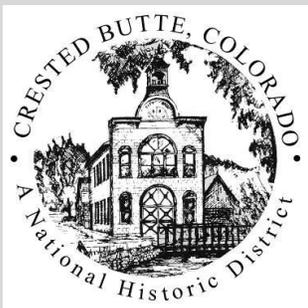


AGENDA
Town of Crested Butte
Regular Town Council Meeting
Tuesday, January 22, 2019
Council Chambers, Crested Butte Town Hall



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

Town Council Values

- *Support Crested Butte's quality of life*
- *Promote resource efficiency and environmental stewardship*
- *Encourage a sustainable and healthy business climate*
- *Maintain an authentic and unique community*
- *Remain fiscally responsible*
- *Continue thoughtful management of our historic character*
- *Seek collaborative solutions to regional and local issues*

The times are approximate. The meeting may move faster or slower than expected.

6:00 WORK SESSION

1) 2019 Department Project Updates from Community Development and Public Works.

6:30 2) Affordable Housing Update.

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

7:02 APPROVAL OF AGENDA

7:04 CONSENT AGENDA

1) January 7, 2019 Regular Town Council Meeting Minutes.

2) Alley Loop Nordic Marathon and Pub Ski Special Event Application and Special Event Liquor Permit for the Pub Ski on February 1 and the Alley Loop on February 2 Closing the 0, 100, and 200 Blocks of Elk Avenue; 1st Street from Whiterock to Maroon; 3rd Street from Whiterock to Elk; Elk/Maroon Alley Between 1st Street and 2nd Street; Teocalli/Butte Alley Between 2nd Street and 3rd Street; Sopris/Whiterock Alley Between 1st Street and 3rd Street; Gothic/Teocalli Alley Between 2nd Street and 3rd Street

3) Big Mine Ice Arena Services Agreement between the Town of Crested Butte and Crested Butte Nordic.

The listing under Consent Agenda is a group of items to be acted on with a single motion. The Consent Agenda is designed to expedite Council business. The Mayor will ask if any citizen or council member wishes to have any specific item discussed. You may request that an item be removed from Consent Agenda at that time, prior to the Council's vote. Items removed from the Consent Agenda will be considered under New Business.

7:06 PROCLAMATION IN HONOR OF LES CHOY

7:12 PUBLIC COMMENT

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

7:30 PUBLIC HEARING

1) Ordinance No. 26, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Articles 1, 2 and 14 of Chapter 16 and Article 15 of Chapter 18 of the Town Code to Add New Criteria for Exclusion of Certain Structures from the Definition of an Historic Building, and to Provide for the Partial Demolition of an Historic Structure Subject to an Approved Rehabilitation and Development Plan.

7:35 2) Ratification of Ordinance No. 1, Series 2019 (Emergency Ordinance) - An Ordinance of the Crested Butte Town Council Declaring a Temporary Moratorium On Demolition and the Processing and Approval of Applications for Demolition of Permanent Structures Within the Town of Crested Butte Pending Amendment of the Municipal Code of the Town of Crested Butte.

7:55 OLD BUSINESS

1) Discussion on The Corner at Brush Creek Housing Project.

8:05 NEW BUSINESS

1) Mountain Express Annual Report by Chris Larsen.

8:15 2) Memorandum of Understanding Between the Town of Crested Butte and the Crested Butte Fire Protection District and Crested Butte Search and Rescue Regarding Transfer and Use of Town Parcel 1, Slate River Annexation.

8:25 3) Contract with Bywater LLC to Buy, Sell, and Develop Deed Restricted Housing in the Town of Crested Butte's Paradise Park Subdivision.

8:35 4) Ordinance No. 2, Series 2019 - An Ordinance of the Crested Butte Town Council Approving the Lease of the Property at 705 & 715 Seventh Street to Stepping Stones Children's Center.

8:40 5) Ordinance No. 3, Series 2019 - An Ordinance of the Crested Butte Town Council Amending the Town Code to Amend Crested Butte Municipal Code Section 18-2-30 (6) Concerning Fire Suppression Requirements for Townhomes Under the International Residential Code.

8:50 6) Discussion on Strategies for Efficient Meetings.

9:10 LEGAL MATTERS

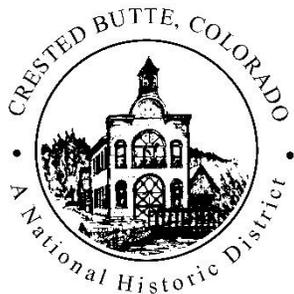
9:15 COUNCIL REPORTS AND COMMITTEE UPDATES

9:25 OTHER BUSINESS TO COME BEFORE THE COUNCIL

9:35 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, February 4, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, February 19, 2019 - 5:00PM Regular Council
- Monday, March 4, 2019 - 6:00PM Work Session - 7:00PM Regular Council

9:40 ADJOURNMENT



To: Mayor Schmidt and Town Council

From: Michael Yerman, Community Development Director

Thru: Dara MacDonald, Town Manager

Subject: **Affordable Housing Update and Use of ADU Settlement Funds**

Date: January 22, 2019

Update:

The Town Staff has been busy working on several different Affordable Housing Projects for 2019-2020. These include the 6 units currently under construction as well as preparing to break ground on an additional 27 units this summer. There are also 3 additional lots that will be part of the lottery this year. These will also break ground and require staff time in 2019-2020. The GVRHA received 26 applications for the first lottery in 2019.

The Town received a payment of \$550,000 for the ADU lawsuit this year. These funds have not been earmarked for any project at this time. The Council has asked for potential ideas on how these funds could be spent. The following is a list of potential ideas on how these funds could be used:

1. Purchase condo currently on the market
2. InDeed program or purchase of deed restrictions
3. Purchase additional unit in the Bywater build
4. Purchase land to bank for future projects
5. Dump clean-up on Annexation parcel
6. Down payment assistance
7. Buy down of purchase prices in Bywater build
8. Save funds to seed next affordable housing build in 2022

The Town staff will present pros and cons for each of these ideas at the work session for the Council to consider. The staff understands the council's desire to ensure the 2 units that were lost are replaced. The Town staff would also remind the Council of the long-range goals for affordable housing that were established last year. These include:

- ▶ To ensure our community's residents are successful in attaining long-term safe and energy efficient housing
- ▶ Residents residing in deed restricted housing are active year round members of our community and 75% of the Town's residential units are occupied

- ▶ Build an additional 93 units of housing in the next 5-7 years or 30% of our Town's housing stock to have deed restrictions for locals (18 Built from 2016-2018)
- ▶ Look for partnerships to build rental projects
- ▶ Town Build a total of 15 units for Town Employees (currently 8)
- ▶ Work on regional collaboration for future housing projects

The Council will be challenged to balance the long-range goals of our affordable housing with the desire to have an immediate impact with the use of the ADU lawsuit funds. Finally, the Town staff would remind the Council that affordable housing projects take a minimum of 3 years to plan, approve, and build. So immediate use of the funds may result in a one or two new units, whereas proactive planning could result in another large project that could add numerous units to our over inventory.

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, January 7, 2019
Council Chambers, Crested Butte Town Hall

Mayor Schmidt called the meeting to order at 7:00PM.

Council Members Present: Will Dujardin, Chris Haver, Kent Cowherd, Jackson Petito, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald and Town Attorney Barbara Green

Town Clerk Lynelle Stanford, Public Works Director Shea Earley, Community Development Director Michael Yerman, Town Planner Bob Nevins, and Parks and Recreation Director Janna Hansen (for part of the meeting)

APPROVAL OF AGENDA

Schmidt stated that item #2 from New Business would be removed from the agenda, and MacDonald confirmed #3 was to be removed from the Consent Agenda.

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

EXECUTIVE SESSION

Schmidt read the reason for Executive Session: For a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b).

Merck moved and Mitchell seconded a motion to go into Executive Session. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 7:03PM. The Council returned to open meeting at 7:30PM. Mayor Schmidt made the required announcement upon returning to open meeting.

CONSENT AGENDA

1) December 17, 2018 Regular Town Council Meeting Minutes.

2) Resolution No. 1, Series 2019 - A Resolution of the Crested Butte Town Council Designating the Town of Crested Butte's Three Official Public Places for Posting Town Council Meetings and Other Important Items.

3) Big Mine Ice Arena Services Agreement between the Town of Crested Butte and Crested Butte Nordic.

4) Authorization of the Town Council to Provide a Letter of Support for the Gunnison County Sustainable Tourism and Outdoor Recreation Committee GOCO Stewardship Impact Grant and Appropriating a \$5,000 Match From the Town's Conservation Trust Fund in 2019.

Schmidt mentioned that #3 had already been removed from the Consent Agenda.

Haver moved and Mitchell seconded a motion to approve the Consent Agenda with the removal of item #3. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENT

None

STAFF UPDATES

- MacDonald informed the Council that Dan Greene would be moving to a rehab facility tomorrow.
- Earley updated on the water main break that occurred at 7th and Elk. They were hoping to be done with the repair tomorrow.
- MacDonald asked for clarity on direction for Staff looking at ways to shorten meetings.
- Ride the Rockies requested parking for a week's duration. They were seeking 500 additional parking spaces. The Council would discuss under Other Business.
- MacDonald mentioned that the legislative update webinar had been postponed to a later date.
- MacDonald updated on the school district's plans.
- Stanford reminded the next meeting would be on a Tuesday.

PUBLIC HEARING

1) WTP Improvements Project: Environmental Assessment Public Hearing.

Earley reported that the Town would be applying for a loan from the State Revolving Fund (SRF) for the water treatment plant upgrades. Per requirements of the SRF, an environmental assessment was done. Letters were sent to various agencies for their review. Earley anticipated a finding of no significant impact.

