and described in greater detail within the Baseline Report and to balance wildlife habitat needs and public recreation.
 - 2) The Grantor may allow additional public access provided such access is consistent with preservation of the Conservation Values, as provided herein.
- F) The Conservation Purposes of this Easement are recognized by, and the grant of this Easement will serve the following clearly delineated governmental conservation policies:
- 1) Colorado Revised Statutes Sec. 38-30.5-101, *et seq.*, provides for the creation of conservation easements to maintain land “in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural ... or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity.”
 - 2) The Colorado Wildlife and Parks and Outdoor Recreation statutes, Colorado Revised Statutes Sec. 33-1-101, *et seq.*, which provide that “it is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors,” and that “it is the policy of the state of Colorado that the natural, scenic, scientific, and outdoor recreation areas of this

state are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and visitors of this state.”

- 3) The Western Governors’ Association Policy Resolution 08-21 supports “voluntary incentive-based methods for preserving open space, maintaining land and water for agricultural and timber production, wildlife, and other values.”
 - 4) Gunnison County Land Use Regulation, Section 1-103D.3., seeks “to protect and preserve lands from land use activities and patterns of development that would cause significant adverse net impacts to sensitive wildlife habitat....”
 - 5) The Crested Butte Area Plan also places priority on wildlife habitat. The Area Plan recommends that “developers should work with their neighbors to maintain historic grazing operations.” With regard to wildlife habitat the Area Plan recommends, “Development in Important Wildlife Habitat Areas should be avoided because habitat survival and species survival go hand-in-hand.”
 - 6) Mt. Crested Butte Community Plan dated July 5, 2007, Section III “Parks, Recreation and the Natural Environment” includes the following goals: “1. Preserve open space, natural beauty and critical environmental areas”; “3. Preserve the recreational aspect of our quality of life and ensure the availability of quality recreational experiences in the future....”
 - 7) Funding for this project has been provided in part by the Great Outdoors Colorado Trust Fund program. The voters of the State of Colorado by adoption of Article XXVII to the Constitution of the State of Colorado, the legislature of the State of Colorado by adoption of enabling legislation, and the Board, by adopting and administering competitive grants application and rigorous due diligence review processes, have established that it is the policy of the State of Colorado and its people to preserve, protect, enhance and manage the state’s wildlife, park, river, trail and open space heritage, to protect critical wildlife habitats through the acquisition of lands, leases or easements, and to acquire and manage unique open space and natural areas of statewide significance.
- G) The Crested Butte Land Trust is a charitable organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”) and is a “qualified organization” as defined in Section 170(h)(3) of the Code, and a charitable organization as defined in Section 38-30.5-104(2), CRS.
- H) The Grantor desires to protect the Conservation Values of the Property in perpetuity by creation of a conservation easement in gross under Article 30.5 of Title 38, Colorado Revised Statutes.
- I) Grantee agrees by accepting this Easement to preserve and protect in perpetuity the Conservation Values for the benefit of this and future generations.

NOW, THEREFORE, for reasons given, and in consideration of the above mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Colorado, and in particular C.R.S. Sec. 38-30.5-101, *et seq.*, Grantor hereby voluntarily grants and conveys to the Grantee, its successors and assigns a Conservation Easement in perpetuity, consisting of the rights and restrictions enumerated herein, over and across the Property

(the “**Easement**” or the “**Deed**”), exclusively for the purpose of conserving and forever maintaining the Property so as to preserve the wildlife habitat of the Property and the opportunities for public recreation provided by the Property.

1. Purpose. The purpose of this Easement is to ensure that the Conservation Values are preserved and protected in perpetuity (“**Purpose**”). This Purpose is in accordance with §170(h) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto. To effectuate the Purpose of this Easement, Grantor and Grantee intend to permit only uses of the Property that do not substantially diminish or impair the Conservation Values and to prevent any use of the Property that will substantially diminish or impair the Conservation Values. Notwithstanding the foregoing, nothing in this Easement is intended to compel a specific use of the Property, other than the preservation and protection of the Conservation Values.
2. Baseline Documentation Report. The Parties acknowledge that a written report dated _____, 201__, has been prepared, reviewed, and approved by the Parties, which documents the Property’s condition as of the conveyance date of this Easement (the “**Baseline Report**”). A copy of the Baseline Report shall be kept on file with each Party and by this reference is made a part hereof. The Parties acknowledge that the Baseline Report is intended to establish the condition of the Property as of the conveyance date of this Easement, and each Party has acknowledged the same in a signed statement, a copy of which is attached hereto as **Exhibit C**. The Parties further agree that the existence of the Baseline Report shall in no way limit the Parties’ ability to use other pertinent information in resolving any controversy that may arise with respect to the condition of the Property as of the conveyance date of this Easement.
3. Rights Granted to the Grantee. To accomplish the Purpose of this Easement, in addition to the rights described in C.R.S. Sec. 38-30.5-101, *et seq.*, as amended from time to time, the following rights are granted to the Grantee:
 - 3.1. To preserve and protect the Conservation Values of the Property;
 - 3.2. To enter upon the Property at reasonable times, in order to monitor compliance with and otherwise enforce the terms of this Easement. The Grantee may utilize vehicles on existing roads, and other reasonable modes of transportation elsewhere, for monitoring and enforcement purposes;
 - 3.3. To prevent any activity on or use of the Property that is inconsistent with the Purposes of this Easement, or which may be reasonably expected to have material adverse impact on the Conservation Values of the Property, and to require the restoration of such areas or features of the Property that are materially damaged by any inconsistent activity or use; and
 - 3.4. To place and maintain on the perimeter of the Property, at the Trailhead (defined in Paragraph 4.1.2.1, below), and/or in the Parking Area (defined in Paragraph 4.1.2.1, below) a sign or signs indicating that a conservation easement is held by the Grantee on the Property. The size of the sign and the location, design and content of such signs shall be determined by the Grantee. Grantee shall erect one or more signs visible from the nearest public roadway, or from an alternative location approved by the Board, identifying the Grantee’s role in securing and

holding this Easement and the Board's Grant and investment in this Property to the public. The Grantee shall be responsible for the maintenance of any such signs.

4. Reserved Rights. Grantor reserves to Grantor, and to Grantor's successors and assigns, all rights accruing from Grantor's ownership of the Property, including without limitation the right to engage in or permit or invite others to engage in all uses of the Property that are not prohibited or restricted herein and that do not substantially diminish or impair the Conservation Values.

- 4.1. Recreational Uses. Without limiting the generality of the foregoing, the Grantor reserves the right to use the Property to engage in and to permit the public to engage in non-motorized passive recreational activities, including, but not limited to, hiking, bicycling, horseback riding, cross-country skiing, snow-shoeing, and other similar low-impact recreational uses, subject to the terms of the Public Access Paragraph 9, herein, subject to easements, rights of way and matters of record described in the attached **Exhibit D**; Grantor further reserves the right to lease or permit outfitting on the Property, provided that public access to Snodgrass Trail, described below, shall not be limited, except as described in the Access Paragraph 9, herein) for such uses, and including uses such as are allowed under the Outfitting & Grazing Lease Agreement between Grantor, as landlord, and Fantasy Ranch Horseback Adventures, LLC, as tenant, recorded December 29, 2011 at Reception No. 610393 in the record of the Gunnison County Clerk and Recorder, (collectively, the "**Recreational Uses**").

- 4.1.1. Trails and Trail Construction.

- 4.1.1.1. Existing Trail. The existing trail on the Property ("**Snodgrass Trail**") in the location shown on **Exhibit B**, shall be maintained for Recreational Uses, and may be reconfigured or relocated on the Property with the prior written approval of the Grantee provided that such reconfiguration or relocation shall preserve a continuous trail through the Property from the trailhead near Gothic Road to the location of the Snodgrass Trail on Forest Service land at the westerly boundary of the Property, as shown on **Exhibit B**. Public use of the Snodgrass Trail for Recreational Uses is permitted, subject to the terms of the Public Access Paragraph 9, herein.

- 4.1.1.2. Additional Trails. Additional trails ("**Additional Trails**") for Recreational Uses (the Additional Trails and the Snodgrass Trail are together referred to herein as the "**Trails**") may be constructed and maintained on the Property by Grantor to the extent permitted in the Management Plan (described in Paragraph 4.1.2.1, below), or with the prior written approval of the Grantee.

- 4.1.2. Trailhead, Parking Area.

- 4.1.2.1. Management Plan; Trails, Trail Facilities. Additional Trails and facilities related to the Snodgrass Trail and/or such Additional Trails, including, but not limited to, a trailhead ("**Trailhead**") together with access driveway ("**Driveway**") from Gothic Road

to the parking area (“**Parking Area**”) at the “**Trailhead Building Area**” in the general location shown on the attached **Exhibit B**, an informational/directional kiosk and pit toilet or outhouse or other restroom facilities at the in the Trailhead Building Area, signage (which is in addition to the signage described in Paragraph 3.4, above), benches, and other improvements necessary to support the uses of the Trails (“**Trail Facilities**”), may be constructed, maintained, repaired and replaced on the Property in the locations and in the manner identified in an open space management plan, as approved by the Grantor and the Grantee and as amended from time to time by Grantor and Grantee (“**Management Plan**”). In addition, the dilapidated cabin (currently used for storing fencing materials) which is located in the Trailhead Building Area, may be used for agricultural or agriturism purposes (but not for housing or residential purposes) and may be removed, relocated or improved (but not enlarged) within the Trailhead Building Area envelope with prior approval of the Grantee. Trails and the Parking Area may be dirt or covered in gravel, as provided in the Management Plan. The Management Plan will identify important natural resource values and ensure that public uses and/or Trail Facilities are compatible with preserving the Conservation Values. The Grantee shall provide a copy of the Management Plan and any subsequent updates to the Board.

4.1.3. Nothing in this Easement shall be deemed to alter protections provided to the Grantor or the Grantee under C.R.S §33-41-103, or any subsequent legislation. Grantor and the Grantee specifically agree that the Grantor is both the owner and the manager of the Property, including the manager of recreational activities on the Property, and as provided in C.R.S §33-41-103(2)(d), the Grantee shall not be held liable for the Grantor’s management of the Property for recreational or any other purposes.

4.2. Agricultural Uses. In additional to preserving the Grantor’s right to utilize the Property for the Recreational Uses, described above, it is the intention of the Parties to preserve the ability of the Property to be agriculturally productive, including allowing ranching and grazing, as well as to preserve the public recreation, open space character and scenic qualities of the Property.

4.2.1. Grazing. Grantor may graze livestock on the Property provided that at all times Grantor shall utilize good grazing and range management practices that prevent pasture deterioration and over-grazing and which protect the Conservation Values of the Property. In the event the Grantee determines that the range is deteriorating, that overgrazing is occurring, or that the Conservation Values of the Property are not being protected, the Grantor and the Grantee shall promptly enter into an Agricultural Management Plan for the Property with the Natural Resources Conservation Service (“**NRCS**”) or other resource management agency or consultant mutually agreed upon by Grantor and Grantee. Thereafter, grazing and other agricultural activities on the Property shall be conducted only in

accordance with the Agricultural Management Plan until Grantor and Grantee mutually agree to modify or terminate such plan.

5. Prohibited and Restricted Uses. Any activity on or use of the Property inconsistent with the Purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following uses and activities are expressly prohibited or are restricted as set forth below:
 - 5.1. Development Rights. To fulfill the Purpose of this Easement, Grantor hereby conveys to Grantee all development rights deriving from, based upon or attributable to the Property (“**Grantee’s Development Rights**”), except any such rights described in the easements, rights of way and matters of record described in **Exhibit D**, attached hereto, and those expressly reserved by Grantor in this Easement, and the Parties agree that Grantee’s Development Rights shall be held by Grantee in perpetuity in order to fulfill the Purpose of this Easement, and to ensure that such rights are forever released, terminated and extinguished as to Grantor, and may not be used on or transferred off of the Property to any other property or used for the purpose of calculating permissible lot yield of the Property or any other property.
 - 5.2. Subdivision. The Parties agree that the division, subdivision or de facto subdivision of the Property (including Minerals), whether by legal or physical process, into two or more parcels of land or partial or separate interests (including, but not limited to, condominium interests or the partition of undivided interests) is prohibited. At all times the Property (including Minerals) shall be owned and conveyed as a single parcel which shall be subject to the provisions of this Deed. Ownership of the Property by joint tenancy or tenancy in common is permitted; provided, however, that Grantor shall not undertake any legal proceeding to partition, subdivide or divide in any manner such undivided interests in the single parcel.
 - 5.3. Commercial and Industrial Activities. The Property may be used for the Recreational Uses and Agricultural Uses described in Paragraph 4, above, and for the uses permitted in the easements, rights of way and matters of record described in the attached **Exhibit D**, but shall not be used for industrial activities, or for commercial activities that are not allowed Recreational Uses or Agricultural Uses.
 - 5.4. Buildings or Other Structures. No buildings or structures shall be erected or placed on the Property, except to the limited extent allowed under Paragraph 4, above, and except for fencing allowed under Paragraph 5.13, below.
 - 5.5. Road Construction. No roads or driveways shall be constructed or permitted on the Property, except as provided in Paragraph 4.1, above, and except that road and driveways, and utilities may be constructed on the Property as follows:
 - 5.5.1. The Property is encumbered by an Easement Deed between North Village Reserve, Inc., a Colorado corporation, as grantor, and Brush Creek Holdings, LLC, a Colorado limited liability, as grantee dated July 27, 2007 and recorded on September 11, 2007 as Reception No. 578671 (the “**2007 Easement Deed**”) which grants a non-exclusive perpetual easement for access, ingress, egress and installation of utilities. The

“**Temporary Easement**” area described in the 2007 Easement Deed may be utilized in the manner described in the 2007 Easement Deed. The Temporary Easement area shall not be relocated without the prior written approval of the Grantee. Any such relocation of the Easement Area shall be consistent with the Management Plan described above.

