RESOLUTION NO. 14

SERIES NO. 2015

RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL APPROVING THE CONTRACT FOR USE OF THE BIG MINE HOCKEY ARENA BY GUNNISON VALLEY HOCKEY ASSOCIATION

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, pursuant to Section 31-15-713 (c), C.R.S., the Town Council may lease and grant use rights to any real property, together with any facilities thereon, owned by the Town when deemed by the Town Council to be in the best interest of the Town;

WHEREAS, pursuant to Section 713(c), when the term of such lease or use rights is one year or less, the Town Council may approve such lease or use rights by resolutions of the Town Council; and

WHEREAS, the Town Council finds hereby that approving a contract for a right of use of Big Mine Hockey Arena for use by the Gunnison Valley Hockey Association in its business 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 right of use of Big Mine Hockey Arena for use by Gunnison Valley Hockey Association in its business is in the best interest of the Town and the general public.

2. **Authorization of the Mayor**. Based on the foregoing, the Town Council hereby authorizes the Mayor to execute the contract with Gunnison valley Hockey Association in substantially the same form as attached hereto as **Exhibit "A**." Any changes thereto that do not increase the obligations of the Town thereunder may be made only following written approval by the Town Attorney.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS 6th DAY OF July, 2015.

TOWN OF CRESTED BUTTE

By: _____
Aaron J. Huckstep, Mayor

ATTEST

_____
Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Contract for Use of the Big Mine Hockey Arena

[attach form contract here]

CONTRACT BETWEEN THE TOWN OF CRESTED BUTTE AND GUNNISON VALLEY HOCKEY ASSOCIATION FOR USE OF THE BIG MINE ICE ARENA FOR THE 2015-2016 SEASON

This CONTRACT is made and entered into by and between the TOWN OF CRESTED BUTTE, COLORADO, a Colorado home rule municipality located and doing business at 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 (the "TOWN"), and the GUNNISON VALLEY HOCKEY ASSOCIATION, a Colorado non-profit corporation, dba West Elk Hockey Association ("WEHA") located and doing business at 515 W. Tomichi Avenue, P.O. Box 1697 Gunnison, CO 81230.

In consideration of the mutual obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals

1.1 The parties recognize the mutual benefits of WEHA operating a hockey program (the "PROGRAM") on TOWN property. It is the parties' intention that this CONTRACT define the duties, obligations, terms and conditions with respect to the use of the Big Mine Ice Arena and associated facilities and equipment (the "FACILITY").

1.2 Execution of this CONTRACT shall constitute issuance of a permit to WEHA to use the FACILITY for the conduct of PROGRAM. This CONTRACT grants the right, and imposes the duty on WEHA, to use property owned by TOWN as described herein for the purpose of operating the PROGRAM from on or about November 20, 2015 through on or about March 15, 2016.

2. Facility

Location:	Big Mine Ice Arena, Crested Butte, CO
Dates:	On or about November 20, 2015 through on or about March 15, 2016 (the "TERM").
Fee:	$45.00 per hour of use. WEHA will receive monthly invoices from the TOWN before the 15th of the calendar month following use. WEHA agrees to pay to Town as rent for the FACILTY during the TERM, payable by the last day of the calendar month after use. WEHA shall pay a $25.00 late fee and interest at a rate of one and one-half percent (1 ½%) per month (18% per year) on rental or other payments which are not paid when due.

3. WEHA'S Obligations

3.1 WEHA designates John Collins as the primary contact for communicating with the TOWN regarding the PROGRAM. In the event John Collins is not available, Jack Gibbons shall be the alternative designated contact. The primary phone

number for John Collins is 970-209-7353 and the primary phone number for Jack Gibbons is 970-209-4048.

3.2 WEHA shall obtain written approval from the TOWN prior to using the FACILITY for dates and times not specified in the parties' agreed upon written schedule. Such usage shall be at the TOWN's sole and absolute discretion. WEHA acknowledges that the FACILITY is a public facility and may be used by other persons, the public and the TOWN as the TOWN sees fit from time to time in its sole and absolute discretion.

3.3 WEHA understands the FACILITY may need maintenance and/or repairs and agrees to cancel any dates as required by the Parks and Recreation Director or its designee to accommodate these needs.

3.4 WEHA shall provide trained supervision during scheduled practices and games to ensure the TOWN and USA Hockey policies are being followed.

3.5 WEHA shall operate the PROGRAM in accordance with all USA Hockey, Colorado Amateur Hockey Association (CAHA) and league rules, regulations, policies and guidelines.