Schmidt confirmed proper public notice was given. There were no questions on the environmental assessment. Earley updated on funding for the project and the timeline. There were no comments from the public, and the public hearing was closed.

2) Ordinance No. 30, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Chapter 16, Articles 1, 5 and 8 of the Crested Butte Municipal Code to Include Definitions and Requirements for Formula Businesses in the “T” Tourist and “C” Commercial Zone Districts.

Schmidt read the title of the ordinance, and he confirmed proper public notice had been given. Nevins presented on the purpose of the ordinance. He reviewed what was accomplished by the ordinance. Nevins outlined the definition of formula business and what would be allowed in specific zone districts. He explained what had been done to reach out to the public. Merck questioned what would occur with a change in ownership to an existing business. Nevins then reported on exempted businesses. No one from the public chose to comment. The public hearing was closed. Cowherd related the ordinance to the values identified by the Council.

Haver moved and Petito seconded a motion to approve the second reading of Ordinance No. 30, Series 2018. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

3) Ordinance No. 31, Series 2018 - An Ordinance of the Crested Butte Town Council to Approve Stipulation Regarding Ownership and Easements for the Heights Open Space Property and for Dismissal of Action in Civil Action No. 2018-CV-30008, Gunnison County District Court.

MacDonald explained that this ordinance was the outcome of mediation, and it represented the proposed settlement. Schmidt confirmed proper public notice had been given. Cowherd questioned payment from the Town for the parcels. No one from the public commented, and the public hearing was closed.

Merck moved and Dujardin seconded a motion to approve Ordinance No. 31, Series 2018. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

4) Ordinance No. 32, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 16, Block 79, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to the Gunnison Watershed School District RE1J for the Sale Price of \$590,000.00.

Schmidt read the title of the ordinance, and he confirmed proper public notice had been given. Yerman explained the ordinance was for the sale of a duplex to the school district. The public hearing was opened. Schmidt asked for public comment. No one at the meeting chose to comment. The public hearing was closed.

Haver moved and Petito seconded a motion to approve Ordinance No. 32, Series 2018 to sell a duplex located on Lot 16, Block 79 to the Gunnison Watershed School District RE1J for the amount of \$590,000. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

OLD BUSINESS

1) Discussion on The Corner at Brush Creek Housing Project.

Schmidt reported on the outcome of the work session with Mt. Crested Butte. The two Councils settled on three items to require of the developer: 1) five acres would be set aside; 2) there would be two parking spaces per unit; and 3) there would be 156 units on the remaining land.

David Leinsdorf - 3 Treasury Hill Road

- The discussion and consensus were similar to what they were 3 ½ months ago.
- The devil was in the details.
- He urged the Council to be involved in the drafting of the joint letter.

NEW BUSINESS

1) Fat Bike World Championships Special Event Application with a Contingency Plan to Use the Gravel Pit Area on Saturday, January 26, 2019 Including a Special Event Liquor Permit and Road Closures for a Winter Townie Crit on Sunday, January 27, 2019 Closing the 200 and 300 Blocks of Elk Avenue from 8AM to 1:30PM and Closing 2nd Street Between Elk Avenue and Butte Avenue, Closing Butte Avenue Between 2nd and 5th Streets, Closing 4th Street Between Elk and Butte Avenues (Local Access Maintained) from 10:30AM to 1:30PM.

Ashley UpChurch, Chamber Director, was present at the meeting. She introduced Kat Cooke and Laura Puckett-Daniels. UpChurch reviewed the contingency plan that would take place in Town. She described the townie crit. She stated that the crit would be open to riders of any type of bike, and they were not trying to create the winter Chainless. UpChurch reported that course marshals would be stationed at every intersection.

Haver moved and Merck seconded a motion to approve the Fat Bike World Championships special event application and special event liquor permit. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

2) Discussion on Closing a Portion of Elk Avenue for the Crested Butte Wine and Food Festival Proposed by The Center for the Arts.

Discussion removed from the agenda.

3) Discussion on The ARTumn Festival for 2019.

Stanford reviewed background on the event, including that there had been issues experienced by the public, to which event organizer, Stephen Wallis, had responded. Haver explained the reasoning behind the discussion on the event. Wallis described the event. Mitchell questioned the remittance of sales tax. Cowherd did not think the event had a large impact on Town, and he did not think it was something Town needed to

prohibit. Merck agreed. The Council directed Staff to continue with processing the special event application.

4) Discussion on Council Code of Conduct.

Green recognized the existing Code of Conduct (Code) prohibited Council members from participating in a decision in which there was a conflict of interest. The Council members had to decide for themselves on the discussion for tonight. Petito recused himself and left the room. Cowherd thought he could go in front of BOZAR and remain on the Council. He then recused himself and left the room. Green reviewed the section of the Town Code that prompted the discussion. Schmidt outlined the reasons that he brought forth the agenda item. He felt good about leaving the Code the way it was. Green brought the Council's attention to the intent. The Code was not a guideline; it was mandatory. She reviewed consequences, remedies, and sanctions that could occur as a result of breaking the Code. She summarized that the Code was written such that a Council member chose the Town ahead of private business dealings. Haver wondered what the options were. Green said a Council member could appoint someone to come in to present on his or her behalf. The Council decided to keep the Code of Conduct as written, and there was no action taken.

Petito and Cowherd returned to the meeting. Schmidt updated them on the outcome of the discussion.

5) Ordinance No. 1, Series 2019 (Emergency Ordinance) - An Ordinance of the Crested Butte Town Council Declaring a Temporary Moratorium On Demolition and the Processing and Approval of Applications for Demolition of Permanent Structures Within the Town of Crested Butte Pending Amendment of the Municipal Code of the Town of Crested Butte.

Yerman reviewed background on the agenda item, including background on Ordinance No. 26, Series 2018. Staff and BOZAR needed more time, so they were asking for a moratorium on the demolition of structures. Green explained the process for an emergency ordinance. Schmidt affirmed the vote needed to be 5-2 tonight to pass the ordinance, as well as when the ordinance would be ratified.

Greg Faust spoke, and Jimmy Faust was present.

- Cited a project at 729 Whiterock that could be affected by the moratorium.
- G. Faust explained their intent and provided pictures of the property.

There was discussion on the timing of the moratorium and how it would affect the Fausts. Yerman reported on feedback heard from the public.

Mitchell moved and Dujardin seconded a motion to approve Ordinance No. 1, Series 2019 acknowledging on January 22nd we won't take public comment on Ordinance No. 26 because we are withdrawing it. A roll call vote was taken with all voting, "Yes."
Motion passed unanimously.

LEGAL MATTERS

None

COUNCIL REPORTS AND COMMITTEE UPDATES

Paul Merck

- He would attend a STOR meeting on Thursday.
- The Center was on schedule. Schmidt asked about an endowment.
- Merck's wife and Roland Mason were being sworn-in tomorrow.

Laura Mitchell

- Attended a Mountain Express meeting. They ratified the budget.
- Mountain Express moved 10,200 people on Christmas Eve.

Jackson Petito

- There was a Housing Foundation meeting last month. They talked about down payment assistance programs. They would visit properties that abut the Brush Creek property. There would be a retreat on February 27th.

Chris Haver

- Attended Chamber meeting. Crafted would be held at The Lodge at Mountaineer Square.

Kent Cowherd

- He had a RTA meeting coming up.
- The Creative District would have an all-day retreat this week.

Will Dujardin

- Attended Community Builders Task Force meeting. He thanked Haver for accepting the position of co-chair.
- They were looking for a board member for the GVH Board.

Jim Schmidt

- He would have a housing meeting this week. He attended mayor/managers and a meeting with CBMR. He would attend CAST next week.
- There was an airplane that made an emergency landing in Gunnison.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Realtors had approached Merck after the ADU decision, and there were buildings for sale. MacDonald said the next work session was planned to discuss options. Dujardin brought up a deed restriction program that he had previously mentioned.

Schmidt referred to a letter he sent to the Post Office. He received an email back from the Postmaster, and they were working to set up a date to meet. Merck talked with the

previous Postmaster who cited difficulty with staffing. Petito commended the employees for working with what they had.

Next, the Council discussed parking for Ride the Rockies. MacDonald estimated they could get 300 vehicles parked head-in at the gravel pit. She understood that Ride the Rockies engaged in a conversation with Bill Lacy. Haver thought they could explore parking at the gravel pit, and the Council agreed with Haver.

Schmidt referenced a memo from MacDonald. She had the opportunity to go on a three-week tour of the Grand Canyon. Dujardin and Mitchell thought it was fine. Cowherd wanted to think about it. No one else voiced objection to discussing. Schmidt recognized it as an opportunity. Green said it was the Council's decision that did not require public comment. The majority of the Council consented to MacDonald's absence.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- *Tuesday*, January 22, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, February 4, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, February 19, 2019 - 6:00PM Work Session - 7:00PM Regular Council

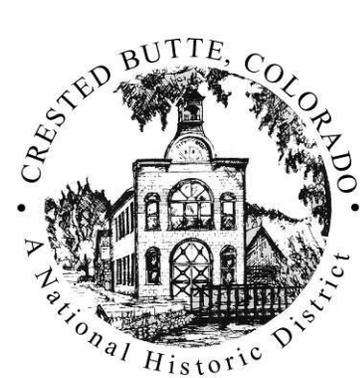
Schmidt wondered when the annexation would come forward to the Council. MacDonald would follow-up.

ADJOURNMENT

Mayor Schmidt adjourned the meeting at 9:27PM.