- 5.5.2. In the deed from North Village Reserve, Inc., to the Town, North Village Reserve, Inc., has reserved a non-exclusive perpetual easement for access, ingress, egress and installation of utilities (“**Reservation of Easement**”) in the location of the Temporary Easement area described in the 2007 Easement Deed to benefit property adjacent to this Property which is subject to U.S. Department of Agriculture, Forest Service, Ski Area Term Special Use Permit Auth ID: GUN699, expiration date 12/05/2048 (“**Forest Service Special Use Permit**”). The use of a portion of the Property as described in the Reservation of Easement is permitted. The Temporary Easement area shall not be relocated without the prior written approval of the Grantee. Any such relocation of the Easement Area shall be consistent with the Management Plan described above.
- 5.6. Trails, Trail Construction, Trail Facilities. Use of the Trails and construction and maintenance of the Trails and Trail Facilities is restricted as described in Paragraph 4.1, above.
- 5.7. Paving. No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or other paving materials.
- 5.8. Utilities. Grantor may install, construct and maintain underground utilities for the uses permitted on the Property, but for no other uses including uses on other properties, except as allowed in Paragraph 5.5, above, and by the easements, rights of way and matters of record described in the attached **Exhibit D**.
- 5.9. Signs and Billboards. No commercial signs, billboards, awnings, or advertisements shall be displayed or placed on the Property, except “no trespassing” signs, signs regarding the non-motorized low-impact recreational use of the Property, informational and outreach signs, and signs informing the public of the status of ownership and directing public traffic. No signs shall significantly diminish or impair the Conservation Values. Grantee must approve in advance in writing any signs on the Property. Notwithstanding anything to the contrary in this Paragraph 5.9, the signs described in Paragraph 3.4, above, and the signs permitted in the Management Plan, are permitted on the Property.
- 5.10. Mining.
- 5.10.1. No Mining. The drilling, exploration by geophysical and other methods, mining, extraction and operating for and producing from the Property, including the construction of any and all roads, pipelines, structures, equipment, tanks, storage facilities, ponds, evaporation pools or pits, utility lines, of any kind or description, and including all activities described as “oil and gas operations” in C.R.S. Sec. 34-60-103, as amended (collectively referred to as “**mining**”), of soil, sand, gravel, rock, stone, decorative stone, oil, natural gas, coalbed methane (including any

and all substances produced in association therewith from coalbearing formations), hydrocarbon, fuel, or any other mineral substance, of any kind or description (collectively referred to as “**Minerals**”), is prohibited on the Property, except as provided in this paragraph entitled “Mining”. Notwithstanding any of the foregoing to the contrary, soil, sand, gravel or rock may be extracted upon written notice to but without further permission from Grantee, so long as such extraction is solely for use on the Property for non-commercial purposes, is in conjunction with activities permitted herein, is accomplished in a manner which is consistent with the Purpose of this Easement, and does not substantially diminish or impair the Conservation Values. Any such extraction shall be limited to an area less than one-half (1/2) acre in size at any given time. Any area which is disturbed by extraction must be re-vegetated and restored to a natural condition promptly after completion of extraction.

- 5.10.2. The Minerals shall not be divided from or separated from ownership of the Property; at all times the Minerals shall remain in the same ownership as the remainder of the Property.
- 5.10.3. This Mining Paragraph 5.10 shall be interpreted in a manner consistent with § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto.
- 5.11. Trash. The dumping or uncontained accumulation of trash or refuse on the Property is prohibited. If trash disposal is allowed at the Trailhead Grantor shall be responsible for supplying and maintaining bear-proof trash containers and promptly removing trash from the containers and the Property.
- 5.12. Hazardous Materials. The storage, dumping or other disposal of “**Hazardous or Toxic Materials**” or of non-compostable refuse on the Property is prohibited, except to the limited extent provided herein. For the purpose of this Easement “Hazardous or Toxic Materials” shall be taken in its broadest legal context and shall include any petroleum products as defined in ASTM Standard E 1527-05 and any hazardous or toxic substance, material or waste that is regulated under any federal, state or local law. Notwithstanding anything in this Easement to the contrary, the prohibitions in this Easement do not make or allow the Grantee or the Board to become an owner or operator of the Property, nor does it permit the Grantee or the Board to exercise physical or managerial control over the day-to-day operations of the Grantor or to control any use of the Property by the Grantor which may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, that the Grantee may bring an action to protect the Conservation Values of the Property, as described in this Easement. (The prohibitions in this Easement do not impose liability on the Grantee or the Board for Hazardous or Toxic Materials, nor shall the Grantee or the Board be construed as having liability as a “responsible party” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“**CERCLA**”) as amended, or similar federal or state statutes.) Nothing in this paragraph shall prohibit the storage or use of agricultural chemicals or products on the Property, or use of chemicals or Hazardous or Toxic Materials as part of Grantor’s scientific research, provided that such storage and use does not pose a significant risk to

human health, and is in accordance with applicable laws, regulations and manufacturer's instructions, and provided that such use does not substantially diminish or impair the Conservation Values.

- 5.13. Fencing. All fencing on the Property, including all exterior boundary fencing, shall be compatible with the movement of wildlife across the Property as determined by the Colorado Division of Parks and Wildlife or its successor wildlife agency.
- 5.14. Motorized Vehicles. The use of motorized vehicles on the Property is prohibited except as may be necessary for Property management purposes by the Grantor, for construction of Trails and Trail Facilities, and for emergency purposes including firefighting, or for Easement monitoring and enforcement purposes by the Grantee, and except as permitted in the easements, rights or way and matters of record described in the attached Exhibit D.
- 5.15. Timber Harvesting. Trees may be cut to control insects and disease, to control invasive non-native species, and to prevent personal injury and property damage. Commercial timber harvesting on the Property is prohibited.
- 5.16. Hunting. Grantor may permit hunting on the Property, subject to such restrictions as it deems appropriate, provided that any such activities shall be conducted in accordance with applicable laws and regulations, and pursued in a manner that does not substantially diminish or impair the Conservation Values.
6. Water Rights. No water rights are encumbered by this Easement. The Mt. Crested Butte Water & Sanitation District is the owner of the Malensek Ditch No. 5 which traverses the Property.
7. Responsibilities of the Grantor and the Grantee Not Affected. Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:
 - 7.1. Taxes. The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property, including any taxes imposed upon, or incurred as a result of, this Easement. If the Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor shall promptly reimburse the Grantee for the same.
 - 7.2. Upkeep and Maintenance. The Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property, including maintenance of the Recreational Trails and trailheads, trash removal, and weed control and eradication to the extent it may be required by law, and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property. The Grantee shall have no obligation for the operation, upkeep or maintenance of the Property.
 - 7.3. Insurance, Mortgages. The Grantor shall be responsible for the maintenance of reasonable comprehensive general liability insurance coverage on the Property. Grantor shall name the Grantee as an additional insured on such comprehensive

general liability insurance coverage and shall provide a certificate of such insurance to the Grantee upon the reasonable request of the Grantee. If the Grantor is a public entity, it may claim or assert protection from liability from claims arising from use of the Property, including use by the public, under the Colorado Governmental Immunity Act C.R.S. §24-10-101, *et seq.*, (the “Act”) except that Grantor shall not claim or assert protection under the Act against the Grantee. Any mortgage or deed of trust which encumbers all or a portion of the Property shall be subordinate to the terms of this Easement and the foreclosure of any such mortgage or deed of trust shall not adversely affect the existence or continuing validity of this Easement.

- 7.4. Owner/Manager Liability. Nothing in this Easement shall be deemed to alter protections provided to the Grantee under C.R.S §33-41-103, or any subsequent legislation. Grantor and the Grantee specifically agree that the Grantor is both the owner and the manager of the Property, including the manager of recreational activities on the Property, and as provided in C.R.S §33-41-103(2)(d), the Grantee shall not be held liable for the Grantor’s management of the Property for recreational or any other purposes.

8. Enforcement.

- 8.1. The Grantee shall have the right to prevent and correct violations of the terms of this Easement. If, after investigation, the Grantee finds what it believes is an unresolved violation, it may at its discretion take appropriate legal action. The Grantee shall immediately notify Grantor and the Board in writing of the nature of the alleged violation. Except when an ongoing or imminent violation could irreversibly diminish or impair the open space character, public recreation, wildlife habitat of the Property, the Grantee will give the Grantor sixty (60) days to correct the violation before filing any legal action and the Parties shall pursue resolution of the dispute through the mediation process described in this paragraph (“**Mediation Process**”). The Board shall in no event be required to participate in the Mediation Process. For purposes of this Easement the Mediation Process is as follows: (a) Upon notice from the Grantee to the Grantor of a potential violation of the Easement, both Parties agree to meet as soon as possible to resolve this difference; (b) If a resolution of this difference cannot be achieved at the meeting, both Parties agree promptly to meet with a mutually acceptable mediator to attempt to resolve the dispute as early in the sixty (60) day period as possible; (c) Grantor shall discontinue any activity which could increase or expand the alleged violation during the Mediation Process; and (d) Should mediation fail to resolve the dispute, the Grantee may, in its sole discretion, take appropriate legal action. If a court with jurisdiction determines that a violation may exist or has occurred, the Grantee may obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring the Grantor to restore the Property to its condition prior to the violation. These rights are in addition to any rights as described in C.R.S. Sec. 38-30.5-101, *et seq.*, as amended from time to time. The failure of the Grantee to take immediate action shall not bar it from doing so at a later time.
- 8.2. Enforcement of the terms of this Easement shall be at the sole discretion of the Grantee. Any forbearance by the Grantee in the exercise of its rights under this

Easement shall not be deemed or construed to be a waiver by the Grantee of any term of this Easement or of any of the Grantee's rights under this Easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver. Grantor hereby waives any defense of laches, estoppel, or prescription, including the one year statute of limitations for commencing an action to enforce the terms of a building restriction or to compel the removal of any building or improvement because of the violation of the same under C.R.S. § 38-41-119, *et seq.*

- 8.3. If the Grantee prevails in any action to enforce or defend the terms of this Easement, any costs incurred by the Grantee in enforcing the terms of this Easement against Grantor, including costs of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor. If the court finds no violation or if Grantor prevails in any action to enforce or defend the terms of this Easement, then Grantor and the Grantee shall each bear their own expenses and attorney fees. The Grantor and the Grantee agree that this allocation of expenses is appropriate in light of the potential disparate financial incentives of the Grantor and the Grantee and the Grantee's public benefit mission.
9. Public Access. The general public shall have access to the Recreational Trails on the Property free of charge, subject to the easements, rights of way and matters of record described in the attached **Exhibit D**, subject to any reasonable restrictions approved by Grantor and Grantee necessary and appropriate to protect public health and safety, and including any temporary or seasonal restrictions necessary to protect the Wildlife Habitat Conservation Values described in the Recitals and described in greater detail within the Baseline Report, and to balance wildlife habitat needs with public recreation. The Grantor may choose to allow public access to portions of the Property off-trail in accordance with these same considerations.
10. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury or change to the Property resulting from causes beyond Grantor's control, including, but not limited to, fire, flood, storm, avalanche and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such natural events. For purposes of this Easement, "natural event" shall not include acts of third parties. The Grantor shall be responsible for preventing activities by third parties on or affecting the Property that may violate the terms of this Easement. Grantor understands that nothing in this Easement relieves the Grantor of any obligation or restriction on the use of the Property imposed by law.
11. Assignment of Easement.
 - 11.1. This Easement is transferable by the Grantee, but the Grantee may assign its rights and obligations under this Easement only to an organization that (a) is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, (b) is authorized to acquire and hold conservation easements under Colorado law, (c) agrees in writing to assume

the responsibility imposed on the Grantee by this Easement, and (d) is approved in writing as a transferee by the Board in its sole discretion. The Grantee shall provide the Grantor and the Board with a written request to assign the Easement at least forty-five (45) days prior to the date of the assignment transaction..