3.6 WEHA shall schedule practice slots and game slots for all PROGRAM activities within the allocated blocks of time as designated by the TOWN.

3.7 WEHA shall put all existing FACILITY equipment back in its original location after use.

3.8 PROGRAM participants shall pick up their trash and leave the FACILITY in good clean condition.

3.9 WEHA shall be responsible for communicating scheduling changes with all affected parties and shall be responsible for ensuring that the TOWN is kept up to date with the most current schedule.

3.10 Subject to Section 3.3 above, WEHA will be granted ten (10) schedule changes per month with no additional fees. Changes must be received within seven (7) days of activity date. More than ten (10) schedule changes a month or schedule changes received within seven (7) days of activity date will be charged a $5.00 per change administrative fee. Cancellations received less than seven (7) days prior to the activity date shall not be refunded. WEHA shall not be charged by the TOWN for cancellations made pursuant to the terms contained in this CONTRACT, and if payments were previously made by WEHA, the TOWN shall provide a refund or a credit to WEHA for such unused ice slots that were properly cancelled pursuant to the terms in this CONTRACT.

3.11 WEHA shall make no alterations, repairs, or improvements to the FACILITY without the prior written permission of the TOWN. WEHA shall leave the FACILITY in good condition and repair at the expiration or earlier termination of this CONTRACT.

3.12 WEHA shall not condone any smoking, alcohol consumption or use of controlled substances within the FACILITY when in use by WEHA. Animals are not allowed within the FACILITY. WEHA shall not construct temporary or permanent structures on the inside or outside of the FACILITY for recreational or other purposes. WEHA shall not use the FACILITY to further any discrimination based on race, sex, creed, sexual orientation or national origin.

3.13 WEHA property shall at all times be secured so as to avoid any undesired use of such personal property; all usage of personal property at the FACILITY shall be in the presence and at the direction of WEHA personnel; and, all personal property shall be disassembled, broken down, locked down and neatly stored away when not in use at the FACILITY. The location of such storage shall be as agreed to with the TOWN.

3.14 WEHA shall communicate primarily with TOWN's Parks and Recreation Director or her designee relative to all matters contemplated in this CONTRACT.

3.15 WEHA agrees to pay to the TOWN any and all increased costs and expenses attributable to WEHA's occupation of the FACILITY.

4. TOWN's Obligations

4.1 TOWN shall be responsible for all operations and maintenance of the FACILITY.

4.2 TOWN shall create and provide the following schedules for the FACILITY that shall be the basis upon which WEHA's use of the FACILITY shall be coordinated:

- Season availability schedule
- Game availability schedule
- Daily schedule for a two week period during ice season

4.3 TOWN shall update rink schedules in accordance with TOWN approved schedule and WEHA updates as per the above conditions.

5. Licenses, Permits, and Fees

WEHA shall adhere to all local and state requirements regarding the conduct of its business as a sanctioned hockey organization, business licenses, taxes, vending, and special event permits and policies.

6. Security Deposit

Security Deposit Amount _$1000_____Due ____11/15/15_____

WEHA shall pay the TOWN the above sum to be used as security for WEHA's faithful performance of the terms and obligations of this CONTRACT. Said amount shall be paid at the time of WEHA's execution of this CONTRACT. This deposit shall be held by the TOWN during the TERM. Within thirty (30) days following the expiration of the TERM or earlier termination of this CONTRACT, the TOWN shall either return the security deposit or, provide WEHA with a written statement setting forth the reason for the retention of any portion thereof together with the payment of the difference, if any, between the amount of the security deposit and the damages claimed by the TOWN.

9. Cancellation of Program

The TOWN Manager or his /her designee may cancel the PROGRAM and WEHA's use of the FACILITY, if the terms of this CONTRACT are not substantially fulfilled in a timely manner, or in the event of an unforeseen catastrophic event. In the event of such cancellation, TOWN shall remit to WEHA all damage deposits minus any expenditure incurred by TOWN. Upon expiration or earlier termination of this CONTRACT, WEHA shall quit and surrender the FACILITY in its original condition and promptly remove all personal property therefrom. TOWN shall not be liable to WEHA for, and WEHA hereby waives, any lost revenues or consequential damages in the event of such cancellation.

10. Additional Requirements

10.1 Except as otherwise provided for herein, the Town Manager and Parks and Recreation Director or his/her designee shall be the sole representatives of TOWN responsible for administering the provisions of this CONTRACT.