James A. Schmidt, Mayor

Lynelle Stanford, Town Clerk (SEAL)



Staff Report

January 22, 2019

To: Mayor and Town Council

Thru: Dara MacDonald, Town Manager

From: Lynelle Stanford, Town Clerk

Subject: Alley Loop Nordic Marathon and Pub Ski Special Event Application and Special Event Liquor Permit

Date: January 9, 2019

Summary:

Andrew Arell submitted the Alley Loop Nordic Marathon special event application and special event liquor permit on behalf of the Crested Butte Nordic Council. A pub ski has been proposed on Elk Avenue between 1st and 3rd Streets, in which participants Nordic ski to travel between establishments. The pub ski is scheduled for Friday, February 1, 2019 from 5PM to 7:30PM.

The Alley Loop Nordic marathon would take place on Saturday, February 2, 2019, with Elk Avenue closed for the event until 4PM, when clean-up would commence. Elk Avenue would be affected from the 0 Block to 3rd Street. A diagram depicting the route in its entirety is included in the packet. The special event liquor permit would be applicable for Saturday, February 2 for a beer garden located at 2nd Street and Elk Avenue, near the finish line. Volunteers would enforce the liquor boundary.

Recommendation:

To approve the Alley Loop Nordic Marathon and Pub Ski special event application and special event liquor permit as part of the Consent Agenda.



TOWN OF CRESTED BUTTE SPECIAL EVENT APPLICATION

1. EVENT INFORMATION:

Name of Event: Alley Loop Nordic Marathon & Pub Ski
 Date(s) of Event: 2/1/19 & 2/2/19
 Location(s) of Event: Elk Avenue & Surrounding Residential Streets and Alley's

- Map Attached Showing Location of Event *Attach map showing location of event*
- Diagram Attached Detailing Event *Attach 8 1/2" X 11" diagram detailing the event showing tents, vendors, security, toilets, tables, signage, fencing, booths, ingress and egress, stage, etc.:*
- Event Schedule and Description of Event Attached

Name of Organization Holding the Event ("Permittee"): Crested Butte Nordic Council
Note: The permittee of an event must be the same "Entity Name" as the named insured on the insurance certificate and the Secretary of State Certificate of Good Standing.

Event Time(s) (start time of scheduled event to end time of scheduled event each day):

Date	<u>2/1/19 - Pub Ski</u>	Time: From	<u>5 PM</u>	To	<u>7:30 PM</u>
Date		Time: From		To	
Date	<u>2/2/19 - Ski Races</u>	Time: From	<u>9 AM</u>	To	<u>3 PM</u>
Date		Time: From		To	

Total Time (including setup, scheduled event, breakdown, and clean up):

Date	<u>2/1/19 - Grooming</u>	Time: From	<u>2 AM</u>	To	<u>7 AM</u>
Date	<u>2/2/19 - Grooming</u>	Time: From	<u>2 AM</u>	To	<u>7 AM</u>
Date	<u>2/2/19 - Finish Expo</u>	Time: From	<u>7 AM</u>	To	<u>4 PM</u>
Date		Time: From		To	

Expected Numbers: Participants: 900 Spectators: 100

Name of Event Organizer: Andrew Arell

Phone: 970.349.1707 X 4 Cell Phone: 720.404.2311

E-Mail: events@cbnordic.org Fax Number: —

Name of Assistant or Co-Organizer (if applicable): NIA

Phone: _____ Cell Phone: _____ E-Mail: _____

Mailing Address of Organization Holding the Event: _____

Email Address of Organization: _____ Phone Number: _____

2. INSURANCE, LIQUOR PERMITS, SECURITY PLANS:

(a) Do You Intend to Sell or Serve Alcohol? Yes No

If Yes, a Special Event Liquor License is Required. You must submit a separate application for a Special Event Liquor License to the Town Clerk at least 30 days prior to the event to ensure adequate time to comply with state regulations.

Special Event Liquor Permit Application is Attached with Appropriate Fees and Diagram

Describe Plan for Security and Include with Diagram: (All major impact events, as well as events that receive a Special Event Liquor License, are required to have a security plan):

CBN Staff and specific volunteers will enforce liquor boundary.

(b) Proof of General Commercial Liability Insurance naming the Town of Crested Butte as Additional Insured, with coverage of no less than \$1,000,000 is required for all special events. If your event is in the Big Mine Ice Arena with over 299 people, you will also need to add the Crested Butte Fire Protection District as Additional Insured. Events selling alcohol also require Liquor Liability Insurance on the Insurance Certificate. (Note: Your application cannot be approved until we receive proof of insurance) **Contact the Clerk's Office if you would like to receive an insurance quote through the Town's Insurance Provider.**

Is Proof of Insurance Attached? Yes No

3. ROAD CLOSURES, PARKING/HANDICAPPED PARKING, BUS SERVICE:

Will Your Event Require Any Road Closures? Yes No ^{*} (See attached map and Road closure Notification)

If Yes, Explain in Detail Streets Closures and Times of Closures:

Streets: Elk Ave (Blk-0-3) Date 2/1/19 Time: From 2 AM To 11:59 PM

Streets: Elk Ave (Blk-0-3) Date 2/2/19 Time: From 12 AM To 4 PM

Streets: 1st Street (Whiterock to Maroon) Date 2/2/19 Time: From 12 AM To 4 PM

^{West Side} Streets: 3rd Street (Whiterock to Elk Ave) Date 2/2/19 Time: From 12 AM To 4 PM

Streets: _____ Date _____ Time: From _____ To _____

Streets: _____ Date _____ Time: From _____ To _____

Will Your Event Impact Mt. Express Bus Service and/or Routes? Yes No

If Yes, Explain Impact (include times): Elk Avenue reroute -
~~2/1/19~~ 2/1/19 2AM to 2/2/19 4pm

Will Your Event Affect Any Handicapped Parking Spaces? Yes No

If yes, you must work with the Marshal's Department to create temporary handicapped parking spaces for the duration of your event.

Describe Plan for Parking: 4-way Lot and public right-of-ways

Is Your Event Requesting Any Additional Services from the Town of Crested Butte (such as barricades, utility irrigation locates, traffic control, snow removal, electrical power, trash removal, additional police etc.)? Yes No

If Yes, explain request for services in detail (attach additional page if necessary):

Barricades and snow hauling

Does Your Event Include a Parade? Yes No

If yes, you must read and sign the following: I understand that if items are to be distributed during the parade (i.e. candy, beads, brochures, etc.), individuals will do so exclusively by foot from along-side the vehicles/floats to minimize the likelihood of spectators running up to the vehicles/floats. I understand and agree that items will not be thrown from any vehicle/float.

Signature of Event Coordinator

4. AMPLIFIED SOUND AND NOTIFICATION:

Will There Be Amplified Sound at This Event? Yes No

If Yes, Describe: PA System with live emcee & music

Note: If there will be amplified sound during your event, the rules and requirements of Crested Butte Municipal Code Section 10-9-50 must be followed. Residents and businesses within 250' of the proposed event must receive written notification (7) days prior to the start of the event.

Describe Plan for Notifying Businesses and Residents Impacted by Your Event: _____

See attached business notification letter

5. TRASH, RECYCLING, PORTABLE TOILETS AND RESTROOMS:

How much trash do you anticipate generating at the event? 3 trash cans

What recyclable products will be generated at the event? _____

Aluminum cans - OR - plastic cups

Describe your DETAILED plan for trash, recycling and clean up. (All events are required to have a plan for handling recycling and garbage during the event and the removal of recycling and garbage after the event.) Please note that any plan should emphasize increased recycling and decreased waste production. If you feel that your event will require assistance from Waste Management, please contact them directly at (970) 641-1986. Note: Any event application without a detailed recycling and refuse plan will not be accepted as a complete application:

Collected trash & recycling will be hauled to Crested Butte Nordic Center for disposal.

Describe Plan for Portable Toilets and or Restrooms. (Include number of portable toilets and plan to restore bathrooms to their original state following your event): (Required: 1 portable toilet to every 40 attendees)

4 Temporary porta-~~toilet~~ potty will be staged at Finish Expo (22^d & Elk)

6. SALES TAX:

Have you paid sales tax from your event last year? Yes No
If No, you must pay delinquent sales tax before your special event application will be considered.

Will You Be Selling Products (food, drink, or merchandise) At Your Event? Yes No
If yes, you must collect sales tax and attach a completed Town of Crested Butte Sales Tax License Application with a List of Vendors to the Clerk's Office.

- Town of Crested Butte Sales Tax Application is Attached.
- List of Vendors with your Crested Butte Sales Tax Application.

7. BANNER PERMITS:

Do you plan to apply for a banner permit to erect a banner at the Pitsker Outfield Fence? Yes No
If Yes, you must apply for a banner permit separately through the Front Desk at Town Hall.

Are you requesting Town Manager approval for a 1-day banner at the event location for the hours of the event? Yes No

Town Manager Approval: 

Please review your application and make sure all questions are answered. Read, sign, and date the following prior to submitting your application.

8. PLEASE REVIEW, SIGN, AND DATE:

In consideration for being permitted by the Town to engage in the permitted event, the Permittee, its heirs, successors, executors, assigns, transferees, employees, officers, directors, members, managers, representatives, contractors, subcontractors, agents, assigns, guests and invitees (collectively, the "Releasor/Indemnitor") hereby acknowledge and agree to the following: (i) Releasor/Indemnitor assume all risk of injury, loss or damage to Releasor/Indemnitor, any of them, arising out of or in any way related to the permitted event, whether or not caused by the act or omission, negligence or other fault of the Town, or by any other cause; (ii) Releasor/Indemnitor waive and release the Town from any and all claims, demands and actions for injury, loss or damage arising out of or in any way related to the permitted event, whether or not caused by the act or omission, negligence or other fault of the Town, or by any other cause; (iii) Releasor/Indemnitor agree to defend, indemnify and hold harmless the Town from and against any and all liability, claims, damages and demands, including any third party claim asserted against the Town, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, arising out of or in any way related to the permitted use, whether or not caused by the act or omission, negligence or other fault of the Town, or by any other cause. For purposes hereof, the term "Town" shall include, individually and collectively, its officers, employees, agents, insurers, insurance pools, contractors and subcontractors. By signing this Special Event Application, the Permittee acknowledges and agrees that this assumption of risk, waiver and indemnity extends to all acts, omissions, negligence or other fault of the Town and that said assumption of risk, waiver and indemnity is intended to be as broad and inclusive as is permitted by the laws of the State of Colorado. If any portion hereof is held invalid, it is further agreed that the balance shall, notwithstanding such invalidity, continue in full legal force and effect.