- 11.2. The Board shall have the right to require the Grantee to assign its rights and obligations under this Easement to a different organization if the Grantee ceases to exist or for any reason fails or refuses to enforce the terms and provisions of this Easement; is unwilling, unable, or unqualified to enforce the terms and provisions of this Easement; or is unwilling or unable to effectively monitor the Property for compliance with this Easement at least once every calendar year. Prior to any assignment under this Assignment of Easement Paragraph 11.2, the Board shall consult with Grantee and provide Grantee an opportunity to address the Board's concerns. If the Board's concerns are not addressed to its satisfaction, the Board may require that Grantee assign this Easement to an organization designated by the Board that complies with Paragraph 11.1 (a), (b) and (c), above.
- 11.3. If the Grantee desires to transfer this Deed to a qualified organization having similar purposes as the Grantee, but Grantor or the Board has refused to approve the transfer, a court with jurisdiction shall transfer this Deed to another qualified organization having similar purposes that agrees to assume the responsibility imposed on the Grantee by this Deed, provided that Grantor and the Board shall have adequate notice of and an opportunity to participate in the court proceeding leading to the court's decision on the matter.
- 11.4. Upon compliance with the applicable portions of this Assignment of Easement Paragraph 11, the Parties shall record an instrument completing the assignment in the records of the county or counties in which the Property is located. Assignment of the Easement shall not be construed as affecting the Easement's perpetual duration and shall not affect the Easement's priority against any intervening liens, mortgages, easements, or other encumbrances.
12. Transfer of Property. Any time the Property itself, or any interest in the Property, is transferred by the Grantor to any third party, the Grantor shall notify the Grantee and the Board in writing at least forty-five (45) days prior to such transfer. The document of conveyance shall expressly refer to this Easement. The Grantor may be required to pay the Board an Additional Board Refund under Paragraph 13 below. Upon any transfer of the Property, or any portion thereof, Grantor shall have no further liability or obligations under this Easement with respect to the portion of the Property which is transferred, except to the extent such liability arises from acts or omissions occurring prior to the date of transfer.
13. Additional Board Refund. The Board's Grant has provided partial consideration for the Town's acquisition of fee title to the Property, associated water rights, if any, and/or partial real estate interest in the Property above and beyond this Easement; therefore, any voluntary sale, conveyance, transfer, or other disposal of all or any portion of Grantor's interest in the Property or associated rights ("**Sale**"), excluding any lease of the Property to a third party in the ordinary course of using the Property for permitted purposes, shall constitute a material change to the Grant that shall require prior written Board approval and may require a separate refund to the Board of an amount to compensate the Board for use of the Board's Grant, plus administrative costs (the "**Additional Board Refund**"), in

addition to any payment that the Board may be entitled to receive under Paragraphs 11 and 12 above.

- 13.1. Amount. The amount of the Additional Board Refund shall be based upon a percentage of Grantor's net proceeds from the Sale (which shall be defined as the fair market value of the property being sold in the Sale, minus direct transaction costs) ("**Net Proceeds**"). The Additional Board Refund shall be determined by: a) first dividing the Board's Grant amount (\$_____) by the original purchase price for fee title to the Property (\$_____) resulting in a ratio of _____%; b) then by multiplying the resulting ratio of _____% by the Net Proceeds; and c) adding interest figured from the Grant payment date at the Prime Rate listed by the Federal Reserve Bank of Kansas City, Missouri that is most current on the effective date of the Sale. The Board may, in its sole discretion, waive the requirement for payment of interest or reduce the amount of interest due at the time of the Sale. The Additional Board Refund shall be paid to the Board in cash or certified funds on or before the effective date of the Sale.
- 13.2. Possible Exception to Refund Requirement. If a Sale occurs to a third party which is eligible to receive open space funding from the Board, and the Board has provided written confirmation of the third party's eligibility, Grantor shall not be required to pay the Board an Additional Board Refund, unless the Board determines in its sole discretion that one or more aspects of the Grant have changed that reduce the Grant project's scope from that of the original Grant as approved by the Board. (For example, if the Grantor proposed that the Grant project would include public access to the Property, and the Sale will result in substantially the same amount and type of public access, the Board will deem that a material change in the Grant project's scope has not occurred, and Grantor shall not be required to pay the Board an Additional Board Refund, unless another aspect of the Grant project has changed that reduces the Grant project's scope from that of the original Grant as approved by the Board).
14. Amendment of Easement. If circumstances arise under which an amendment to or modification of this Easement or any of its exhibits would be appropriate, Grantor and Grantee may jointly amend this Easement so long as the amendment (a) is consistent with the Conservation Values and Purpose of this Easement, (b) does not affect the perpetual duration of the restrictions contained in this Easement, (c) does not affect the qualifications of this Easement under any applicable laws, (d) complies with Grantee's and the Board's procedures and standards for amendments (as such procedures and standards may be amended from time to time), and (e) receives the Board's prior written approval. Any amendment must be in writing, signed by both parties, and recorded in the records of the Clerk and Recorder of the county or counties in which the Property is located. In order to preserve the Easement's priority, the Board may require that the Grantee obtain subordinations of any liens, mortgages, easements, or other encumbrances on the Property. For the purposes of the Board's approval under item (e) above, the term "amendment" means any instrument that purports to alter in any way any provision of or exhibit to this Easement. Nothing in this paragraph shall be construed as requiring Grantee or the Board to agree to any particular proposed amendment.
15. Hold Harmless. To the extent allowed by law, Grantor shall hold harmless, indemnify, and defend the Grantee, the Board, and their members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors and assigns of

each of them (collectively, “**Indemnified Parties**”) from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney’s fees, arising from or in any way connected with (1) injury or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless determined by a court of competent jurisdiction to be due solely to the negligent or intentional acts or omissions of any of the Indemnified Parties (in which case liability will be apportioned in accordance with Colorado law); (2) the obligations of Grantor and the Grantee specified herein and the obligations of the Grantee under the Enforcement Paragraph 8, above; and (3) the presence or release of Hazardous or Toxic Materials on, under or about the Property. Without limiting the foregoing, nothing in this Easement shall be construed as giving rise to any right or ability in Grantee or the Board, nor shall Grantee or the Board have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property, or otherwise to become an operator with respect to the Property within the meaning of CERCLA.

16. Termination of Easement.

- 16.1. Real Property Interest. This Easement constitutes a real property interest immediately vested in the Grantee, which the Parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement by the ratio of the value of the Easement at the time of this Grant to the value of the Property unencumbered by the Easement at the time of this Grant (the “**Donation Percentage**”). For the purposes of this Paragraph, the Donation Percentage of the Easement shall remain constant; the Parties agree that the Donation Percentage is _____ and No/100s percent (_____%) of the value of the Property unencumbered by the Easement, as supported by the appraisal for the Easement.
- 16.2. Condemnation or Other Extinguishment. If this Easement is taken, in whole or in part, by exercise of the power of eminent domain, or if circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Each Party shall promptly notify the other Party and the Board in writing when it first learns of such circumstances. Grantee is entitled to receive from the net proceeds of the condemnation, extinguishment or sale of the Property, the greater of (a) the Donation Percentage, or (b) the percentage that the Easement represents of the Property unencumbered by the Easement at the time of termination of the Easement (the “**Extinguishment Percentage**”). Grantee shall use its proceeds in a manner consistent with the Purpose of this Easement as provided in Treasury Regulation sections 1.170A-14(g)(6).
- 16.3. Change of Circumstances. In making this Grant the Grantor has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both the Grantor and the Grantee that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement in whole or in part. In addition, the inability of the Grantor, or Grantor’s heirs ,

successors or assigns, to conduct or implement any or all of the uses permitted under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for termination of this Easement in whole or in part.

17. Interpretation. This Easement shall be interpreted under the laws of the State of Colorado, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its Conservation Purpose and to the protection of the Conservation Values.
18. Perpetual Duration. The easement created by this Easement shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear.
19. Approvals. Certain activities herein are allowed only if the permission of the Grantee is first obtained. When approval of the Grantee is required, the Grantor must give notice to the Grantee of the intention to undertake any activity which requires approval but is otherwise permitted herein, and meet with the Grantee to discuss the estimated costs that Grantor will be responsible for paying as a result of the Grantee's review of Grantor's proposal. The notice shall inform the Grantee of all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and any other relevant information, and must be deemed sufficient by the Grantee in its discretion for review of the proposed activity to constitute proper notice. The Grantee shall have forty-five (45) days from the receipt of the notice to review the proposed activity and to notify the Grantor of any objections thereto. Except as provided herein, where the Grantee's approval may be withheld in its discretion, the approval may be withheld only upon a reasonable determination by the Grantee that the action as proposed would be inconsistent with the Purpose of this Easement and would materially adversely impact the Conservation Values of the Property; the reason(s) for such determination shall be set forth with specificity by the Grantee in such written notice to Grantor. Where the Grantee's approval is required, Grantor shall not undertake the requested activity until Grantor has received the Grantee's approval in writing, and has paid the costs of Grantee described in this Paragraph. The Grantor shall be responsible for the reasonable costs of the Grantee associated with the review of any proposed approval under this Easement, including the reasonable costs for surveys, biological studies, appraisals, staff time and supplies, but excluding general overhead and indirect costs, unless the Parties agree otherwise in writing in advance for any particular approval. Any costs charged to Grantor shall be itemized in a statement provided to Grantor.
20. Notices. Any notices required by this Easement shall be in writing and shall be personally delivered or sent by prepaid Federal Express or other similar courier service specifying the earliest available delivery, or by prepaid certified mail, return receipt requested, to the Grantor, the Grantee and the Board at the following addresses, unless otherwise notified in the manner required above:

To the Grantor:

at the address shown above and to:

To the Grantee:

Crested Butte Land Trust
308 Third Street
P.O. Box 2224
Crested Butte, Colorado 81224

To the Board:

Executive Director
State Board of the Great Outdoors Colorado Trust Fund
303 East 17th Avenue, Suite 1060
Denver, CO 80203

21. Grantor's Title Warranty, Access. The Grantor warrants that it has good and sufficient title (subject to the matters shown on **Exhibit D** attached hereto), and legal and physical access to the Property based upon the Access Easement recorded as Reception No. _____, on January ____, 2015, in the records of the Gunnison County Clerk and Recorded (the "**Access Easement**"), that the Grantee has access to the Property for the Purposes described in this Easement, that any mortgages, deeds of trust or monetary liens encumbering the Property are subordinate to the terms of this Easement, and it hereby promises to defend these warranties against all claims from any persons claiming by through or under Grantor. The Parties intend that this Easement encumber the Property, including any and all soil, sand, gravel, oil, natural gas, fuel, rock, stone or any other mineral substance of any type or character on or thereunder, whether any such interest is now owned or is later acquired by the Grantor.
22. Grantor's Environmental Warranty. The Grantor warrants that it has no knowledge of a release or threatened release of Hazardous or Toxic Materials on the Property and promises to the extent allowed by law, defend and indemnify the Grantee and the Board, and the successors and assigns of each, against all litigation, claims, demands, penalties, and damages, including reasonable attorney's fees, arising from a breach of this warranty.
23. Grantor's Other Warranties. Grantor warrants that is duly authorized, properly organized and in good standing, and has taken all necessary actions to execute this Easement and this Easement is enforceable against Grantor in accordance with its terms. Grantor warrants that to its knowledge it is in substantial compliance with the laws, orders, and regulations of each governmental department, commission, board, or agency having jurisdiction over the Property in those cases where noncompliance would have a material adverse effect on the Property or this Easement.
24. Acceptance. As attested by the signature of its President affixed hereto, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Easement.
25. Recording. The Grantee shall record this instrument in timely fashion in the official records of Gunnison County, Colorado, and may re-record it at any time as may be required to preserve its rights in this Easement.
26. General Provisions.

- 26.1. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Colorado. Venue for any dispute concerning this Easement shall be Gunnison County, Colorado.
- 26.2. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Grant to effect the Purpose of this Easement and the policy and purpose of C.R.S. §38-30.5-101, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 26.3. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- 26.4. Entire Agreement. This instrument sets forth the entire agreement of the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
- 26.5. Joint Obligation. In the event the Property is owned by more than one owner, all such owners shall be jointly and severally liable for the obligations imposed upon Grantor by this Easement.
- 26.6. Non-Merger. Unless the Parties first expressly state in writing that they intend a merger of estates or interests to occur, and unless the Parties have also obtained the prior written consent of the Board approving such merger of estates or interests, then no merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement. If Grantee wishes to acquire fee title to the Property or any additional interest in the Property (such as a leasehold of the Property), Grantee must first obtain the written approval of the Board. As a condition of such approval, the Board may require that the Grantee first transfer the Easement to another qualified organization consistent with the Assignment Paragraph 11, above.
- 26.7. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property.
- 26.8. Termination of Rights and Obligations of Grantee. Provided that the Board has consented to a transfer of this Easement by the Grantee, the Grantee's rights and obligations under this Easement shall terminate upon transfer of the Grantee's interest in the Easement or Property, except that liability for acts or omissions occurring prior to the transfer shall survive the transfer.

- 26.9. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.
- 26.10. No Third-Party Beneficiaries. This Easement is entered into by and between the Grantor and the Grantee, and except as provided herein, is solely for the benefit of the Grantor, the Grantee and the Board, and their respective successors in interest and assigns, and does not create rights or responsibilities in any third parties beyond Grantor, Grantee and the Board.
- 26.11. Termination of the Board. In the event that Article XXVII of the Colorado Constitution, which established the State Board of the Great Outdoors Colorado Trust Fund, is amended or repealed to terminate the Board or merge the Board into another entity, the rights and obligations of the Board hereunder shall be assigned to and assumed by such other entity as provided by law, but in the absence of such direction, by the Colorado Department of Natural Resources or its successor.
- 26.12. Authority to Execute. Each Party represents to the other that such Party has full power and authority to execute, deliver, and perform this Easement, that the individual executing this Easement on behalf of said Party is fully empowered and authorized to do so, and that this Easement constitutes a valid and legally binding obligation of said Party enforceable against said Party in accordance with its terms
- 26.13. Recitals. The Recitals above are incorporated into and are part of this Easement.

TO HAVE AND TO HOLD this Deed of Conservation Easement unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF Grantor and the Grantee have executed this Deed of Conservation Easement to be effective as of the first date set forth above.

GRANTOR:

NORTH VILLAGE RESERVE, INC., a Colorado corporation,

By: _____

Its: _____

Accepted as Successor Grantor:

TOWN OF MT. CRESTED BUTTE, a Colorado municipal corporation,

By: _____

_____, Mayor

ATTEST:

_____, Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Deed of Conservation Easement was acknowledged before me this _____ day of January, 2015 by _____, as Mayor, and _____ as Town Clerk of the Town of Mt. Crested Butte, a Colorado municipal corporation.