10.2 WEHA agrees that it will abide by any additional requirements as may be found necessary to insure the health and safety of PROGRAM participants and the public. WEHA shall pay for all damages to public or private property, connected to the PROGRAM.

10.3 In consideration for the TOWN allowing the use of the FACILITY and the grant of permit thereto under this CONTRACT, WEHA, its members, managers, officers and directors (collectively, "Releasor/Idemnitor") hereby acknowledge and agree to the following: (a) Releasor/Idemnitor hereby assumes all risk of claims, liabilities, injuries, losses, demands or damages, whether related to bodily injury, personal injury, sickness, disease, death, property loss or damage (including attorneys' fees, costs and expenses) (collectively, "Claims") arising out of, directly or indirectly, the use of the FACILITY by WEHA; (b) Releasor/Idemnitor hereby waives any claims, and hereby releases, the TOWN, its elected officials, officers, employees, agents, insurers, insurance pools,

attorneys, representatives, contractors and subcontractors (collectively, "Releasee/Indemnitee") against and from any and all Claims arising out of, directly or indirectly, the use of the FACILITY by WEHA; and (c) WEHA shall indemnify, defend and hold harmless Releasee/Indemnitee from and against any and all Claims of any third party arising out of WEHA's use of the FACILITY.

10.4 WEHA understands and agrees that the TOWN is relying on, and does not waive or intend to waive by any provision of this CONTRACT, 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 TOWN, its elected officials or its employees.

10.5 WEHA shall cause all participants, staff and volunteers participating in the PROGRAM to execute a liability waiver assuming the risk in connection with the PROGRAM activities and waiving any and all claims against the TOWN as the property owner in connection therewith.

10.6 At its sole cost and expense, WEHA shall obtain and keep in force during and through the TERM "all-risk" property coverage naming the TOWN and WEHA as their interests may appear.

At its sole expense, WEHA shall obtain and keep in force during and through the TERM 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 the TOWN and WEHA, including, without limitation, coverage for contractual liability, broad form property damage and non-owned automobile liability, with respect to the FACILITY. The insurance shall be noncontributing with any insurance that may be carried by TOWN and shall contain a provision that TOWN, although named as an insured, shall nevertheless be entitled to recover under the policy for any loss, injury, cost or damage to TOWN, or the property of the same.

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 TOWN in writing. All insurance policies shall be subject to approval by TOWN as to form and substance, shall expressly provide that the policies shall not be canceled without 30 days' prior written notice to TOWN and shall provide that no act or omission of TOWN 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.

All policies of liability insurance that WEHA is obligated to maintain according to this CONTRACT (other than any policy of workmen's compensation insurance) shall name TOWN as an additional insured. Originals or copies of original policies (together with copies of the endorsements naming TOWN as an additional insured) and evidence of the payment of all premiums of such policies shall be made available to TOWN on the date first written above. All public liability, property damage liability and casualty policies maintained by TOWN shall be written as primary policies, not contributing with and not in excess of coverage that TOWN may carry.

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. WEHA shall cause its insurer to issue an appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with WEHA's operations and TOWN's operations and property failure of the TOWN to insist in any one or more instances upon strict compliance of any of the obligations, covenants, and agreements herein contained, or the failure of the TOWN in any one or more instances to exercise any option, privilege, or right herein contained shall in no way be construed as constituting a waiver of such default or option by the TOWN.

10.7 It is agreed that if the enforcement, interpretation or construction of this CONTRACT becomes necessary or advisable, the prevailing party in such effort shall be entitled to reasonable attorneys' fees, as well as all related costs and expenses.

10.8 If any provision, covenant, clause or agreement contained in this CONTRACT or the application hereof shall be found to be invalid, such invalidity shall not affect the validity of the remaining provisions, covenants, clauses, agreements, or the validity of the this CONTRCAT as a whole

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

IN WITNESS WHEREOF, the parties have executed this CONTRACT effective as of the date first set forth above.

TOWN:

TOWN OF CRESTED BUTTE, COLORADO,
a Colorado home rule municipality

By: _____
Aaron J. Huckstep, Mayor

ATTEST:

By: _____
Lynelle Stanford, Town Clerk

(SEAL)

TOWN OF CRESTED BUTTE CORPORATE SEAL JULY 2, 1880 GUNNISON COUNTY, CO

WEHA:

GUNNISON VALLEY HOCKEY ASSOCIATION

By: _____
Name: JOHN COLLINS
Title: PRESIDENT WEHA