The undersigned Permittee certifies that all the statements and answers to the above questions are true without any reservations or evasions. The undersigned also understands that the Town of Crested Butte reserves the right to require payment for additional services for major impact events.

Andrew Arell /  / 12/12/18
 Print Name Clearly / Signature of Applicant (Permittee) / Date

SCHEDULE OF EVENTS

FRIDAY

February 1st, 2019

8:00 AM to Noon

SkiGo Wax Service Drop Off

[Crested Butte Nordic Center](#) - 620 2nd St

3:00 PM to 7:00 PM

Bib Pick-Up / Registration

[Queen of All Saints](#) - Sopris Ave & 2nd St.

5:00 PM to 7:30 PM

Alley Loop Pub Ski

[Talk of the Town](#) - 230 Elk Avenue

SATURDAY

February 2nd, 2019

7:00 AM to 10:00 AM

Bib Pick-Up / Late Registration

[Queen of All Saints](#) - Sopris Ave & 2nd St.

11:00 AM to Noon

1k & 3k Bib Pick-Up

[Crested Butte Nordic Center](#) - 620 2nd St

10:00 AM to 2:00 PM

Soup & Beer Tent

Finish Line Expo - 2nd & Elk Avenue

1:00 PM

42k Flower Ceremony

Finish Line Expo - 2nd & Elk Avenue

1:15 PM

1k & 3k Podium Ceremony

Finish Line Expo - 2nd & Elk Avenue

3:00 PM

Awards Banquet & Raffle

[Bonez](#) - 130 Elk Avenue

6:30 PM

Masters Awards & Wax Social

[Crested Butte Nordic - Cat Barn](#) - 620 2nd St

START TIMES

ALL RACES START
ELK AVENUE & 2ND STREET

9:00 AM – 42K CLASSIC
9:05 AM – 21K CLASSIC
9:20 AM – 42K SKATE
9:25 AM – 21K SKATE
9:35 AM – 10K FREESTYLE
9:40 AM – 5K FREESTYLE
12:15 PM – 3K & 1K FREESTYLE

42K CUT-OFF

The following cut-off times will be imposed on the final outbound lap of 42K races

42K CLASSIC : CUT-OFF 12:00 PM
42K SKATE : CUT-OFF 12:20 PM

GEAR STORAGE

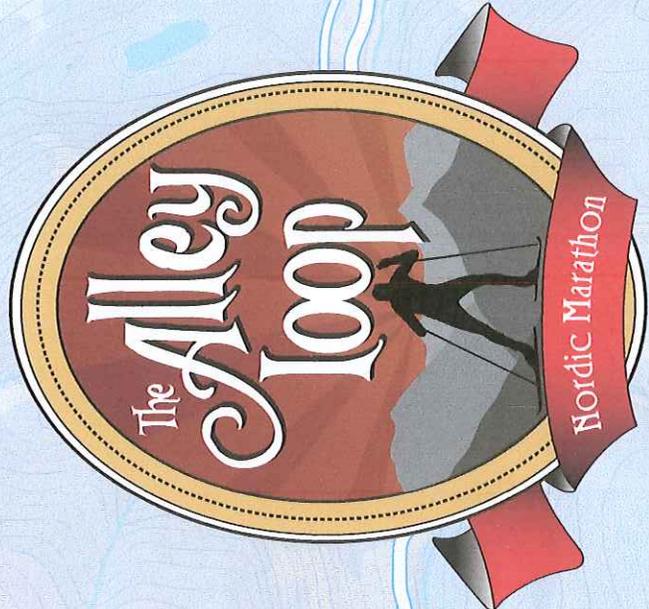
Secure gear storage is NOT available at the Start Line.
In general, gear is safe to be left unattended around the start/finish venue.
We suggest racers bring minimal personal items to the start area.



5k Course



MAP EVENT LOCATION



LEGEND
 5 Kilometer Course
 Lap 1 —
 Direction →
 Start / Finish ●
 Other Trails —



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Cartography by Singletrack Maps

135

Alley Loop 2/1-2

Parking Restrictions

-  No parking Thursday night (12:01am Friday) thru Saturday at 4pm
-  No parking Friday night (12:01am Saturday) thru Saturday at 4pm
-  No vehicular access for residents Saturday 12:01am to 4pm

LEGEND

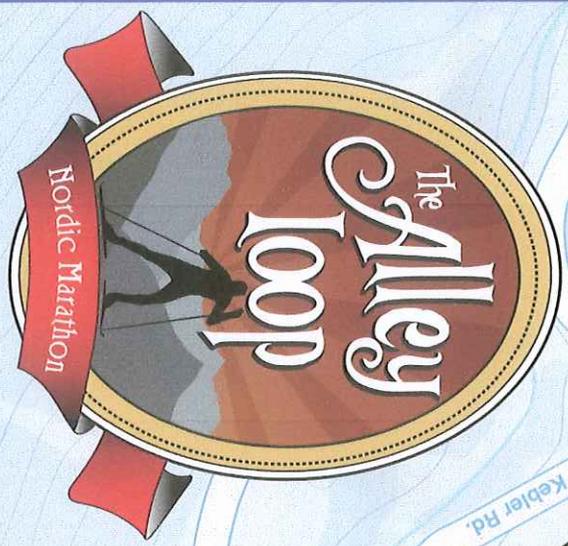
Course Crossing w/ Marshal 

Barrier, no crossing 

No parking Thur night - Sat 

No parking Fri night - Sat 

No vehicle access during closure 



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Cartography by Singletrack Maps

All information is approximate and subject to change at any time.



Alley Loop - Special Event Liquor Permit Area

2nd. St.

Vendor Expo & Beer Garden

Public Access Gate with Event Security

Wrist bands checked by Event Volunteers

Start Line with Inflatable Arch

Elk Ave

Nordic Ski Race Finish Line

 = Barricaided Fencing

 = 10 x 10 Tents

APPLICATION FOR A SPECIAL EVENTS PERMIT

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT
 AND ONE OF THE FOLLOWING (See back for details.)

- | | | |
|------------------------------------|--|--|
| <input type="checkbox"/> SOCIAL | <input checked="" type="checkbox"/> ATHLETIC | <input type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:

2110 MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY

2170 FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE
Crested Butte Nordic Council State Sales Tax Number (Required)
98-11986

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE
 (include street, city/town and ZIP)
*PO Box 1269
 Crested Butte, CO. 81224*

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT
 (include street, city/town and ZIP)
*2nd Street & Elk Ave
 Crested Butte, CO.*

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
------	---------------	---	--------------

4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE <i>Christie Hicks</i>	DATE OF BIRTH <i>2/6/79</i>	HOME ADDRESS (Street, City, State, ZIP) <i>156 Zeligman, Crested Butte, CO 81224</i>	PHONE NUMBER <i>970-901-2416</i>
--	--------------------------------	---	-------------------------------------

5. EVENT MANAGER <i>Andrew Arell</i>	DATE OF BIRTH <i>9/30/78</i>	HOME ADDRESS (Street, City, State, ZIP) <i>120 Deer creek Cir. MT Crested Butte 81225</i>	PHONE NUMBER <i>720-404-2311</i>
---	---------------------------------	--	-------------------------------------

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?
 NO YES HOW MANY DAYS? _____

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?
 NO YES TO WHOM? _____

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? Yes No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Date	Date	Date	Date
<i>2/2/19</i>				
Hours From <i>10</i> A.m. To <i>3</i> P.m.	Hours From .m. To .m.			

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE <i>CHICKS</i>	TITLE <i>Executive Director</i>	DATE <i>12/10/18</i>
----------------------------	------------------------------------	-------------------------

REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.
THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY)	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK
SIGNATURE	TITLE	DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION			
License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

CRESTED BUTTE NORDIC COUNCIL

is a

Nonprofit Corporation

formed or registered on 07/13/1987 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871733872 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 12/07/2018 that have been posted, and by documents delivered to this office electronically through 12/10/2018 @ 10:02:56 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 12/10/2018 @ 10:02:56 in accordance with applicable law. This certificate is assigned Confirmation Number 11268057 .



Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12-11-18

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Frazier Insurance Agency Inc Box 1250, Midlothian VA 23113 Processing Office: Lawson Insurance LLC 1643 24th St West #110, Billings Mt 59102	CONTACT NAME: Jack Lawson PHONE (A/C No, Ext): (406) 652-4440 FAX (A/C No): E-MAIL ADDRESS: jack@lawsonifs.net
INSURER(S) AFFORDING COVERAGE	
INSURER A: Aegis Security Insurance Company	
INSURER B: Aegis Security Insurance Company	
INSURER C: Aegis Security Insurance Company	
INSURER D:	
INSURER E:	
INSURER F:	
NAIC # . 217	

INSURED Sports & Recreation Providers Association (Purchasing Group) & It's Participating Members - Member - National Ski School Program Inc-NORDIC & It's Participating Members.
 1302 24th St West #169, Billings MT 59102
MEMBER - Crested Butte Nordic Council

INBR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> INCLUDES ATHLETIC PARTICIPANTS <input checked="" type="checkbox"/> INCLUDES SEXUAL ABUSE & MOLESTATION (\$100,000/\$100,000) GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO: <input type="checkbox"/> LOG	x	FGLSP-100-18 Cert# FMT-S-0005	11/01/18	11/01/19	EACH OCCURRENCE \$ 1,000,000. DAMAGE TO RENTED PREMISES (Per occurrence) \$ 300,000. MED EXP (Any one person) \$ 5,000. PERSONAL & ADV INJURY \$ 1,000,000. GENERAL AGGREGATE \$ 5,000,000. PRODUCTS - COMP/OP AGG \$ 5,000,000.
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	Liquor Legal Liability - including Yurt Dinners, Alley Loop, Gothic Mtn Tour, Winter North Face Grand Traverse, Summer North Face Grand Traverse Races.		FCLSP-10	02/03/18	02/03/19	EACH OCCURRENCE \$ 1,000,000. AGGREGATE \$ 2,000,000.
B	Excess Accident Medical Protection Deductible - \$200 52 week Benefit Period from date of incident Claim Reporting deadline - 90 days from date of incident		FR0318	11/01/18	11/01/19	Maximum Medical Benefit per claim - \$ 25,000. AD&D Benefit per claim - \$ 2,500.
	NSSP NORDIC MEMBER - Crested Butte Nordic Council, Box 1269, Crested Butte CO 81224 including coverage for Off-Premises Nordic Ski Touring, Dryland Fitness Instruction, Bicycling on Trails, Roller Skiing Instruction, Sexual Abuse & Molestation.					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 104, Additional Remarks Schedule, if more space is required)
 Commercial General Liability (CGL) deductible - \$ 0.00 each Bodily Injury or Property Damage Claim.
 Participant Legal Liability Coverage for participants in SKI RACES/ INSTRUCTION/ COMPETITIONS requires that each participant (or Parent/Guardian) sign release/waiver form PRIOR to Competing, Practicing or Instruction.

CERTIFICATE HOLDER IS AN ADDITIONAL INSURED but only as respects the operations of the Named Insured NSSP-NORDIC PARTICIPATING MEMBER -Crested Butte Nordic Council

CERTIFICATE HOLDER Town of Crested Butte Box 39 Crested Butte CO 81224	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: <div style="text-align: right; font-family: cursive;">John W. Frazier</div>
--	--

RESIDENTIAL PARKING RESTRICTIONS on the following streets and alleys are detailed below. Please plan to park or move your vehicle from the following locations ahead of the dates/times listed below. We thank you for your cooperation in accommodating this uniquely Crested Butte event!

To be distributed in Newspaper & Website.

**THURSDAY Night – (12:01 AM, Friday, February 1st)
until SATURDAY, February 2nd at 4:00 PM**

Full closure: No driving, no parking

Elk Avenue: From the West End (Old Kebler) to 1st Street

Elk / Maroon Alley: between 1st Street and 2nd Street

Teocalli / Butte Alley: between 2nd Street and 3rd Street

Sopris / Whiterock Alley: between 1st Street and 3rd Street

No Parking, alternate routes encouraged on Saturday:

3rd Street: EAST side of Street from Totem Pole Park to Teocalli Ave

3rd Street: WEST side of Street from Teocalli Ave to Butte Ave

**FRIDAY Night – (12:01 AM, Saturday, February 2nd)
until SATURDAY, February 2nd at 4:00 PM**

Full Closure: No Parking, no driving:

1st Street: Either side of street from Whiterock Ave to Maroon Ave

3rd Street: WEST side of Street from Whiterock / Sopris Alley to Elk Ave

No Parking, alternate routes encouraged on Saturday:

2nd Street: EAST side right-of-way from Gothic / Teocalli Alley to Teocalli / Butte Alley

Gothic / Teocalli Alley: between 2nd Street and 3rd Street



RE: 32nd Annual - Alley Loop Nordic Marathon
Saturday, February 2nd, 2019

Dear Elk Avenue Business,

The Alley Loop would not be possible without the support of the Crested Butte community and we truly appreciate everyone's efforts in contributing to the most unusual and popular Nordic race in the country.

We realize the logistics of an Elk Avenue closure are complicated and want to make sure that any concerns or requests are addressed ahead of the event.

ELK AVENUE CLOSURE:

Midnight, THURSDAY (1/1) to 4 PM, SATURDAY (1/3) – see reverse map with detailed parking restrictions.

Event Schedule:

Friday, February 1st, 2019

- ❖ Alley Loop Pub Ski – Elk Ave Bar Venues, 5 PM – 7:30 PM

Saturday, February 2nd, 2019

- ❖ Nordic Races - 9 AM START to 2 PM FINISH
- ❖ Finish Line Expo & Beer Garden - Elk Ave / 2nd Street, 10 AM to 2 PM
- ❖ Awards Ceremony - ~~2~~³ PM at BONEZ

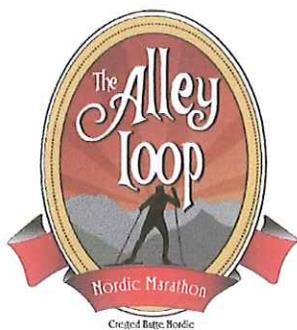
MORE INFO: www.cbnordic.org/alley-loop-nordic-marathon/

Please contact me directly to discuss concerns, or suggestions for making the event more successful for us all. Thank you for your support and patience, we hope your business benefits from this weekend of festivities!

Sincerely,

Andrew Arell
CB Nordic - Director of Events
events@cbnordic.org
Cell: 720.404.2311

ALLEY NOTICE



Dear Alley Resident,

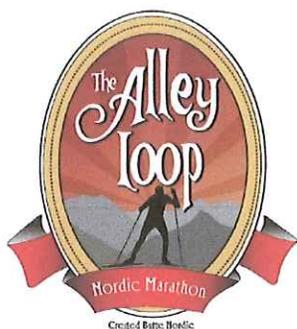
This alley is part of the **Alley Loop Nordic Marathon** race course on **Saturday, February 2nd, 2019.**

If you need to use your car, you may not park in the alley from Thursday Night (12:01am on Friday, February 1st) until SATURDAY, February 2nd at 4 p.m. The alley will be closed to all vehicular traffic and groomed for this exciting race.

We apologize for any inconvenience and thank you for your understanding and cooperation. If you wish to volunteer for the event, or have questions, please email events@cbnordic.org, or call 720.404.2311

Maps and schedule may be viewed at cbnordic.org/alley-loop-nordic-marathon

1st Street and Elk Ave



Dear Resident or Guest,

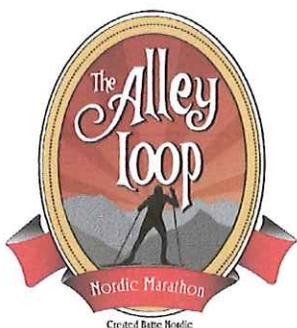
This street is part of the **Alley Loop Nordic Marathon** race course on **Saturday, February 2nd, 2019.**

No parking is permitted, on either side of the street from Thursday night (12:01am Friday, February 1st) until SATURDAY, February 2nd at 4 p.m. The street will be closed to all vehicular traffic and covered with snow for this exciting race.

We apologize for any inconvenience and thank you for your cooperation. If you wish to volunteer for the event, or have questions, please email events@cbnordic.org or call – 720.404.2311

Maps and schedule may be viewed at cbnordic.org/alley-loop-nordic-marathon

3rd Street North of Elk Ave



Dear Resident or Guest,

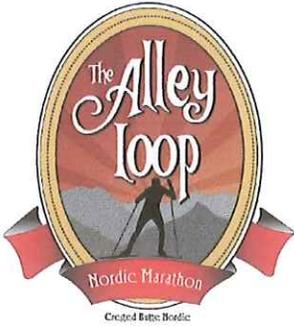
This street is part of the **Alley Loop Nordic Marathon** race course on **Saturday, February 2nd, 2019.**

You may not park on the east side of this street from Thursday night (12:01am Friday, February 1st) until Saturday, February 2nd at 4 p.m.

We apologize for the inconvenience and thank you for your understanding and cooperation. If you wish to volunteer for the event, or have questions, please email events@cbnordic.org or Call – 720.404.2311

Maps of the course may be viewed at cbnordic.org/alley-loop-nordic-marathon

Gothic / Teocalli ALLEY



Dear Alley Resident,

This alley is part of the **Alley Loop Nordic Marathon** race course on **Saturday, February 2nd, 2019.**

If you need to use your car, you may not park in the alley from **Friday Night, February 1st, (12:01am on Saturday) until Saturday, February 2nd at 4 p.m.** The alley will be closed to all vehicular traffic and groomed for this exciting race.

We apologize for any inconvenience and thank you for your understanding and cooperation. If you wish to volunteer for the event, or have questions, please email events@cbnordic.org, or call 720.404.2311

Maps of the course may be viewed at cbnordic.org/alley-loop-nordic-marathon

Beckwith Ave and Bear Alley

DEPARTMENT APPROVALS (For Official Use Only)

Note: Please clearly state in your comment area what requested services your department will/will not provide for the event.

Marshal's Department:

Signature: [Signature] Date: 12/19/18
Name (Printed): MICHAEL REEVE

Conditions/Restrictions/Comments:
RACE RADIOS OR PROGRAMMING TO COME ON RACE DAY

PARKS AND RECREATION:
~~Public Works:~~

Signature: [Signature] Date: 12/27/18
Name (Printed): Janna Hansen

Conditions/Restrictions/Comments:
OK

Public Works:
Parks and Recreation:

Signature: [Signature] Date: 1/3/2019
Name (Printed): SHEA D EARLEY

Conditions/Restrictions/Comments:
'EMERGENCY AND RESIDENTIAL ACCESS NEEDS TO BE MAINTAINED FROM MAROON TO WHITEROCK ON 1ST. ADDITIONAL COURSE MARSHALS MAY BE NECESSARY.