Witness my hand and official seal.

[SEAL]

Notary Public

My commission expires: _____

Exhibit A – Description of Property
(2 pages)

GUNNISON COUNTY, COLORADO:

A tract of land being described as Parcel No. 1, in Special Warranty Deed recorded as Reception No. 539411 also being described as Parcel No. 2, in Quitclaim Deed recorded as Reception No. 544263, records of Gunnison County, Colorado; said parcel being a portion of the S1/2NE1/4 and N1/2SE1/4 of Section 14, Township 13 South, Range 86 West, 6th Principal Meridian, being more particularly described as follows:

Beginning at the S1/16 Corner common to Sections 13 and 14, T. 13 S., R. 86 W. of the 6th P.M., said point being monumented with a BLM Brass Cap; thence N01°49'09"E a distance of 1402.43 feet along the section line common to said Sections 13 and 14 to the 1/4 Corner common to said Sections 13 and 14; thence continuing N01°53'01"E along said common section line a distance of 840.00 feet; thence N89°30'49"W a distance of 374.88 feet to a point on the southerly boundary line of a parcel of land described in Book 584 at Page 248 of Gunnison County records; thence the following four (4) courses along the southerly boundary of said parcel: (1) 513.85 feet along the arc of said non-tangent curve to the left having a radius of 318.00 feet, a central angle of 92°34'57" and a chord which bears N83°57'02"W a distance of 459.74 feet; (2) thence 68.07 feet along the arc of a non-tangent curve to the right having a radius of 117.00 feet, a central angle of 33°19'56" and a chord which bears S65°54'58"W a distance of 67.11 feet; (3) thence N53°45'02"W a distance of 241.50 feet; (4) thence 129.18 feet along the arc of a non-tangent curve to the left having a radius of 187.00 feet, a central angle of 39°34'52" and a chord which bears N48°20'02"W a distance of 126.63 feet; thence N00°39'05"E a distance of 318.32 feet to a point on the north line of the SE1/4NE1/4 of said Section 14; thence N89°40'15"W a distance of 160.00 feet along the north line of the SE1/4NE1/4 to the NE1/16 Corner of said Section 14; thence N89°38'26"W a distance of 405.40 feet along the north line of the SW1/4NE1/4 of said Section 14 to the most northeasterly corner of a parcel of land described in Book 393 at Page 01, records of Gunnison County; thence the following six (6) courses along the easterly and southerly boundary of said parcel of land: (1) S36°18'35"E a distance of 194.66 feet; (2) thence 235.29 feet along the arc of said non-tangent curve to the left having a radius of 146.00 feet, a central angle of 92°20'07" and a chord which bears S21°06'25"W a distance of 210.64 feet; (3) thence 131.34 feet along the arc of a curve to the right having a radius of 210.00 feet, a central angle of 35°50'04" and a chord which bears S07°08'35"E a distance of 129.21 feet; (4) thence S10°46'25"W a distance of 305.50 feet; (5) thence 342.82 feet along the arc of a non-tangent curve to the left having a radius of 415.41 feet, a central angle of 47°16'59" and a chord which bears S12°53'35"E a distance of 333.17 feet; (6) thence S70°12'38"W a distance of 402.85 feet to a point on the west line of the E1/2SW1/4NE1/4 of said Section 14; thence S01°06'47"W a distance of 162.05 feet along the west line of the E1/2SW1/4NE1/4 to the C-W-E 1/64 of said Section 14; thence S01°03'55"W along the west line of the E1/2NW1/4SE1/4 of said Section 14 a distance of 964.17 feet; thence S90°00'00"E a distance of 312.53 feet; thence N26°31'44"E a distance of 66.05 feet; thence 283.83 feet along the arc a non-tangent curve to the left having a radius of 322.17 feet, a central angle of 50°28'40" and a chord which bears N63°14'51"E a distance of 274.74 feet to a point of non-tangent line; thence S63°18'35"E a distance of 1399.44 feet to a point on the south line of the NE1/4SE1/4 of said Section 14; thence N89°50'57"E along the south line of the NE1/4SE1/4 of said Section 14 a distance of 162.03 feet to the point of beginning (containing 92.72 acres, more or less)

EXCEPTING THEREFROM that portion of the above-described property encumbered by "The

Reserve” Deed of Conservation Easement granted by CBMR Real Estate, LLC, a Colorado limited liability company, to Colorado Open Lands, a Colorado non-profit corporation recorded on March 1, 2004 as Reception No. 539404, records of Gunnison County, Colorado (containing 44.08 acres, more or less).

Said parcel containing 48.64 acres, more or less.

Exhibit B – Map of Property
(Page 2 of 2)

Exhibit C - Acknowledgment of Baseline Documentation Report

The undersigned, on behalf of the **NORTH VILLAGE RESERVE, INC.**, a Colorado corporation (original “Grantor”), **TOWN OF MT. CRESTED BUTTE, a Colorado municipal corporation**, (successor “Grantor”) and a representative of the **CRESTED BUTTE LAND TRUST**, a Colorado nonprofit corporation (the “Grantee”), acknowledge that the “**Promontory Property Baseline Documentation Report**”, dated _____, and prepared by Dawn Reeder, Principal Biologist, Rare Earth Science, is an accurate representation of the biological and physical condition of the Property as of the date of conveyance of this Easement.

GRANTOR (original):

NORTH VILLAGE RESERVE, INC., a Colorado corporation,

By: _____

Its _____

GRANTOR (successor):

TOWN OF MT. CRESTED BUTTE, a Colorado municipal corporation

By: _____

Its: _____

GRANTEE:

CRESTED BUTTE LAND TRUST, a Colorado nonprofit corporation

By: _____

Andrea F. Johnston, Executive Director

Exhibit D – Exceptions to Title

1. Notice of Memorandum Agreement recorded October 13, 1998 as Reception No. 487733, between Crested Butte Mountain Resort, Inc., a Colorado corporation and High Country Citizen's Alliance, a Colorado nonprofit corporation.
2. Notice of Restrictions on Real Property recorded October 14, 1998 as Reception No. 487844.
3. "The Reserve" Deed of Conservation Easement by CBMR Real Estate, LLC, a Colorado limited liability company to Colorado Open Lands, a Colorado nonprofit corporation recorded March 1, 2004 as Reception No. 539404.
4. Easement Deed between North Village Reserve, Inc., a Colorado corporation and Brush Creek Holdings, LLC, a Colorado limited liability as more fully set forth in said document recorded September 11, 2007 as Reception No. 578671.
5. Ski Easement Deed between Brush Creek Holdings, LLC, a Colorado limited liability company and North Village Reserve, Inc., a Colorado corporation as more fully set forth in said document recorded September 11, 2007 as Reception No. 578672.
6. Lease between North Village Reserve, Inc., a Colorado corporation and Fantasy Ranch Horseback Adventures, LLC, a Colorado limited liability company as set forth in the instrument recorded December 29, 2011 at Reception No. 610393.
7. All Patent reservations as reserved in United States Patents recorded October 15, 1920 in Book 184 at Page 240; including: (a) Any vested and accrued water rights for mining, agriculture, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and (b) A right of way thereon for ditches or canals constructed by the authority of the United States.
8. Notice of Memorandum of Agreement recorded October 13, 1998 as Reception No. 487733, between Crested Butte Mountain Resort, Inc., a Colorado corporation and High Country Citizen's Alliance, a Colorado non-profit corporation.
9. Notice of Restrictions on Real Property recorded October 14, 1998 as Reception NO. 487844.
10. Any rights, interests, or claims, which may exist or arise by reason of the facts shown on Improvement Survey Plat dated December 10, 2013, prepared by Stephen L. Ehlers, Colorado L.S. No. 20133, including: (a) Overhead electrical lines encroaching the subject property along the easterly boundary line; (b) The fact that the fence along the easterly boundary line is not on the property line and encroaches the subject property; (c) Fence encroaching the subject property along the westerly boundary; (d) All existing trails, paths, and roads, as shown; (e) Fence encroaching the subject property along the northerly boundary, running transverse across the subject property; (f) Any Easement and Right of Way for Gothic Road as it passes through the subject property at the northeast corner.

11. Easement or Right of Way for Malensek Ditch No. 5.
12. Reservation of Easement by North Village Reserve, Inc., a Colorado corporation, in deed granted to the Town of Mt. Crested Butte, recorded on January ____, 2015 as Reception No. _____, Gunnison County, CO.

The following exceptions apply only to the Access Easement:

13. All Patent reservations as reserved in United States Patents recorded May 17, 1915, Book 184 at Page 17 including: (a) Any vested and accrued water rights for mining, agriculture, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and (b) A right of way thereon for ditches or canals constructed by the authority of the United States.
14. Terms and conditions in Easement Agreement between Crested Butte Mountain Resort, Inc., a Colorado corporation and the Town of Mt. Crested Butte, a Colorado home rule municipality as recorded September 12, 1996 in Book 790 at Page 535.
15. Right of way 80 feet in width for Gothic County Road as granted by Crested Butte Mountain Resort, Inc., a Colorado corporation to Town of Mt. Crested Butte, Colorado, a Colorado home rule municipality as described in Right of Way Deed Recorded September 12, 1996 in Book 790 at Page 540.
16. Terms and conditions of Amended Agreement and Notice of Relocated Easement as set forth in the instrument recorded September 8, 2005 at Reception No. 557956.

RESOLUTION NO. 15

SERIES NO. 2014

RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING THE EXPENDITURE OF UP TO \$700,000.00 FROM THE TOWN'S OPEN SPACE FUND FOR THE PURCHASE AND CONSERVATION OF APPROXIMATELY 93 ACRES LOCATED AT PARCEL NO. 1, THE RESERVE, TOWN OF MOUNT CRESTED BUTTE, GUNNISON COUNTY, 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 laws of the State of Colorado;

WHEREAS, the Town staff has recommended that the Town Council provide funds for the Crested Butte Land Trust's (the "**Land Trust**") purchase and conservation of approximately 93 acres of real property located at Parcel No. 1, The Reserve, Town of Mount Crested Butte, Gunnison County, State of Colorado (the "**Subject Property**");

WHEREAS, the Town staff has, in support of such recommendation, presented to the Town Council that the Subject Property will be encumbered by a conservation easement, to be held by the Land Trust, restricting the development of the Subject Property; and

WHEREAS, the Town Council finds hereby that providing up to \$700,000.00 to the Land Trust to purchase and conserve the Subject Property is in the best interest of conserving lands from development, and, therefor in the best interest of Town and the general public.

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

1. **Findings.** The Town Council hereby authorizes the expenditure of up to \$700,000.00 from the Town's Open Space Fund for the purchase and conservation of approximately 93 acres of real property located at Parcel No. 1, The Reserve, Town of Mount Crested Butte, Gunnison County, State of Colorado.

2. **Funding Agreement; Authorization.** Pursuant to the above findings, the Town Council hereby approves the delivery of such funds to the Crested Butte Land Trust pursuant to the terms and conditions of the "**Funding Agreement**" attached hereto as **Exhibit "A."** In furtherance thereof, the Town Council hereby authorizes the Mayor to execute the Funding Agreement.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS ____ DAY OF _____, 2014.

TOWN OF CRESTED BUTTE

By: _____
Aaron J. Huckstep, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Funding Agreement

[attach approved form here]



Staff Report October 20, 2016

To: Mayor and Town Council
Thru: Todd Crossett, Town Manager
From: Bob Gillie
Subject: Ice House LLC – Revocable License
Date: October 16, 2014

Summary: Ice House LLC (an affiliate of Eleven, Scarps Ridge, Grassy Creek ...) purchased the property at 202 Elk, Lots 16 and 17, Block 28 and has received approval through the BOZAR to remodel the historic structure, previously known as the Slope or Something for Everyone Building. The new use is to be a restaurant/bar and three room hotel. The development plan calls for a full basement under the original footprint. In order to construct the basement they need to place a series of micro-piles outside of the footprint to stabilize the site and keep the adjacent property from sloughing into the foundation excavation. They own roughly two feet of the sidewalk on the north side of the building, have contacted the adjacent property owner to the east and need this license to complete the micro-pile stabilization on the west side. This license would allow the micro-piles to be placed in the 2nd Street right of way adjacent to the building. They hope to accomplish this yet this fall. Once the micro-piles are in place they will lift the building and excavate underneath for placement of the foundation.

Discussion: The work will stabilize and renovate a major contributing historic building in Town. The residue will be that the Town will have two feet of below grade structure on Town property.

Recommendation: Staff recommends to approve Resolution 16, Series 2014 and the attendant Revocable License agreement for Ice House LLC.

Proposed Motion: I move to approve Resolution 16, Series 2014 and the associated revocable license agreement.

RESOLUTION NO. 16

SERIES NO. 2014

RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING THE GRANT OF A LICENSE TO ICE HOUSE LLC TO ENCROACH INTO THE SECOND STREET AND ELK AVENUE PUBLIC RIGHTS OF WAY ADJACENT TO 20 ELK AVENUE, LOTS 15 AND 16, BLOCK 28, TOWN OF CESTED BUTTE

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 laws of the State of Colorado;

WHEREAS, the Town staff has recommended to the Town Council that it grant a revocable license to encroach in the Second Street and Elk Avenue public rights of way adjacent to 202 Elk Avenue, Lots 15 and 16, Block 28, Town of Crested Butte, to the owners thereof, Ice House LLC; and

WHEREAS, the Town Council finds hereby that granting a revocable license to encroach in the Second Street and Elk Avenue public rights of way adjacent to 202 Elk Avenue, Lots 15 and 16, Block 28, Town of Crested Butte, to the owners thereof, Ice House LLC, is in the best interest of the Town.

