

RESOLUTION NO. 3

SERIES NO. 2015

RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL APPROVING THE CONCEPT ANNEXATION REQUEST OF CYPRESS FOOTHILLS, LP WITH CONDITIONS THEREON PURSUANT TO SECTION 15-1-50 OF THE CRESTED BUTTE MUNICIPAL CODE

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, Cypress Foothills, LP ("**Applicant**") submitted to the Town on October 9, 2014 that certain Slate River Addition Concept Annexation Application, October 2014, as amended and supplemented (the "**Concept Application**"), seeking to annex into Crested Butte those lands described in **Exhibit "A"** attached hereto (the "**Subject Lands**");

WHEREAS, Section 15-1-50 of the Crested Butte Municipal Code (the "**Code**") requires that as a pre-condition to Applicant submitting a formal annexation petition pursuant to the *Town Annexation Ordinance*, Chapter 15, Article 1 of the Code, and more specifically Section 15-1-60 thereof, Applicant must first gain the approval of the Town Council of the Concept Application;

WHEREAS, Applicant submitted the Concept Application pursuant to Section 15-1-50 of the Code;

WHEREAS, the Town staff has reviewed the Concept Application in cooperation with Applicant pursuant to Section 15-1-50(3)a. of the Code, and the Town staff and Applicant presented the Concept Application to the Town Council at its regular Town Council meetings on December 1 and 15, 2014 and January 5, 2015; and

WHEREAS, the Town Council, at its January 5 Town Council meeting completed its review of the Concept Application and directed the Town staff and the Town Attorney to prepare these resolutions approving the Concept Application and permitting Applicant to submit a formal annexation petition pursuant to Section 15-1-60 of the Code, subject to Applicant's compliance with and satisfaction of the requirements and conditions set forth in these resolutions.

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

1. **Approval of Concept Application.**

(A) Subject to Applicant's compliance with, and satisfaction of the requirements and conditions set forth in subsection (B) hereinbelow, the Concept Application satisfies the Town Council as required by Section 15-1-50 of the Code and is hereby approved.

(B) The following requirements and conditions must be satisfied as and when required hereinbelow:

(i) The formal annexation petition and other required submittals described in Section 15-1-60 of the Town Code shall be consistent with the approved Concept Application, which includes the final Concept Annexation maps attached hereto as **Exhibit "B"** (the "**Final Concept Maps**").

(ii) Prior to Applicant's submission of a formal annexation petition and associated submittals (collectively, the "**Petition**"), Applicant shall cause to be performed at its sole cost and expense a facility master plan (the "**FMP**") performed by an independent third party consultant approved by the Town for the Town's Public Works yard and associated facilities. The contract with such independent third party consultant shall be entered into directly with the Town on terms reasonably satisfactory to Applicant and shall include a scope of work for services to be performed as developed by the Town in cooperation with Applicant. The FMP shall be submitted to the Town with Applicant's Petition.

(iii) Prior to Applicant's submission of the Petition, Applicant must enter into a pre-annexation agreement (the "**PA Agreement**") with the Town on terms approved by the Town Council and acceptable to the Town Attorney addressing the following subject matters:

(a) ***Old Town Landfill:*** The PA Agreement shall address the terms and conditions, including, without limitation, liabilities and sureties, pursuant to which the old Town Landfill will be cleaned-up in the event the Subject Lands are annexed into the Town.

(b) ***Uses of Town-owned Properties:*** The PA Agreement shall address Applicant's use of Town-owned properties consistent with the FMP, including, without limitation, use of portions of the Town's Public Works yard as contemplated in the Concept Application. The FMP shall play a crucial role in determining Applicant's use of, without limitation, the Town's Public Works yard.

(c) ***Confer with Other Public Entities:*** Applicant shall work in concert with the Town and confer with public entities and other similar interests on the uses of the Subject Lands.

(d) ***Fire Station:*** The PA Agreement shall address Applicant's provision of lands for civic uses, including, without limitation, the location of a possible new fire station on the Subject Lands.

(e) ***Sewer Treatment Planning:*** The PA Agreement shall address the terms and conditions pursuant to which Applicant shall pay for engineering costs to be incurred by the Town in 2015 related to the expansion of the existing sewer treatment plant, if the Colorado Department of Public Health and Environment, Water Quality Control Division (WQCD) requires the Town to begin such engineering.