Town Clerk:

Signature: [Signature] Date: 1-7-2019
Printed Name (Printed): Lynell Stanford

Conditions/Restrictions/Comments:

Town Manager:

Signature: [Signature] Date: 1/14/19
Printed Name (Printed): JARA MACDONALD

Conditions/Restrictions/Comments:



Staff Report January 22, 2019

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Janna Hansen, Parks and Recreation Director
Subject: Big Mine Ice Arena Services Agreement between the Town of Crested Butte and Crested Butte Nordic

Background:

Since 1993 the Town of Crested Butte and Crested Butte Nordic (“CB Nordic”) have operated together in the Big Mine Warming House with various “handshake agreements” regarding management of services for the Ice Arena. These items are not outlined in the lease agreement and both CB Nordic and the Town felt that formalizing the arrangement was in the best interest of both parties.

Summary:

The agreement identifies the following services and responsibilities of the Town:

1. The Town will supply CB Nordic with ice skates and sharpening equipment for use as a rental fleet. CB Nordic shall keep all profits from skate rental fees.
2. The Town will provide staff and equipment to maintain the Ice Arena, and will set the hours of operation and schedule.
3. The Town will provide information about the Ice Arena online at www.crestedbuttere.com.
4. The Town will clear snow and ice from all entrances to the Ice Arena and adjacent sidewalks to both the Ice Arena and Warming House.

The agreement identifies the following services and responsibilities of CB Nordic:

1. CB Nordic will allow the general public and anyone using the park or Ice Arena to use its premises for a Warming House and restroom during the winter season.
2. CB Nordic shall keep viewing access from the East side ground floor of the Warming House to the Ice Arena unobstructed.
3. CB Nordic shall keep the changing rooms uncluttered and user friendly for hockey use.
4. CB Nordic shall provide front desk staff during all hours of operation of the Ice Arena.
5. CB Nordic shall provide staff and insurance for ice skate rentals and will collect a use fee for skaters using the Ice Arena. 95% of use fees collected will go to the Town, and CB Nordic shall keep 5% of the fees collected as an administrative fee.
6. CB Nordic will provide information about the Ice Arena online at www.cbnordic.org.
7. CB Nordic will keep all entrances to the Warming House clear of snow and ice.

Recommendation:

Town Staff recommends authorizing the Town Manager to sign the Services Agreement with CB Nordic for Big Mine Ice Arena.

BIG MINE ICE ARENA SERVICES AGREEMENT

THIS BIG MINE ICE ARENA SERVICES AGREEMENT (this “Agreement”) is made effective this ____ day of January, 2019 by and between the **TOWN OF CRESTED BUTTE, COLORADO**, a Colorado home rule municipality (the “Town”) with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, Colorado 81224 and **CRESTED BUTTE NORDIC**, a Colorado nonprofit corporation (“CB Nordic”) with an address of 620 2nd Street, P.O. Box 1269, Crested Butte, Colorado 81224.

RECITALS:

A. The Town and CB Nordic are parties to the Commercial Lease dated December 20, 2016, and amendments thereto (“Lease”) under which CB Nordic leases the premises located at 620 2nd Street, Crested Butte, Colorado 81224 (the “Premises”) for use as CB Nordic’s offices and other uses as specified in the Lease. The Premises are located adjacent to the Big Mine Ice Arena, and CB Nordic has been responsible for renting ice skates and providing a changing room and a warming house area to persons who use the Big Mine Ice Arena.

B. The Town and CB Nordic desire to memorialize the services and responsibilities each party will have with respect to the operations at the Big Mine Ice Arena in this Agreement.

AGREEMENT:

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

1. Town Services and Responsibilities. The Town agrees to be responsible for the following services in connection with the Big Mine Ice Arena:

- a) Ice Skates: The Town will supply CB Nordic a sufficient inventory of ice skates for persons to rent and use for skating activities at the Ice Arena. The Town will also provide CB Nordic with skate sharpening equipment and other equipment needed to maintain the inventory of ice skates. CB Nordic shall be responsible for maintaining all ice skates and associated equipment. The Town and CB Nordic will confer at least annually in April to ensure that there is an adequate inventory of skates available for rent and adequate equipment to maintain the skates. CB Nordic shall notify the Town throughout the season as needed if additional equipment is required.
- b) Ice Arena: The Town will provide staff for and maintain the ice surface and other facilities associated with the Ice Arena. The Town will also set the hours of operation and schedule for all Ice Arena activities. An Ice Arena schedule will be posted on the Town web site. For any special events to be held at the Ice Arena, the Town will provide advance notice in writing to CB Nordic of not less than seven (7) days.
- c) Information: The Town agrees to provide information regarding the hours of operation, skate rental charges, facility use fees, and other information relating to the Ice Arena on the Town’s web site at www.crestedbuttere.com

d) Snow Removal: The Town will be responsible for clearing snow and ice from all entrances to the Ice Arena as well as sidewalks adjacent to the Ice Arena and Warming House.

2. CB Nordic Services and Responsibilities. CB Nordic agrees to be responsible for the following services in connection with the Big Mine Ice Arena:

a) Warming House: CB Nordic will allow the general public and any persons using Big Mine Park and the Ice Arena to use its Premises for a warming house and allow such persons to use the changing rooms and rest rooms in its Premises during CB Nordic's winter operating season. CB Nordic shall keep the viewing access to the Ice Arena from the ground floor east facing Warming House windows clear and unobstructed. CB Nordic shall keep the changing rooms uncluttered and user friendly for hockey use. CB Nordic agrees to provide front desk staff during all hours of operation of the Ice Arena. Notwithstanding CB Nordic's obligation to allow the general public to use its Premises, CB Nordic shall have the right to refuse service or entry to any individual or individuals who, in CB Nordic's sole determination, threaten or impede CB Nordic's ability to provide a safe environment in which to conduct its business.

b) Ice Skates: CB Nordic agrees to provide staff and a rental counter for ice skate rentals in its Premises. CB Nordic shall provide insurance for ice skate rentals per section 10 below. CB Nordic shall collect all fees from customers for the rental of ice skates. CB Nordic shall be entitled to 100% of the proceeds from skate rentals to offset the cost of keeping the Warming House open for Ice Arena users. CB Nordic shall collect a facility use fee to be set annually by the Town assessed upon rental of skates for use at the Ice Arena. The Town shall be entitled to 95% of the facility use fee collected, with payments to be made to the Town on a monthly basis. CB Nordic shall keep 5% of the fees collected as an administrative fee.

c) Information: CB Nordic agrees to provide information regarding the hours of operation, skate rental charges, facility use fees, and other information relating to the Ice Arena on its website at www.cbnordic.org.

d) Snow Removal: CB Nordic will be responsible for keeping all entrances to the Warming House clear of snow and ice. CB Nordic will also be responsible for keeping the East Stairway clear of snow and ice for staff access and emergency egress.

3. Maintenance of the Leased Premises. The Town and CB Nordic will continue to perform their respective obligations to maintain and repair the Premises as set forth in Paragraph 2, Exhibit B and other provisions of the Lease. The Town and CB Nordic do not intend to amend the Lease by entering into this Agreement.

4. 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 (3) 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, CB Nordic shall promptly deliver to the Town all skates, equipment and other property provided by the Town to enable CB Nordic to perform its obligations under this Agreement. If this Agreement is terminated by CB Nordic, it will be paid for all services rendered up to the date of termination. If this Agreement is terminated by the Town, CB Nordic 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. Upon such payment, all obligations of the Town to CB Nordic under this Agreement shall cease.

5. Termination for Convenience. In addition to the right to terminate this Agreement for a breach, this Agreement may be terminated by the Town for its convenience and without cause of any nature by giving CB Nordic written notice at least seven (7) days in advance of the termination date. In the event of such termination, CB Nordic will be paid for all services rendered to the date of termination, and upon such payment, all obligations of the Town to CB Nordic under this Agreement shall cease. Furthermore, in the event of such termination, CB Nordic shall promptly deliver to the Town all skates, equipment and other property provided by the Town to enable CB Nordic to perform its obligations under this Agreement.

6. Laws to be Observed. CB Nordic 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.

7. TABOR; Colorado Constitution. 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.

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

9. Indemnification. CB Nordic 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, hold harmless, and defend the Town and its officers, agents and employees from any claim or action brought by reason thereof. As part of this obligation, CB Nordic 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. CB Nordic's 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.

10. Insurance.

A. CB Nordic agrees 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.

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 CB Nordic 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 CB Nordic, 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 CB Nordic, its 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.

E. Claims-Made Policies.

If coverage is to be provided on Claims Made forms, CB Nordic must refer policy to the Town Attorney's Office for approval and additional requirements. In the case of any claims-made insurance policies, CB Nordic 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. Changes.

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

G. Certificates.

Certificates showing that CB Nordic is 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. CB Nordic, or its 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. CB Nordic 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.

11. Prohibitions on Public Contracts for Services.

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

CB Nordic represents, warrants, and agrees (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 CB Nordic is 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 CB Nordic obtains actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, CB Nordic shall be required to:

- a) Notify the subcontractor and the Town within three (3) days that CB Nordic 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 CB Nordic 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.

CB Nordic further agrees 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 CB Nordic fails 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 CB Nordic shall be liable for actual and consequential damages to the Town.

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

13. No Assignment. Neither party shall assign, sublet, or transfer any interest in this Agreement without the written consent of the other.

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

15. 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.

16. No Third Party Beneficiaries. The parties intend no third party beneficiaries under this Agreement. Any person other than the Town or CB Nordic receiving services or benefits under this Agreement is an incidental beneficiary only.

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

18. Authority. Each party warrants that the individual executing this Agreement is properly authorized to bind such party to this Agreement.