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

1. **Findings**. The Town Council hereby finds that granting a revocable license to encroach in the Second Street and Elk Avenue public rights of way adjacent to 202 Elk Avenue, Lots 15 and 16, Block 28, Town of Crested Butte, to the owners thereof, Ice House LLC, is in the best interest of the Town.

2. **Authorization of Mayor**. Based on the foregoing, the Town Council hereby authorizes the Mayor to execute the "Revocable License Agreement" in substantially the same form as attached hereto as **Exhibit "A"**.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS ____ DAY OF _____, 2014.

TOWN OF CRESTED BUTTE

By: _____
Aaron J. Huckstep, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Revocable License Agreement

[attach approved form here]

**RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:**

Town of Crested Butte
Attn: Town Clerk
502 Maroon Avenue
Crested Butte, CO 81224

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT (this "**Agreement**") is made and entered into this ___ day of _____, 2014, by and between the TOWN OF CRESTED BUTTE, COLORADO ("**Licensor**"), a Colorado home rule municipality with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 and ICE HOUSE LLC ("**Licensee**"), a Delaware limited liability company with an address of 221 N. Hogan Street, Suite 403, Jacksonville, Florida 32202.

RECITALS:

A. Licensee is the fee title owner of certain real property more particularly described as:

Lot 16 and the West half of Lot 15, Block 28, now known as Units A, B, C and D, CRESTED BUTTE HOUSE CONDOMINIUMS, according to the Condominium Map thereof recorded October 24, 2001, as Reception No. 515310 and the Declaration Establishing Crested Butte House Condominiums recorded October 24, 2001, as Reception No. 515311,

Town of Crested Butte,
County of Gunnison,
State of Colorado,

commonly known as 202 Elk Avenue, Crested Butte, Colorado 81224 (the "**Premises**").

B. The Premises is bound by that certain public right of way known as Second Street (the "**Public Property**").

C. Licensee has requested the right to construct and install, and keep and maintain certain improvements in the Public Property.

D. The Town is willing to allow Licensee to keep and maintain such improvements in the Public Property, subject to certain conditions and requirements.

NOW, THEREFORE, for and in consideration of the covenants, terms, conditions and requirements set forth herein, the sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

AGREEMENT:

1. **Grant of License.** Licensor hereby grants to Licensee and its successors in interest a revocable license (the "**License**") to construct, keep and maintain the improvements as described in **Exhibit "A"** (the "**Improvements**") attached hereto on the Public Property in the location set forth on **Exhibit "B"** attached hereto.

2. **Permit for Construction and Maintenance.** Licensee shall obtain permits from the Town pursuant to Chapter 11, Article 2 of the Crested Butte Municipal Code relative to all construction, installation and maintenance activities relative to the Improvements.

3. **Term of License; Revocation.**

3.1. The License shall exist and continue until the happening of either the following events, which such event shall automatically terminate and extinguish the License:

(a) the Improvements are demolished, removed or damaged by fire or other casualty such that such Improvements cannot be reasonably repaired in their present location; or

(b) the Town Council finds at a regular, public meeting that (i) the Improvements must be removed in order to make the Public Property available for public use or for such other reason as determined by the Town Council in its sole discretion, or (ii) Licensee is in default of this Agreement.

3.2. The License is made subordinate to the right of Licensor to use the Public Property for any public purpose, including, without limitation, public pedestrian uses, surface and subsurface improvements and public utilities. In addition to Licensor's revocation rights set forth in Section 3.1, Licensee agrees that if Licensor subsequently determines to, without limitation, install, modify or change the grade of any street or sidewalk, or to modify, repair or install any underground utility, or to effect any other work in connection with any other public or utility improvement, or to use or occupy the area of the encroachment by the Improvements, then the License hereby authorized must be modified and the Improvements removed completely or otherwise relocated to a location acceptable to Licensor, and the Public Property shall be restored to its pre-existing and/or unobstructed condition to the satisfaction of Licensor at Licensee's sole cost and expense. Licensor's decision as to the necessity of such public use, occupancy or improvements shall be final and binding upon Licensee.

4. **Assumption of Risk.** Licensee assumes the risk of damage to the Improvements and agrees to repair any damage to the Public Property, Licensor property and any third party's property arising from or relating to Licensee's use of the Public Property. Additionally, Licensee assumes all risk of damage to property or injury to persons, including death, in connection, whether directly or indirectly, with the License

and the Improvements. In the event of any such damage or injury, Licensee agrees to pay all costs related thereto, including, without limitation, reasonable attorneys' fees.

5. **Indemnification.** By execution of this License, Licensee, for itself and its successors, hereby agrees to indemnify, defend and hold harmless Licensor, its elected officials, employees, contractors, agents, insurers, insurance pools and attorneys against any and all claims, suits, damages, costs, losses and expenses, including reasonable attorneys' fees, in connection with any personal injury, including death, or property damage, arising out of or connected in any way with, whether directly or indirectly, the License, Licensee's use of the Public Property and the Improvements.

6. **Insurance.**

6.1. At its sole cost and expense, Lessee shall obtain and keep in force during from the date first written above until the Improvements are removed or relocated from the Public Property "all-risk" property coverage naming Lessee and Licensor as their interests may appear.

6.2 At its sole expense, Lessee shall obtain and keep in force from the date first written above until the Improvements are removed or relocated from the Public Property commercial general liability insurance with a combined single limit of not less than \$2,000,000.00 for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring Lessee and Licensor, including, without limitation, coverage for contractual liability, broad form property damage and non-owned automobile liability, with respect to the Public Property. The insurance shall be noncontributing with any insurance that may be carried by Licensor and shall contain a provision that Licensor, although named as an insured, shall nevertheless be entitled to recover under the policy for any loss, injury, cost or damage to Licensor, or the property of the same.

6.3. All insurance required herein and all renewals thereof shall be issued by companies authorized to transact business in the State of Colorado and rated at least A+ Class X by Best's Insurance Reports (property liability) or otherwise approved by Licensor in writing. All insurance policies shall be subject to approval by Licensor as to form and substance, shall expressly provide that the policies shall not be canceled without 30 days' prior written notice to Licensor and shall provide that no act or omission of Licensor that would otherwise result in forfeiture or reduction of the insurance shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained. Lessee may satisfy its obligation under this Section by appropriate endorsements of its blanket insurance policies.

6.4. All policies of liability insurance that Lessee is obligated to maintain according to this Agreement (other than any policy of workmen's compensation insurance) shall name Licensor as an additional insured. Originals or copies of original policies (together with copies of the endorsements naming Licensor as an additional insured) and evidence of the payment of all premiums of such policies shall be made

available to Licensor on the date first written above. All public liability, property damage liability and casualty policies maintained by Licensor shall be written as primary policies, not contributing with and not in excess of coverage that Licensor may carry.

6.5. The parties waive all rights to recover against each other, or against the elected and appointed officials, employees, contractors, agents, advisors, attorneys, insurers, insurance pools, shareholders, directors, members, managers, officers, suppliers, agents or servants of each other, for any loss or damage arising from any cause covered by any insurance required to be carried by each of them pursuant to this Section or any other insurance actually carried by each of them. Licensee shall cause its insurer to issue an appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with Licensee's operations and Licensor's operations and property.

7. **Licensee Obligations Upon Revocation; Remedies.** Upon notice to Licensee of the Town Council's decision to revoke this License, the Improvements must be promptly removed. In the event that the Improvements are not so removed by Licensee, Licensor may remove the Improvements and restore the location to its original condition at Licensee's sole cost and expense. In such case Licensor shall have no responsibility for damage to the Improvements or Licensee's other property, whether personal or real property, located on Public Property and the Premises. Licensee shall immediately reimburse Licensor such costs and expenses incurred by Licensor in such removal. Licensor shall have the right to make an assessment against the Premises and collect the costs of removal and restoration in the same manner as general taxes are collected under State and local laws. Such rights shall be in addition to any rights available at law or in equity. All remedies may be applied concurrently and not to the exclusion of any other remedy. In the event of any legal action or advice necessary to execute such removal, Licensee shall pay Licensor all reasonable costs and expenses in connection therewith, including, without limitation, reasonable attorneys' fees.

8. **Responsibility for Maintenance; Damage to Improvements.** Licensee assumes and accepts sole responsibility for the maintenance and upkeep of the Improvements, which shall be performed only upon receipt of permits from Licensor as required by applicable law. Further, Licensor shall not be liable for any damage to the Improvements caused by Licensor's operations, including, without limitation, snow removal, street or alley maintenance, street or alley repairs and improvements and utility installation, maintenance and repairs.

9. **No Assignment.** This Agreement and the License granted hereunder shall not be assignable or transferrable by Licensee without Licensor's prior written consent; provided that, Licensee may transfer Licensee's property without first obtaining consent from Licensor and the rights and obligations contained under this License shall inure to Licensee's successor in interest without further action by the parties of such successor in interest. Failure to obtain Licensor's consent to such assignment or transfer as required shall make such assignment or transfer void *ab initio*.

10. **Subject to Laws.** This License is subject to all State and municipal laws as they now exist or may hereafter be amended.

11. **Licensee Representations.** Licensee represents and warrants that: (a) it is duly qualified to do business and is in good standing in the State of Delaware; (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement; (c) the individual executing this Agreement has the full power and authority to do so; and (d) the Agreement does not violate any other obligation of Licensee.

12. **Notices.** All notices required pursuant to this Agreement shall be deemed served upon depositing a certified letter, return receipt requested, in the United States mail, addressed to the party being served with such notice at the addresses set forth above, unless a request to mail to a different address is provided in writing to the other party.

13. **Prevailing Party.** In the event of any dispute between the parties in connection with this License, the non-prevailing party shall pay the prevailing party all costs and expenses, including, without limitation, reasonable attorneys' fees, costs and expenses, incurred in such dispute.

14. **Entire Agreement; Amendment.** This Agreement represents the entire agreement of the parties respecting the subject matters addressed herein. This Agreement may be amended only in writing by properly executed agreement.

15. **Successors and Assigns.** The rights and obligations of the parties shall inure to the benefit and burden to the parties' successors and permitted assigns.

16. **No Waiver.** No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

17. **Photo-static Copies.** For purposes of enforcement of the terms hereof, photo-static reproductions shall be deemed to be originals.

18. **Costs and Expenses Reimbursement.** Licensee shall pay all of Licensor's costs and expenses, including reasonable attorneys' fees, incurred by the Licensor in granting the rights set forth in this License, Licensee acknowledging that Licensee requested the License and accepts this obligation as a material condition to Licensor granting the rights hereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE(S) TO FOLLOW]

IN WITNESS WHEREOF, the parties have entered into this Agreement by their duly authorized representatives effective as of the date first written above.

LICENSOR:

TOWN OF CRESTED BUTTE,
a Colorado home rule municipality

By: _____
Aaron J. Huckstep, Mayor

Attest:

By: _____
Lynelle Sanford, Town Clerk

[SEAL]

LICENSEE:

ICE HOUSE LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Revocable License Agreement was acknowledged before me this ____ day of _____, 2014 by Aaron J. Huckstep, Mayor of the Town of Crested Butte, a Colorado home rule municipality, on behalf of said entity.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public Signature

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Revocable License Agreement was acknowledged before me this ____ day of _____, 2014 by _____, _____ of Ice House LLC, a Delaware limited liability company, on behalf of said entity.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public Signature

EXHIBIT "A"

Improvements

The Improvements constitute the placement of micro piles within the two foot seven inch (2'7") license area to facilitate the construction of concrete basement foundation walls on the subject property.