(f) **Miscellaneous:** The PA Agreement shall include such others requirements, terms and conditions as required by the Town Council, and as are customarily included in agreements of this nature.

(iii) Applicant's Petition shall include and incorporate the following:

(a) **Land Uses Consistent:** All land uses included in the lands proposed to be annexed shall be consistent with the Town's development pattern, taking into consideration of the Town's building and development environments.

(b) **Grid:** The layout of the lands proposed to be annexed shall follow Crested Butte's existing "grid pattern" to the extent practical.

(c) **Water:** The development of the lands proposed to be annexed shall include water rights and/or water related infrastructure and associated facilities.

(d) **Commercial Uses:** All commercial uses shall be located to the south of the alley between "Road A" and Road B.

(e) **Civic Uses:** Civic uses shall be included with the development of the Subject Lands, including, where applicable and without limitation, the location of a possible new fire station; provided that, if the Town Council determines that the fire station will not be located on the Subject Lands, comparable lands shall be reserved in lieu thereof for other civic uses.

(f) **Fire Station Location:** The proposed location for a new fire station, if any, shall be west of Seventh Street and south of the alley between Road B and Road A; provided that, if the Crested Butte Fire Protection District (CBFPD) and the Town Council agree, the new fire station may instead be located north of the alley between Road B and Road A adjacent to Gothic Road or on lands other than the Subject Lands.

(g) **Affordable Housing:** Applicant shall work in concert with Town staff to investigate and present to the Town Council affordable housing options and recommendations, Applicant acknowledges that the Town Council views affordable housing as a critical component of the development of the Subject Lands.

(h) **Trail Corridors:** To the extent achievable with third parties, all trails shall connect to existing trail corridors, including, without limitation, the recreation pathway. Trails shall be dog friendly.

(i) **Gothic Road Infrastructure:** Infrastructure such as, for example, sidewalks, street lights, drainage improvements, pavement, etc. shall be extended along the "Gothic Road corridor."

(j) **No Stop-Light:** Applicant shall not propose, and the Town does not want, a stop-light as part of the development of the Subject Lands.

(k) **Miscellaneous:** The Petition shall take into consideration and include, as and when applicable and appropriate, such other items as are required under the Code, including, without limitation, Chapters 15-17 thereof.

(C) Notwithstanding anything contained herein, the Town Council reserves the right to amend the requirements and conditions set forth above as and when the public interest so requires.

(D) Nothing contained herein is intended to, nor shall, amend, limit or abridge any requirement or condition of the Code or the Crested Butte Land Use Plan.

2. **Effect of Concept Annexation Request Approval; No Vested Right.**

(A) Approval of the Concept Application along with compliance with the requirements and conditions contained in these resolutions shall constitute authorization for Applicant to prepare and submit a formal annexation petition pursuant to Section 15-1-60 of the Code.

(B) No vested right or other entitlement of any kind is granted or conveyed by the adoption of these resolutions. Approval of the Concept Application merely allows Applicant to submit a formal annexation petition subject to Applicant’s compliance with the requirements and conditions contained herein.

3. **Term.** The Concept Application approval granted herein, and the validity of these resolutions shall be effective and continue for 12 months from the date of adoption hereof; provide that, upon application by Applicant showing good cause, the Town Council may grant an extension of time thereto by further resolutions.

4. **Amendments.** These resolutions may be amended only upon the Town Council’s adoption of further resolutions amending the same.

5. **Assignment, Transfer of Concept Application.** The Concept Application, these resolutions and the rights granted hereunder may be assigned or transferred only upon written consent of the Town Council, which such consent shall not be unreasonably withheld, conditioned or delayed. Any transfer or assignment without such written consent shall be void *ab initio*.

6. **Cost and Expense Reimbursement.** As an additional condition to the approvals set forth in these resolutions, Applicant shall reimburse the Town for any and all costs and expenses in accordance with that certain Reimbursement Agreement between Applicant and the Town dated November 4, 2014, failing which, these resolutions and the Concept Application approved hereby shall be deemed void *ab initio*.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE THIS 20TH DAY OF JANUARY 2015.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Aaron J. Huckstep, Mayor

ATTEST


Lynelle Stanford, Town Clerk

(SEAL)



EXHIBIT "A"
(Subject Lands)

[attach legal description here]

EXHIBIT “B”
(Final Concept Maps)

[attach both maps here]