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

CRESTED BUTTE NORDIC,
a Colorado nonprofit corporation

By: _____
Name: _____
Title: _____

TOWN OF CRESTED BUTTE,
a Colorado Home Rule Municipal Corporation

By: _____
Dara MacDonald, Town Manager

ATTEST:

_____ [SEAL]

Lynelle Stanford, Town Clerk



Memorandum

To: Town Council
From: Dara MacDonald, Town Manager
Subject: Manager's Report
Date: January 22, 2019

Town Manager

- 1) Met Rec Annual Report - Attached.
- 2) Mt Emmons update – Barbara had a positive meeting with the attorneys representing the Mt. Emmons Mining Company and Freeport exploring ideas about long-term solutions to eliminating the threat of mining on the site and facilitating clean-up activities. She will prepare a briefing memo of key issues.

Public Works

- 1) No update

Marshals

- 1) Our new officer, Cynthea Gunderson, has started the Police Training Officer program with our PTO trainer Sean Besecker. Our intensive PTO training program lasts about 3 months and is supplemental to the Academy training an officer receives. In addition to reiterating all of the lessons learned at the Academy, PTO trainees learn skills from 15 Core Competency areas with emphasis on Problem Based Learning for community-oriented policing and problem solving in Crested Butte.
- 2) The Marshal's Office was sworn in as Special Deputies with the new Gunnison County Sheriff, John Gallowich, on January 16th.

Parks & Rec

- 1) Ice Skating, Gymnastics, Basketball, and adult Dodge Ball have all started for the winter and have great participation numbers.
- 2) The 1st-3rd Grade boys and girls basketball players will play a game during half time at the Varsity boys game at CBCS around 8:00pm on Tuesday the 29th. Come on out and support both teams!

Community Development

- 1) Haney appeal – We have received notice of an appeal of a BOZAR decision on a proposed demolition. Such appeals are heard by the Town Council. The appeal has been scheduled for the February 19th Council meeting. **Staff recommends that the Council approve beginning the February 19th Council meeting at 5:00 p.m.**
- 2) Status of Slate River Annexation - Several final items for the Sketch Plan application for the annexation are being prepared. These items are anticipated to be completed in the next 2 weeks.

There is a 30 day agency review period prior to the first hearing held by BOZAR. The Council review process may begin as soon as March.

- 3) The annual BOZAR Year End Review and selection of the Project of the Year will occur on Wednesday, January 23rd at 6:00 p.m. in the Council Chambers. Council is welcome to attend.
- 4) Block 79 Duplex Build Update - High Mountain Concepts has reached the 50% completion point on the project. The project is tracking 2 months ahead of schedule. There has only been one change order which occurred at excavation of Lot 16 and was due to poor soil conditions prior to foundations being poured.
 - o The Lot 6 single-story duplex on Butte Avenue has finished drywall, floors, and 75% of the mechanical, electrical, and plumbing completed. Siding, roofing, are completed with minor punch list items remaining. Next major milestones including finished interior trim, kitchen cabinets, and final trades being completed. Staff anticipates this duplex will be 95% complete by the end of April with weather dependent items to be completed in June including final grade, landscaping, and exterior paint. New resident move in date anticipated July 31, 2019.
 - o Lot 14 single-story duplex on Teocalli Avenue is dried in including roofing. Installation, and 50% of the mechanical, electrical, and plumbing are completed. Drywall and siding slated are to begin this month. Staff anticipates this duplex will be 95% complete by the end of May with weather dependent items to be completed in June including final grade, landscaping, and exterior paint. New resident move in date anticipated July 31, 2019.
 - o Lot 16 two-story duplex on Teocalli Avenue is dried in including windows. 25% of the mechanical, electrical, and plumbing are complete. Installation and roofing are slated to begin this month. Staff anticipates this duplex will be 90% complete by the end of June with weather dependent items to be completed in June including final grade, landscaping, exterior paint and gas service line installation. School District move in date anticipated August 31, 2019.
- 5) The GVRHA received 13 applicants for the Lot lottery and 13 applicants for the duplex. A total of 26 applicants applied. Approximately 4-8 additional applicants delayed applications for the Block 76 lottery in June. The GVRHA has just begun reviewing qualifications. Additional updates will be provide as details become available.
- 6) There will be an open house for lottery applicants hosted by the GVRHA from 2-6pm at the Lot 16 Duplex on January 23rd. Any Council members interested in seeing the progress on the duplex units are encouraged to stop by. Please refrain from stopping in the other units as installation, dry wall, and painting will be occurring inside these units.

Town Clerk

- 1) Has been contacted by a Track and Field Coach from Western, who would like to organize a pole vaulting event that would close Elk this summer. He is coming back to Staff with proposed dates. It would be helpful to learn from the Council if opposed or amenable to another event closing Elk in the summer.

Finance

- 1) Through November, Town sales tax increased 5% and \$194,395 versus 2017.
- 2) This growth excludes the STR excise tax, which has totaled \$219,471. Ordinance No 35, Series 2017 allows for the excise tax to be no more than \$325,000 in 2018. Thus, we are in no jeopardy of surpassing this for the full year.
- 3) Category growth is as follows:
 - o Bars / Restaurants 6%
 - o Grocery 4%
 - o Retail 9%

- o Retail MMJ 7%
- o Lodging 3%
- o Construction / Hardware / Auto (1%)
- o Service (e.g. Sprint, Dish) 2%
- o Other (e.g. GECA, Atmos) 8%

4) A full year report for both revenue and expenses will be delivered in early February.

Intergovernmental

The City of Gunnison is planning to host the next meeting of elected officials in the County. The meeting will take place on the evening of Wednesday, February 27th beginning at 6:00 p.m., location TBD. The City of Gunnison would like to put together a small agenda for the meeting. **Are there any specific topics the Council would like to see included on the agenda?**

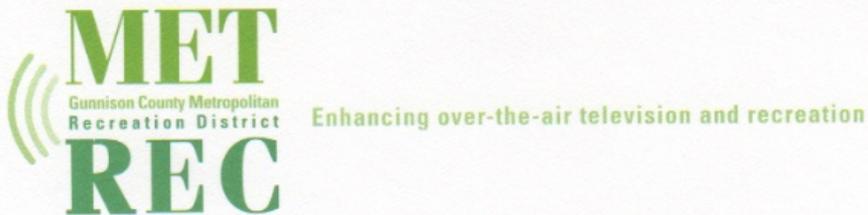
Upcoming Meetings or Events

January 23rd – BOZAR Year End Review, 6:00 p.m. Council Chambers

January 25th – OVPP Leadership retreat, all day, details TBD

February 27th – Intergovernmental meeting, dinner in Gunnison, 6:00 p.m. location TBD

* As always, please let me know if you have any questions or concerns. You may also directly contact department directors with questions as well.



TO: Board of County Commissioners
Gunnison and Saguache Counties

FROM: Board of Directors
Gunnison County Metropolitan Recreation District

DATE: January 8, 2019

COPY:

City of Gunnison
Town of Crested Butte
Town of Mt. Crested Butte
Town of Pitkin
State of Colorado, Division of Local Government, Dept. of Local Affairs
Colorado State Auditor
File Copy: Gunnison County Clerk & Recorder
File Copy: Saguache County Clerk & Recorder

Re: Annual Report – January 2019

In accordance with Resolution No. 07-15, passed by the Gunnison County Board of County Commissioners on March 20, 2007, please find attached the annual report for the Gunnison County Metropolitan Recreation District, pursuant to C.R.S. 32-1-207(3)(c). The report includes but is not limited to information on the progress of the District in the implementation of the service plan and shall be filed with the Board of County Commissioners, any municipality in which the special district is wholly or partially located, the State of Colorado, Dept. of Local Affairs and the Colorado State Auditor. The report shall be deposited with the County Clerk and Recorders of Gunnison and Saguache Counties and shall be made available to any interested party pursuant to C.R.S. 32-1-204(l).

CONTACT INFORMATION

District Office: Lori Patin, District Manager 970.641.8725
P O Box 1369, 710 S 9th Street, Gunnison 81230
Email: admin@gcmetrec.com
Web: www.gcmetrec.com

Operations: Bill Cote, Operations Manager 970.641.9148
710 S 9th Street, Gunnison Service Calls – Television Translator System
Email: tech@gcmetrec.com

P.O. Box 1369 · Gunnison, CO 81230 · 970.641.8725
Email: admin@gcmetrec.com · www.gcmetrec.com

BOARD OF DIRECTORS

		<u>Term</u>
Ian Billick	Treasurer	5/2020
David Clayton	President	5/2020
Paul Foreman		5/2022
Derrick Nehrenberg		5/2020
Larry Parachini		5/2020

2019 MEETING SCHEDULE

Regular meetings are scheduled on the third Wednesday of each month, beginning at 6:00 p.m., with some exceptions. Meetings will be held in Gunnison and Crested Butte as shown on the 2019 meeting schedule. The meeting schedule is posted at the County Clerk's office, at locations within the County and is available on the District's web site at www.gcmetrec.com.

ELECTIONS

The next regularly scheduled election of the District is May 5, 2020 at which time three 4-year Board member terms, and one 2-year term will be decided. The regular Board member election scheduled for May 8, 2018 was cancelled as there were not more candidates than offices to be filled at the election. A vacancy was created, with an appointment for a 2-year term made in a timely manner.

BALLOT INITIATIVE

A ballot question put before voters during the November 6, 2018 election, allowing the District to be removed from the revenue and spending constraints imposed by the Taxpayer Bill of Rights (TABOR), was successful. This will allow the District to collect additional funds during the 2019 and subsequent budget years, providing funds to improve, maintain and expand television services, and for planning and funding new recreational facilities and trails, and/or other lawful District purposes.