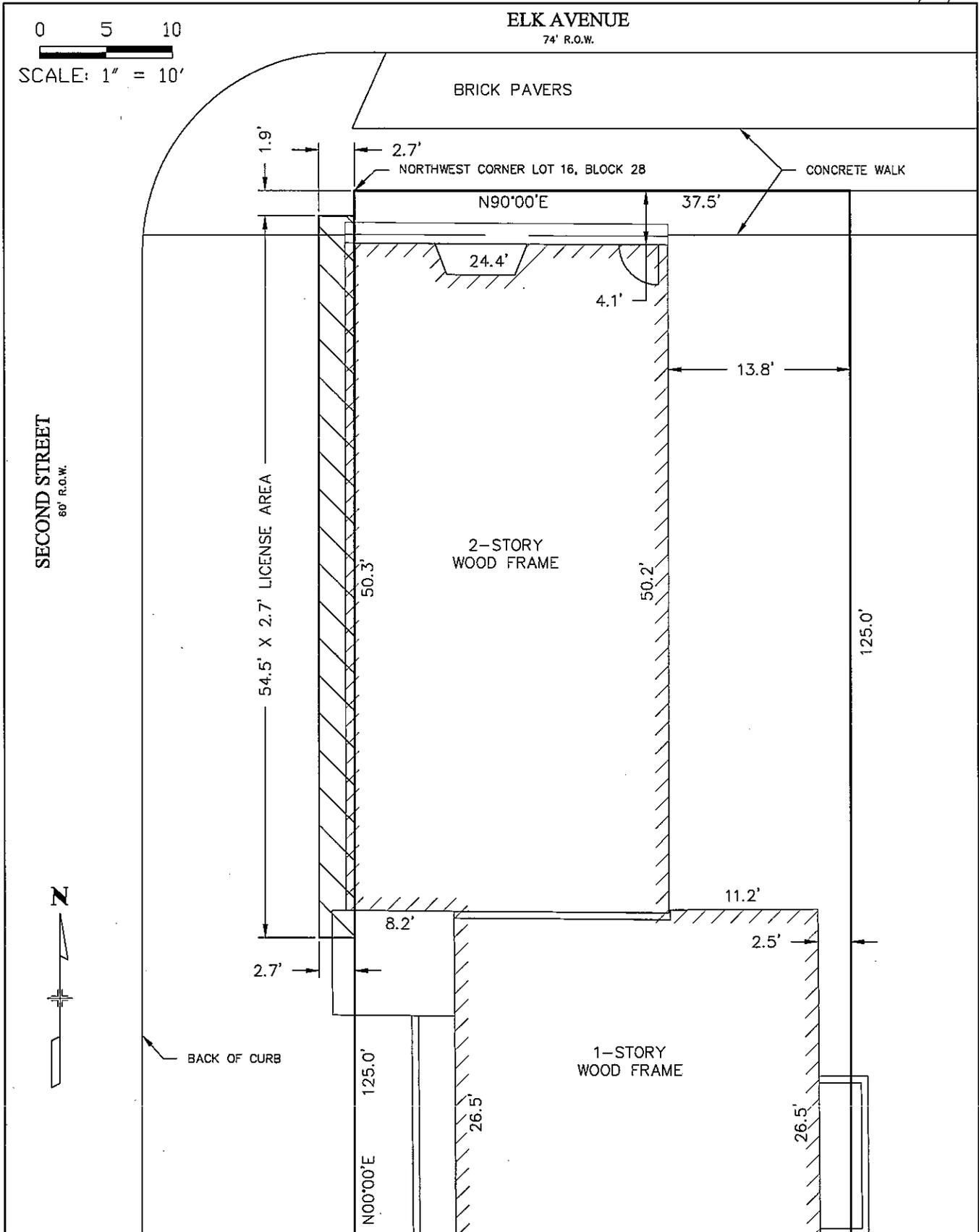
EXHIBIT "B"

Location of Improvements on Public Property

[attach surveyed location of Improvements here]

EXHIBIT B

10/15/14





Staff Report

October 6th, 2014

To: Mayor and Town Council
Thru: Todd Crossett, Town Manager
From: Janna Hansen, Parks and Recreation Director
Subject: Big Mine Park Master Plan Project- Mundus Bishop Bid Award

BACKGROUND: On February 18, 2014 the Town Council adopted Ordinance No. 3 supporting the grant application for local parks and outdoor recreation from the state board of the Great Outdoors Colorado Trust Fund (GOCO). On July 7, 2014 the Town Council accepted a GOCO grant award in the amount of \$60,000.00. In the July 31st, August 7th and August 14th, 2014 editions of the Crested Butte News, the Parks and Recreation Department published a Request for Qualifications for the creation of a Big Mine Park Master Plan. The RFQ was also posted on the Town of Crested Butte website. The Parks and Recreation Department received submittals until August 31st at which time four submittals were reviewed by the selection committee made up of five Town Staff members.

SUMMARY: The RFQ asked respondents to provide a statement of the experience and technical qualifications that would qualify them to complete this project, as well as organizational background, backgrounds of key personnel, experience with relevant projects and similar locales, their project approach, timeline, and references. References were called and after interviewing two Mundus Bishop Representatives on September 18, 2014, as well as two other design firms, it was determined that Mundus Bishop is the best qualified to perform the requested work.

The estimate for this work as submitted to GOCO is \$81,000. \$21,000 is committed as a match by the Town. Mundus Bishop's quotation came in at \$80,640.00. An additional \$5,000.00 has been budgeted outside of the GOCO grant for architectural floor plans and elevations. \$18,500 of the Mundus Bishop project is slated for architectural design. Of that, \$8,500 is acceptable for funding by GOCO (the conceptual design as it relates to the park overall). That leaves us with a \$5,000 gap in funding for architectural design services – specifically floor plans and elevations. GOCO has restrictions in funding for enclosed structures. Currently, the additional \$10,000 is identified in the Scope of Work in Appendix A of the Contract as “at the Town's option”. If we identify an additional \$5,000 to put toward floor plans and elevations, staff can give the consultants the go-ahead to complete that phase of the scope.

RECOMMENDATION: Staff recommends awarding the Big Mine Master Plan consulting services to Mundus Bishop not to exceed \$81,000.

Proposed Motion: I move to award the Big Mine Master Plan consulting services project to Mundus Bishop, in an amount not to exceed \$81,000.

CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (this "**Agreement**") is made this ____ day of _____, 2014 by and between the TOWN OF CRESTED BUTTE, a Colorado home rule municipality (the "**Town**") with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 and MUNDUS BISHOP DESIGN, INC., a Colorado corporation (the "**Consultants**") with an address of 2601 Blake Street, Suite 300, Denver, CO, 80205.

RECITALS:

A. The Town desires to obtain professional park and facilities planning consulting services from the Consultants in connection with the Crested Butte Big Mine Park Master Plan (the "**Project**").

B. The Consultants provide professional park and facilities planning consulting services to the public and are fully qualified to perform, and desire to so perform, the consulting services needed by the Town in connection with the Project as further described in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the promises and obligations set forth below, the Town and the Consultants agree as follows:

I. SCOPE OF SERVICES

A. General.

The Consultants shall serve as the Town's professional advisors and representatives in connection with the Project and shall consult with and advise the Town as it reasonably requires during the term of this Agreement.

B. Specific Duties and Responsibilities.

In connection with the Project, the Consultants shall undertake the duties and responsibilities and provide the services described in Appendix "A," captioned "Scope of Work" which is attached hereto and made a part hereof.

C. Extra Services.

Upon the express written request of the Town, the Consultants shall perform services beyond the scope of the duties and responsibilities described in Appendix "A." The Consultants shall charge the Town for such extra services, if any, in accordance with the provisions of Subsection IV.B.

D. Documents.

All work notes, reports, documents, computer programs (non-proprietary), computer input and output, analyses, tests, maps, surveys or any other materials developed specifically for the Project are and shall remain the sole and exclusive property of the Town. The Consultants, upon request by the Town, agree to provide documents or any other materials developed specifically for the Project in an electronically editable format (for example, Word or Excel). The Consultants shall not provide copies of any material prepared under this Agreement to any other party without the prior written consent of the Town.

II. COOPERATION BY THE TOWN

The Town will thoroughly and as expeditiously as reasonably possible consider all reports, sketches, drawings, specifications, proposals and other documents prepared by the Consultants, and it shall inform the Consultants of all decisions that it has made which would affect the Consultants' work under this Agreement as soon as reasonably feasible. The Town will inform the Consultants of any pending change or revision to the Project as soon as reasonably feasible. The Town will provide the Consultants with current updated plans for the Project as soon as reasonably feasible after they are produced.

III. SCHEDULE

The Consultants' services are anticipated to be provided over the course of eight months between October 2014 and May 2015. A detailed project schedule is presented in Appendix "A." However, it is understood by the parties that the actual schedule may differ as directed by the Town from time to time. The Town shall advise the Consultants in writing of each change in the schedule as soon as feasible after it becomes aware thereof, and the Consultants shall thereafter adjust the timing of their services so as to comply with the revised schedule. The Consultants shall provide their services at such times as are necessary in order to promote the smooth progress of the Project.

IV. AMOUNT OF PAYMENTS TO CONSULTANTS

A. Aggregate Limits.

Unless services in addition to those specified in Section I are subsequently agreed upon in writing, the total amount paid by the Town to the Consultants pursuant to this Agreement shall not exceed the sums set forth in Appendix "A."

B. Specific Charges.

The Consultant's primary employees who will work on the Project and their billing rates are set forth Appendix "A," which is attached hereto and made a part hereof. The Town will pay the Consultants on the basis of their time and direct expenses incurred in order to provide the services required by this Agreement.

1. The charge for time shall consist of the hourly rates for the Consultants' employees multiplied by the number of hours and parts of hours each such employee works directly on the Project. The time each such employee must spend traveling in order to provide the services required by this Agreement will be charged in the same way as his or her other time spent working on the Project. It is understood by the parties that the rates include a surcharge intended to cover profit and overhead, including, but not limited to, taxes, employee benefits, administrative support staff and supplies, office rent and utilities, and insurance.

2. Direct expenses incurred by the Consultants in connection with the Project shall be charged to the Town on the basis of the expenses actually incurred by the Consultants, without any additional surcharge added by the Consultants. Such direct expenses shall include printing costs and long-distance telephone charges. Any direct or indirect expenses incurred by the Consultants while working on the Project that are in common with work on other projects for other clients shall be prorated among all those clients according to the benefit derived by each client. The Town shall not pay for the expense of the Consultants' owned or hired automobiles used in the connection with the Project, which shall be considered a part of the Consultants' hourly rates.

C. Inspection of Records.

Upon reasonable, advance request, the Town may inspect and copy any or all records of the Consultants which would bear on any amounts charged to the Town pursuant to this Agreement.

V. TIME OF PAYMENTS TO CONSULTANTS

The Consultants shall bill their charges to the Town periodically, but no more frequently than once a month. Each bill shall contain a statement of the time that the primary employees spent on the Project since the previous bill, a brief description of the services provided by each such employee and an itemization of direct expenses for each task.

VI. QUALIFICATIONS ON OBLIGATIONS TO PAY

Notwithstanding any other terms of this Agreement, the Town may withhold any payment (whether a progress payment or final payment) to the Consultants if any one or more of the following conditions exists:

A. The Consultants are in default of any of their obligations under this Agreement.

B. Any part of such payment is attributable to services that are not performed according to this Agreement (the Town will pay for any part thereof attributable to services performed according to this Agreement).

C. The Consultants have failed to make payments promptly to any third parties used in the services, if any, for which the Town has made payment to the Consultants.

D. The Town, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the Project or any task according to this Agreement. In such case, no additional payments will be due to the Consultants until the Consultants, at their sole cost, perform a sufficient portion of the Project or task so that the Town determines that the compensation then remaining unpaid is sufficient to complete the Project or task.

E. No partial payment shall be final acceptance or approval of that part of the Project or task paid for, or shall relieve the Consultants of any of their obligations under this Agreement.

VII. CONSULTANTS' DUTIES

A. Abilities, Qualifications, Experience and Best Efforts.

Notwithstanding anything to the contrary contained in this Agreement, the Town and the Consultants agree and acknowledge that the Town enters into this Agreement relying on the special and unique professional abilities of the Consultants to accomplish the Project. The Consultants covenant with the Town to use their best efforts. The Consultants shall further the interests of the Town according to the Town's requirements and procedures, according to the highest professional standards and in compliance with all applicable national, federal, state, municipal laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction.

B. No Conflicts.

The Consultants represent, covenant, and agree that they have and will undertake no obligations, commitments or impediments of any kind that will limit or prevent them from the timely completion of the Project. In case of any conflict between interests of the Town and any other entity, the Consultant shall fully and immediately disclose the issue to the Town and shall take no action contrary to the Town's interests.

C. Limitation on Public Statements and Lobbying Activity.

Consultants are retained to provide information and advice to the Town that includes confidential data, work product and other privileged or confidential information that is protected under pertinent laws and Town policies. In order to maintain the fact and appearance of absolute objectivity, loyalty and professionalism, Consultants shall not, without the prior written consent of the Town, do any of the following:

1. Disclose at any time information obtained as a result of this contractual relationship to any third party;

2. Lobby any Town agency on any pending matter while they are under contract to the Town;

3. Make any public statements or appear at any time to give testimony at any public meeting on the subject matters with regard to which Consultant is or was retained by the Town.

To the extent that the Town provides written consent for the disclosure of information or authorizes the making of public statements, the Town may impose such conditions upon such disclosure or communications as it thinks appropriate, and Consultants agree to comply with those conditions. This provision shall not preclude Consultants from providing information to law enforcement officials in connection with any criminal justice investigation.

D. Quality of Services.

The Consultants represent, covenant and agree that all of the services that they will furnish under this Agreement shall be of at least the standard and quality prevailing among highly competent professionals who perform work of a similar nature to the work described in this Agreement.

E. Accuracy of Work.

The Consultants represent, covenant, and agree that its work will be accurate and free from any material errors. The Consultants additionally represent, covenant, and agree that the planning for the Project will conform to all foreseeable uses thereof. Town approval shall not diminish or release the Consultants' duties, since the Town is ultimately relying upon the Consultants' skill and knowledge.

F. Duty to Warn.

The Consultants agree to call to the Town's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures and other data supplied to the Consultants (by the Town or any other party) that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, Consultants shall not independently verify the validity, completeness or accuracy of such information unless otherwise expressly engaged to do so by the Town. Nothing shall detract from this obligation unless the Consultants advise the Town in writing that such data may be unsuitable, improper or inaccurate and the Town nevertheless confirms in writing that it wishes the Consultants to proceed according to the data as originally given.

G. Attendance at Meetings.

The Consultants shall attend such meetings on the work required by this Agreement as the Town requires. The Town will give reasonable notice of any such requirement so that the Consultants may schedule and attend.

H. Efficiency.

The Consultants represent, covenant and agree to furnish efficient business administration and superintendence and perform the services required by this Agreement in the best, most expeditious and most economical manner consistent with the interests of the Town.

I. Books and Records.

The Consultants shall keep their books and records for the Project and reimbursable expenses according to recognized accounting principles and practices, consistently applied. The Consultants shall make them available for the Town's inspection at all reasonable times. The Consultants shall retain such books and records for at least three years after completion of the Project.

J. Payment of Bills.

The Consultants shall promptly pay all bills for labor and material performed and furnished by others in performance of the Project.

VIII. TERMINATION

A. Termination for Breach.

This Agreement may be terminated by either party for a material breach of this Agreement by the other party not caused by any action or omission of the terminating party by giving the other party written notice at least three days in advance of the termination date. The termination notice shall specify in reasonable detail each such material breach. In the event of such termination by either party, the Consultants shall promptly deliver to the Town all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys, and written materials of any kind generated in the performance of services under this Agreement up to and including the date of termination. If this Agreement is so terminated by the Consultants, they will be paid for all services rendered up to the date of termination, except as set forth in Section VI above. If this Agreement is so terminated by the Town, the Consultants will be paid for all services rendered to the date of termination, except those services which, in the Town's judgment, constituted the grounds, in whole or in part, of the notice of termination, and except as set forth in Section VI, above. Upon such payment, all obligations of the Town to the Consultants under this Agreement shall cease.

B. Termination for Convenience.

In addition to the foregoing, this Agreement may be terminated by the Town for its convenience and without cause of any nature by giving the Consultants written notice at least seven days in advance of the termination date. In the event of such termination, the Consultants will be paid for all services rendered to the date of termination, except as set forth in Section VI, above, and upon such payment, all obligations of the Town to the Consultants under this

Agreement shall cease. Furthermore, in the event of such termination, the Consultants shall promptly deliver to the Town all drawings, computer programs, computer input and output, plans, photographic images, analyses, test, maps, surveys, and written materials of any kind generated in the performance of their services under this Agreement up to and including the date of termination.

IX. SUSPENSION

Without terminating this Agreement or breaching its obligations hereunder, the Town may, at its pleasure, suspend the services of the Consultants hereunder. Such suspension may be accomplished by giving the Consultants written notice one day in advance of the suspension date. Upon receipt of such notice, the Consultants shall cease their work in as efficient a manner as possible so as to keep their total charges to the Town for services under this Agreement to the minimum. No work shall be performed during such suspension except with specific prior authorization by the Project Manager. The Town recognizes that suspension and subsequent reactivation may inconvenience the Consultants and will endeavor to provide advance notice and minimize its use. After a suspension has been in effect for thirty days, the Consultants may terminate this Agreement at will.

X. LAWS TO BE OBSERVED

The Consultants shall be cognizant of all federal and state laws and local ordinances and regulations which in any manner affect those engaged or employed in the work or which in any manner affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction over the same, and shall defend, at all times observe and comply with all such existing laws, ordinances, regulations and decrees, and shall defend, protect and indemnify the Town against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself, its subcontractors, agents, or employees.

XI. PERMITS AND LICENSES

The Consultants shall procure all permits and licenses, pay all charges, fees, and taxes and give all notices necessary and incidental to the due and lawful prosecution of their services under this Agreement.

XII. PATENTED DEVICES, MATERIALS AND PROCESSES

The Consultants shall hold and save harmless the Town from any and all claims for infringement, by reason of the use of any patented design, device, material, process, or trademark or copyright and shall indemnify the Town for any costs, expenses, and damages, including court costs and attorneys' fees, which it might be obligated to pay by reason of infringement at any time during the prosecution or after completion of their services under this Agreement.

XIII. TABOR; COLORADO CONSTITUTION, ARTICLE X, SECTION 20

Notwithstanding other provisions in this Agreement to the contrary, the Parties understand and acknowledge that the Town is subject to Article X, § 20 of the Colorado Constitution (“TABOR”).

- A. The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement.
- B. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the parties are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the parties’ current fiscal period ending upon the next succeeding December 31.
- C. Financial obligations of the parties payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with ordinances and resolutions of the responsible party and other applicable law.

XIV. INDEPENDENT CONTRACTOR

The relationship between the Consultants and the Town is that of an independent contractor. The Consultants shall supply all personnel, equipment, materials and supplies at their own expense, except as specifically set forth herein. The Consultants shall not be deemed to be, nor shall they represent themselves as, employees, partners, or joint venturers of the Town. No employee or officer of the Town shall supervise the Consultants. The Consultants are not entitled to workers’ compensation benefits and are obligated to directly pay federal and state income tax on money earned under this Agreement.

XV. INDEMNIFICATION

The Consultants shall be responsible for all damages to persons or property caused by them, their agents, subcontractors, employees or representatives which may arise from their negligent or wrongful performance of this Agreement, and shall indemnify, defend and hold harmless the Town and its officers, agents and employees from any claim or action brought by reason thereof. As part of this obligation, the Consultants shall compensate the Town for the time, if any, spent by its counsel in connection with such claims or actions at the rates generally prevailing among private practitioners in the Town of Crested Butte for similar services. The Consultants’ obligation to indemnify the Town as set forth in this Agreement shall survive the termination or expiration of this Agreement. In addition, the Parties acknowledge that all such liabilities, claims and demands made by third parties shall be subject to any notice requirements, defenses, immunities, and limitations of liability that the Town and its officers, directors and employees may have under the Colorado Governmental Immunity Act and under any other law.

XVI. INSURANCE

A. The Consultants agree to procure and maintain in force during the terms of this Agreement, at its own cost, the following minimum coverages:

1. Workers' Compensation and Employers' Liability

- a) State of Colorado: Statutory
- b) Applicable Federal: Statutory
- c) Employer's Liability: \$100,000 Each Accident
\$500,000 Disease-Policy Limit
\$100,000 Disease-Each Employee
- d) Waiver of Subrogation

2. Commercial General Liability

- a) Bodily Injury & Property Damage General Aggregate Limit \$1,000,000
- b) Personal & Advertising Injury Limit \$1,000,000
- c) Each Occurrence Limit \$1,000,000

The policy shall be on an Occurrence Form and include the following coverages: Premises Operations; Personal and Advertising Injury; Medical Payments; Liability assumed under an Insured Contract; Independent Contractors; and Broad Form Property Damage. Coverage provided should be at least as broad as found in Insurance Services Office (ISO) form CG0001.

3. Professional Liability (errors and omissions)

- a) Each Claim/Loss: \$1,000,000
- b) Aggregate: \$1,000,000

The Town of Crested Butte may require that this coverage remain in place for one year after the project is complete.

4. Commercial Automobile Liability Limits

- a) Bodily Injury & Property Damage Combined Single Limit \$1,000,000
- b) Medical Payments per person \$ 5,000
- c) Uninsured/Underinsured Motorist \$ 100,000

Coverage is to be provided on Business Auto, Garage, or Truckers form. Coverage provided should be at least as broad as found in ISO form CA0001 (BAP), CA0005 (Garage) or CA0012 (Trucker) including coverage for owned, non-owned, & hired autos.

B. Coverage.

Insurance required by this Agreement shall be primary coverage, unless otherwise specified, and shall specify that in the event of payment for any loss under the coverage provided, the insurance company shall have no right of recovery against the Town or its insurers. All policies of insurance under this Agreement shall be provided by a reputable insurance company

or companies qualified to conduct business in Colorado. The Town reserves the right, but shall not have the duty, to reject any insurer which it finds to be unsatisfactory and insist that the Consultants substitute another insurer that is reasonably satisfactory to the Town. Property and Liability Insurance Companies shall be licensed to do business in Colorado and shall have an AM Best rating of not less than A- VI. This insurance shall be maintained in full force and effect during the term of this Agreement and for the additional periods set forth herein and shall protect the Consultants, its agents, employees and representatives, from claims for damages for personal injury and wrongful death and for damages to property arising in any manner from negligent or wrongful acts or omissions of the Consultants, their agents, employees, and representatives in the performance of the services covered herein.

C. Additional Insureds.

All Insurance policies (except Workers Compensation and Professional Liability) shall include Town of the Town of Crested Butte and its elected officials and employees as additional insureds as their interests may appear. The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage and similar forms for Commercial Auto and Umbrella Liability.

D. Automobile Coverage.

Automobile insurance shall, without limitation, cover all automobiles used in performing any services under this Agreement.

E. Claims-Made Policies.

If coverage is to be provided on Claims Made forms, Consultants must refer policy to the Town Attorney's Office for approval and additional requirements. In the case of any claims-made insurance policies, the Consultants shall procure necessary retroactive dates, "tail" coverage and extended reporting periods to cover a period at least two years beyond the expiration date of this Agreement. This obligation shall survive the termination or expiration of this Agreement.

F. The Consultants shall not cancel, materially change, or fail to renew required insurance coverages. The Consultants shall notify the Project Manager of any material reduction or exhaustion of aggregate limits. Should the Consultants fail to immediately procure other insurance, as specified, to substitute for any policy canceled before final payment to the Consultants, the Town may procure such insurance and deduct its cost from any sum due to the Consultants under this Agreement.

G. Certificates.

Certificates showing that the Consultants are carrying the above-described insurance, and the status of the additional insureds, shall be furnished to the Town prior to the execution of this Agreement by the Town. Consultant, or Consultant's insurance broker, shall

notify the Town of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer's notification to that effect. The Consultants shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.

H. Non-Waiver.

The parties understand and agree that the parties are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (currently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

XVII. PROHIBITIONS ON PUBLIC CONTRACTS FOR SERVICES

The Consultants certify that it shall comply with the provisions of section 8-17.5-101 *et seq.*, C.R.S. The Consultants shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to the Consultants that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

The Consultants represent, warrant, and agree (i) that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify or the Department Program; (ii) that the Consultants are prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while services under this Agreement are being performed; and (iii) if the Consultants obtain actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, the Consultants shall be required to:

a) Notify the subcontractor and the Town within three days that the Consultants has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultants shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Consultants further agree that it shall comply with all reasonable requests made in the course of an investigation under section 8-17.5-102(5), C.R.S. by the Colorado Department of Labor and Employment. If the Consultants fail to comply with any requirement of this provision or section 8-17.5-101 *et seq.*, C.R.S. the Town may terminate this Agreement for breach and the Consultants shall be liable for actual and consequential damages to the Town.

XVIII. INTEGRATION

This document constitutes the entire agreement between the Town and the Consultants and incorporates all prior verbal and written communications between the parties concerning the subject matter included herein.

XIX. NO ASSIGNMENT

Neither party shall assign, sublet, or transfer any interest in this Agreement without the written consent of the other.

XX. AMENDMENT IN WRITING

No amendment or modification shall be made to this Agreement unless it is in writing and signed by both parties.

XXI. GOVERNING LAW AND VENUE

This Agreement is governed by the laws of the State of Colorado. Any suit between the parties arising under this Agreement shall be brought only in a court of competent jurisdiction for the County of Gunnison, State of Colorado.

XXII. NO THIRD PARTY BENEFICIARIES

The parties intend no third party beneficiaries under this Agreement. Any person other than the Town or the Consultants receiving services or benefits under this Agreement is an incidental beneficiary only.

XXIII. NO WAIVER

No waiver of any breach or default under this Agreement shall be a waiver of any other or later breach of default.

XXIV. AUTHORITY

Consultants warrant that the individual executing this Agreement is properly authorized to bind the Consultants to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE(S) TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement effective as of the day and year first above written.

CONSULTANTS:

MUNDUS BISHOP DESIGN, INC.

By: _____

Name: _____

Title: _____

TOWN:

TOWN OF CRESTED BUTTE

Todd Crossett, Town Manager

ATTEST:

Lynelle Stanford Town Clerk

[SEAL]

APPENDIX “A”

SCOPE OF WORK

Work Description

Phase 1 – Inventory and Site Analysis

- 1.A. Kick-off Meeting / Conference Call / GoToMeeting as initial meeting with Town Staff and consultant team
- 1.B. Gather and review available background materials from the Town
- 1.C. Prepare Project Base Map from available information provided by the Town and other sources
- 1.D. Preliminary Park Program (uses, activities, supporting facilities, i.e. parking)
From available information provided by the Town;
Analyze existing park use from previous documents, anticipated to be current uses;
Park and recreation standards, and best practices for potential uses;
Vision, park goals and objectives.
- 1.E. Preliminary Communications Plan and Public Outreach
Strategy for multi-platform community process: stakeholder / focus group(s), social media, community meetings, communications with Town staff.
- 1.F. Site Visit and Work Session 1 - Trip 1 (See matrix)
Field investigations;
Work session(s) with Town staff, and others determined by staff: share findings, discuss vision, issues, opportunities / constraints, and develop program and preliminary ideas;
focus group interviews (3 to 4) to determine / confirm space needs.
- 1.G. Opportunities and Constraints Plan
Document condition assessment, and identify key issues, and opportunities;
Analyze natural and historical features, views, adaptability to uses, conflicts, potential for recreational use.
- 1.H. Work Session 2 and Community Workshop 1 - Trip 2 (See matrix)
Work session(s) with Town staff and stakeholders;
Review revisions to findings, discuss opportunities and constraints plan, refine park program;
Community Meeting to share findings, listen to needs and desires, solicit input on potential park program, and solicit preliminary ideas;
Post community input on Town website and social media;
Work session with Team Pain (See matrix).

1.I. Draft Summary Report

Deliverables: meeting agenda and summaries, project schedule, data list (excel file), project base map, graphics documenting existing condition, opportunities and constraints, narrative summary and applicable photographs, brief narrative and supporting graphics and photographs

Phase 2 – Alternatives Development

2.A. Park Program (refined)

List all elements with desired SF for interior and outdoor spaces, note existing use versus new or refined use;

List Park Standards and Best Practices.

2.B. Conceptual Park Plans (Alternatives)

Two to three conceptual design alternatives noting all elements noted in park program;

Character Sketch(es);

Preliminary Costing.

2.C. Work Session 3 - Trip 3 (See matrix)

Work session(s) with Town staff and stakeholders;

Review and confirm revisions to park program, discuss conceptual alternatives, and preliminary costing.

2.D. Refine Conceptual Park Plans /Alternatives

Refine park program, alternatives, sketches, and costing based on discussion with Town staff;

Discuss preferred ideas.

2.E. Community Workshop 2 - Trip 4 (See matrix)

Work session(s) with Town staff and stakeholders;

Review refined concepts;

Community Workshop to present conceptual alternatives, discuss preferred ideas, and solicit input on potential park program, and solicit preliminary ideas;

Post community input on Town website and social media.

2.F. Present to Town Council

2.G. Summary Report Update to include Concept Alternatives

Deliverables: draft park program of uses by area (including SF area) narrative and diagram; design criteria; plan graphic and narrative summary of schematic alternatives (3 assumed), character sketches; preliminary costing

Phase 3 – Preferred Alternative

3.A. Preferred Alternative / Preliminary Master Plan

Park program noting uses, activities, and supporting facilities with SF for interior and outdoor spaces;

Park Standards and Best Practices;

Conceptual Plan, Character Sketches, and Costing.

3.B. Work Session 4 - Trip 5 (See matrix)

Work session(s) with Town staff and stakeholders;

Review preferred alternative / preliminary master plan.

3.C. Refine Conceptual Park Plan

Refine park program, preferred alternative plan, sketches, and costing based on discussion with Town staff.

3.D. Work Session 5 and Community Workshop 3 - Trip 6 (See matrix)

Work session(s) with Town staff and stakeholders--could be separate meetings:

Review refined plan and discuss implementation strategy;

Community Workshop to present preferred alternative;

Post community input on Town website and social media.

3.E. Preferred Park Plan

Document community input;

Refine park program, preferred alternative plan, sketches, and costing;

Floor plan(s) and Elevations (at Town's option);

Present to BOZAR.

3.F. Present to Town Council

Deliverables: park program of uses by area (including SF area) as narrative and diagram; presentation materials, meeting notes with summary of all input, revised plan graphics, floor plan(s) and elevations (at Town's option), character sketches, summary narrative, costing and implementation strategy

Phase 4 – Big Mine Park Master Plan

4.A. Draft Master Plan

Brief Summary Report documenting process, outcomes, program, standards and criteria, alternatives, final master plan, costing and implementation strategy;

Floor plan(s) and Elevations (at Town's option);

Supporting Graphics and Sketches.

4.B. Implementation Strategy

Phased plan for the development with priorities for improvements, responsibilities and timeline.

4.C. Town of Crested Butte Review

4.D. Revisions and Refinement

4.E. Final Master Plan Document

Final Report with supporting text, graphics, and sketches;
Three copies—two bound and one unbound and disc with all digital files.

Deliverables: brief narrative summary of process, program, standards, concepts, preferred alternative, presentation materials, meeting notes with summary of all participation, plan graphics for full park master plan, floor plan(s) and elevations (at Town's option), character sketches; costing, and implementation strategy.

Phase 1 Tasks:

Inventory and Site Analysis

Mundus Bishop	\$ 10,250
Direct Costs (travel, lodging for subs, per diem, reproductions)	\$ 1,580

Phase 2 Tasks:

Alternatives Development

Mundus Bishop	\$ 12,435
Direct Costs (travel, lodging for subs, per diem, reproductions)	\$ 1,580

Phase 3 Tasks:

Preferred Alternatives

Mundus Bishop	\$ 11,105
Direct Costs (travel, reproduction)	\$ 1,000

Phase 4 Tasks:

Big Mine Master Plan

Mundus Bishop	\$ 9,240
Direct Costs (reproductions)	\$ 1,200

Total Labor	\$ 75,280.00
Total Direct Costs	\$ 5,360.00
GRAND TOTAL	\$ 80,640.00

Subconsultants

Anderson Hallas	\$ 18,500 (at Town's option)
Team Pain	\$ 7,500
Martin/Martin	\$ 5,500
BioEnvirons	\$ 750

PROGRESS REPORTING

The Consultant and the Town's Project Manager shall hold progress meetings as necessary but in no case less than twice per month until the Final Master Plan is approved by the Town Council for the purpose of progress reporting. The Consultant shall supply the Project Manager with at least two (2) copies of all completed or partially completed reports, studies, forecasts, maps or plans at least three (3) days prior to each progress meeting. The Project Manager shall schedule the advisory committee meetings, user group meetings, public outreach and other meetings as proposed by the Consultant, at key times during the development of the Master Plan.

PROJECT DIRECTION

Primary contact for the selected Consultant will be Janna Hansen, Parks and Recreation Director, or another Project Manager as designated. The Project Manager will be responsible for the direction, review and approval of all work and deliverables for contract compliance.

REQUIRED COMPLIANCE

The selected Consultant must comply with all applicable Federal, State and/or local laws and regulations, including all other applicable laws, regulation, ordinances, codes and rules of any governmental entities that have jurisdiction.

PROJECT SCHEDULE

Big Mine Park Master Plan
Town of Crested Butte
revised October 15, 2014

2014

2015

Task	August 4	September 1	October 6	November 3	December 1	January 5	February 2	March 2	April 6	May 4	June 1
Phase 1 Tasks - Inventory and Site Analysis											
1.A. Kick-off Meeting / Conference call and data list											
1.B. Gather and review available background materials											
1.C. Prepare Project Base Map											
1.D. Prepare Preliminary Park Program											
1.E. Preliminary communications and Public Outreach											
1.F. Site Visit and Work Session - Trip 1 (2 days total)											
1.G. Existing condition, Opportunities and onstraints											
1.H. Work Session 2 and Community Meeting 1											
1.I. Draft Summary Report											
Phase 2 Tasks - Alternatives											
2.A. Park Program											
2.B. Conceptual Park Plans											
2.C. Work session 3											
2.D. Refine Conceptual Park Plans											
2.E. Community Workshop 2											
2.F. Present to Town Council											
2.G. Summary Report											
Phase 3 Tasks - Preferred Alternative											
3.A. Preferred Alternative											
3.B. Work Session											
3.C. Refine Conceptual Alternative											
3.D. Work Session and Community Workshop 3											
3.E. Preferred Plan											
3.F. Present to Town Council											
Phase 4 Tasks - Big Mine Park Master Plan											
4.A. Draft Master Plan											
4.B. Draft Implementation Strategy											
4.C. Town of Crested Butte review											
4.D. Revisions and refinements											
4.E. Final Master Plan Document											

The *Our Colorado River* Program Description.

The Our Colorado River program has grown out of TU's successful work in western Colorado with the agricultural community. Through our staff who live and work on the West Slope we have partnered with irrigators to improve diversion structures, stabilize stream channels, improve fish passage and upgrade aging irrigation infrastructure. These partnerships have proven the value of cooperation between the agricultural and sportsman/recreation communities in protecting West Slope water resources.

While the OCR program highlights our successful partnerships and encourages continuing collaboration, its primary goal is to broaden this cooperative effort between agriculture and sportsman groups to include recreation-tourism based business, ancillary support businesses and West Slope communities. To express this cooperation the Our Colorado River program endorses five core values. The core values are five common sense principles which speak to cooperation, protection of agriculture, protection of open space and habitat, upgrading irrigation systems and employing innovative water conservation and management practices. We believe these values are common to all West Slope citizens and by signing the core values individuals, businesses, organizations and elected officials express unity and resolve as we move towards the creation of a Colorado Water Plan.



WE'RE IN THIS TOGETHER

Farms and ranches, recreation and tourism, towns and cities: they all depend on the health of the Colorado River and its tributaries. In western Colorado, water from the Colorado River basin irrigates about 700,000 acres of land on about 9,000 farms and ranches. These operations produce crops and animals for market and contribute over \$1 billion to the Western Slope economy.

Similarly, our recreation and tourism industries depend heavily on western Colorado rivers to support rafting, camping, and other activities. Recreation contributes over \$9 billion to the economy of western Colorado. This industry owes much of its success to agriculture's protection of open spaces, wildlife habitat and the unique culture and heritage that still exist in the West.

Together, these independent sectors comprise western Colorado's largest economic engine: an engine that runs on water. Healthy rivers are the key.

CONTACT US

WWW.OURCORIVER.COM

For more information on the **OUR COLORADO RIVER** effort please contact:

Richard Van Gytenbeek

Colorado River Basin
Outreach Coordinator
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For more information about **CONSERVATION PARTNERSHIPS** contact Drew Peternell at 303-440-2937 or the Trout Unlimited staff in your river basin.

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Cary Denison
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DOLORES/MANCOS RIVER BASIN

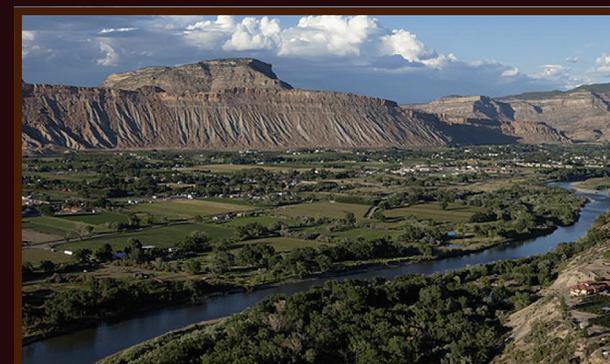
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SAN JUAN/ANIMAS RIVER BASIN

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KEEP IT FLOWING



WWW.OURCORIVER.COM



OUR COLORADO RIVER: WHO WE ARE

OUR COLORADO RIVER is a project of Trout Unlimited (TU). TU is a non-profit fisheries conservation organization made up of sportsmen and women. We have 150,000 members nationwide and 10,000 in Colorado.

The Our Colorado River project is an outgrowth of TU's work in local communities across western Colorado to improve the quality of the Colorado River and its many tributaries. While the Our Colorado River project highlights our ongoing partnerships with agriculture, its primary intent is to facilitate broad support for smart water management on Colorado's Western Slope through a set of core values designed to promote healthy communities through healthy rivers.

OUR COLORADO RIVER: CORE VALUES

These five core values are essential to protecting and maintaining healthy rivers and healthy communities on the Western Slope of Colorado. By endorsing them, western Colorado expresses our unified resolve for smart water management. These core values should also be reflected in water planning efforts such as Governor Hickenlooper's executive order to complete a draft state water plan by December 2014.

1) **Cooperation, Not Conflict:** Work together to ensure the Colorado River is able to meet our diverse needs, from agriculture to recreation and tourism. Cooperation is the key to sustaining our economy and way of life.

2) **Protect Our Quality of Life:** Maintain our open spaces through a vigorous agricultural sector and ensure that our rivers and streams are flowing and healthy.

3) **Modernize Irrigation:** Upgrade our aging irrigation infrastructure systems to make them more productive, economical, and habitat-friendly.

4) **Innovative Management:** Explore new ways to meet our water supply needs through innovative conservation and management practices.

5) **Keep our Rivers at Home:** Leave water in its home basins and oppose new, large-scale, river-damaging trans-basin diversions of water from the Colorado River to the Front Range.

To show your support for these core values go to:
www.ourcoriver.com

OUR COLORADO RIVER: CONSERVATION PARTNERSHIPS

Citizens of western Colorado have a lot to gain by working cooperatively to meet water needs and maintain healthy rivers and streams. Trout Unlimited partners with ranchers and irrigators to implement projects that benefit agriculture while ensuring healthy rivers.

For example, we work with agricultural producers to improve diversion structures, stabilize stream channels, improve fish passage, upgrade irrigation infrastructure, augment stream flows, and complete other mutually beneficial projects.



Are you interested in a stream restoration project on your land? Trout Unlimited is here to help. For many landowners this is a fulfilling way to improve operations, boost land values and practice stewardship.

November 3, 2014

Work Session

Budget

Public Hearing

New Business

Future Worksession Items:

1. Cemetery Committee (Update and planning future work)
2. Camping @ Town Ranch (allow? Not allow? Allow camping in other places?)
3. BLM and OBJ Campground/Seasonal Housing Shortage (this could be combined with others – especially the Affordable Housing item at the bottom of this list)
4. CBMBA and Trail priorities/signage (basically – what is the future plan for new trails/existing trail completion in the valley? What should be our priorities as a Council?)
5. Perimeter Trail – Update, timelines, costs, what does this look like when finished
6. Land Trust and Town Preservation Priorities – basically a joint planning/discussion with the CBLT (maybe in Exec Session if they would like) to confer on the priority parcels identified by the CBLT and the priorities of the Town (for planning future open space acquisitions). Maybe even a discussion about purchasing trail easements.
7. Elk Avenue Rule Set re: Private Clubs – the whole “private clubs on Elk Avenue” concern that was raised when Irwin obtained a private liquor license for the Scarp Ridge Lodge.
8. What do we want to become? – or said differently, follow-up planning process for the Whatever USA
9. Affordable Housing/Density/Workforce – Blk 79/80 – Discussion of the question “how do we deal with the shortage of employees from the 2014 summer? What should we expect in 2015 and how will we address another shortage?”