FORMATION

The Gunnison County Metropolitan Recreation District is a Special District of the State of Colorado that was formed December 21, 1978 under the provisions of Part 8 of Article 1 of Title 32 C. R. S. 1973. The District is support by a mil levy on real and personal property and by Conservation Trust Fund moneys allocated within District boundaries located within Gunnison and Saguache Counties.

In 2001 two sub-districts were formed within the District: one encompassing the Crested Butte Fire Protection District (Crested Butte Subdistrict) and the other comprised of the remainder of the District (Gunnison Area Subdistrict). Establishment of the sub-districts affords the opportunity for ballot proposals to be put forth within a geographical area for recreational facilities.

THE MISSION

The mission of the Gunnison County Metropolitan Recreation District is to provide television signals in an efficient manner within the District's service area and to collaborate with and provide funding for park and recreation departments, authorities or other governmental entities, and non-profit organizations.

IMPLEMENTATION OF THE SERVICE PLAN

REVENUE SHARING

Fifty percent of all Conservation Trust Funds received by the District are shared with other local governments through a revenue sharing agreement. Funds are distributed in proportion to respective populations as per Conservation Trust Fund guidelines. Conservation Trust Funds are utilized for parks, recreation and open space. A total of \$592,843 to date has been disbursed to qualifying local governments since the revenue sharing agreement was instituted in 2001.

Revenue sharing and grant awards totaling \$1,542,371 have benefited every sector of the local communities positively impacting recreation, parks, trails, arts and culture throughout the District.

RECREATION

The District awarded \$26,000 for recreation projects in 2018 to the following organizations: National Forest Foundation (\$25,000), Town of Crested Butte (\$1,000). The National Forest Foundation East Fork/West Maroon Pass trailhead improvement project provided matching funds for installation of a new trailhead bathroom, parking lot improvements and construction and installation of a trailhead kiosk.

As the County develops initiatives around sustainable recreation, the District would like to explore ways that we can uniquely support such initiatives. We would appreciate the opportunity to establish a direct line of communication with the County Commissioners, staff, or the Committee for Sustainable Tourism and Recreation, as is most appropriate.

TELEVISION TRANSLATOR SYSTEM

The television translator system, encompassing 12 translator sites strategically located throughout the District, broadcasts exceptional quality over-the-air digital television signals. Viewers in most areas can easily receive signals utilizing an outdoor antenna. Information on how to receive the over-the-air television signals, including an instructional video, is available on the District's web site. District staff provide excellent customer service to constituents.

The locally originated Crested Butte TV station is broadcast through the translator system. CBTV provides local weather forecasts, avalanche and backcountry conditions and emergency broadcast services as well as a wide range of recreation programming.

Improvements to the translator system in 2018 included updates to the Emergency Alert System (EAS) and Closed Captioning systems, including the ability to transmit local EAS messages. The District was tasked with meeting mandated updates from the Federal Communications Commission in 2018. The District provides on-air posting of Public Service Announcements from local governments, allowing for real time public access to those announcements.

SUPPORT FOR NON-PROFIT PUBLIC RADIO STATIONS

The District supports KBUT and Colorado Public Radio through in-kind contributions and by making space available at District broadcast communication facilities. The audio signal for KBUT is provided on-air, increasing listener access to KBUT broadcasts.

SUPPORT FOR TELECOMMUNICATION SERVICES

Colorado Central Telecom (CCT) began co-locating at the District's Monarch pass and W Mountain communication facilities in 2017. CCT is providing redundant internet services to the Gunnison Valley Hospital, access to a redundant service for additional Gunnison valley community anchors and transport and IP services for Western State Colorado University, as well as a communications link between the District's facilities. The Board of Directors is continuing to explore opportunities to support telecommunication services in a manner consistent with the service plan of the District.

COUNCIL CHAMBERS
January 23rd, 6 pm

BOZAR YEAR END REVIEW

At the conclusion of each building season/year, the completed projects are compiled for review with the BOZAR. We appreciate everyone's involvement and invite you to attend this year's review and selection of the Project of the Year. Council Chambers, 507 Maroon Avenue, Wednesday, January 23, 2019 6:00 pm.





To: Mayor Schmidt and Town Council

From: Michael Yerman, Community Development Director

Thru: Dara MacDonald, Town Manager

Subject: **Ordinance 26 Series 2018- 50 year Threshold for Historic Designation and Demolition**

Date: January 22, 2019

Background:

The Town of Crested Butte was established as a Historic District by ordinance in 1972. Portions of the Town were listed on the National Register of Historic Places (NRHP) in 1974, and Chapter 16, Article 2 – Historic Preservation and Architectural Control District was established as the reviewing body for the Board of Zoning and Architectural Review to review alterations or additions to historic buildings, and all new construction in the Town. The code also established Crested Butte’s NRHP boundary and established the historic district’s Period of Significance (POS) from 1880 to 1952.

Currently under the code, buildings that turn fifty years and that were constructed post-POS are technically classified as historic buildings per the code. They must be reviewed under Chapter 3 Design Guidelines for Historic Properties with regards to changes, alterations, or additions.

Ordinance 26, 2018, created standards to allow some potential buildings located in built outside of the POS to be declassified from this historic designation. It also strengthen requirements if a building was permitted to be demolished.

Discussion:

At the public hearing on December 17, 2018 members of the public expressed concerns on the Ordinance and its allowance for the declassification of historic designation. The Council instructed the staff to look into these concerns. After investigating the impacts of changing the Ordinance to address the public comment, the staff is recommending to rewrite the Ordinance and to conduct additional public meetings to vet community concerns. The current Ordinance should be repealed to allow this discussion to occur.

Recommendation:

A Council member make a motion followed by a second to repeal Ordinance 26, Series 2018 amending Articles 1, 2, and 14 of Chapter 16 and Article 15 of Chapter 18 of the Town Code.

ORDINANCE NO 26.**SERIES 2018**

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING ARTICLES 1, 2 AND 14 OF CHAPTER 16 AND ARTICLE 15 OF CHAPTER 18 OF THE TOWN CODE TO ADD NEW CRITERIA FOR EXCLUSION OF CERTAIN STRUCTURES FROM THE DEFINITION OF AN HISTORIC BUILDING, AND TO PROVIDE FOR THE PARTIAL DEMOLITION OF AN HISTORIC STRUCTURE SUBJECT TO AN APPROVED REHABILITATION AND DEVELOPMENT PLAN.

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

WHEREAS, the Town of Crested Butte was established as a Historic District in 1972 and portions of the Town were listed on the National Register of Historic Places (“NRHP”) in 1974; and

WHEREAS, the historic buildings in Crested Butte were identified and studied under the auspices of the Colorado Historical Society in three separate reports including the Crested Butte Historic Building Surveys of 1998-99, the Crested Butte Historic Building Survey of 2000 (“2000 Survey”), and the 1994 Colorado Cultural Resource Survey of the NPS Forest Service station and residence buildings located at 104 and 108 Gothic Avenue; and

WHEREAS, the 2000 Survey included a nomination form and June 6, 2002 NRHP award for the redistricting Crested Butte’s NRHP boundary and established the historic district’s period of significance (“POS”) from 1880 to 1952; and

WHEREAS, the National Park Service (“NPS”) requires that a building or structure must be at least fifty (50) years of age to be classified as historic classification; and

WHEREAS, buildings that are fifty (50) years of age or more that were constructed outside the POS are technically classified as historic buildings and any changes, alterations, or addition are subject to the Town’s Design Guidelines for Historic Properties; and

WHEREAS, the Town wishes to allow, on a case by case basis, buildings that were constructed outside the POS to be excluded from the definition of an historic building; and

WHEREAS, the Town believes that changes to regulations for partial demolition of historic structures subject to an approved rehabilitation and development plan will support the Town’s historic preservation efforts and achieve greater development potential of the property; and

WHEREAS, the Town’s Board of Zoning and Architectural Review considered the proposed amendments to the Town Code on September 25, 2018, and moved to recommend the amendments to the Town Council on October 30, 2018; and

WHEREAS, the Town Council has determined that the below amendments to the Town Code sections regarding historic structures will protect the public health, safety, and welfare and further efforts to preserve the historic character of the community.

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

Section 1. Amendments to Chapter 16. Chapter 16 of the Town Code is hereby amended as follows:

- a. **Sec. 16-1-20** is amended to add new definitions as follows:

Deconstruction means the process of carefully dismantling a structure for reuse of the building materials.

Historic District means the Town Boundary of the Town of Crested Butte according to the official plat dated June 6, 1881.

Period of Significance means the period of time as defined by the 1998-99 Historic Building Survey, the 2000 Crested Butte Historic Building Survey, and 1994 Colorado Cultural Resource Survey, that a structure or building was erected.

Recycle Plan means a plan for recovering a portion of a used product or material from the waste stream for reprocessing and/or repurposing.

Relocation means the moving of an entire structure to a new location whether within an existing parcel, another parcel in Town for which BOZAR approval is required, or to a parcel outside of the Town Boundaries.

Redevelopment means the full or partial demolition/relocation of an existing (non-historic) building or structure for the purpose of erecting a new building/structure over an existing foundation, or erecting a new building/structure over a new foundation.

Redevelopment Plan means a revised or new site plan, elevations, sections and floor plans for a new structure to be constructed on the site of a structure to be demolished under Sec. 16-14-190.

Salvage means the removal of materials from a building prior to deconstruction or demolition, which generally applies to recovery of appliances, cabinets, fixtures, flooring, window coverings and other materials for reuse that requires minimal labor to recover and for which the building envelope does not need to be disturbed for their removal and can be made part of the recycle plan. A building permit may or may not be required, which is at the discretion of the Building Inspector.

Waste diversion - See Recycle Plan.

b. **Sec. 16-2-60(a)** shall be amended to read as follows:

(a). Notwithstanding any other provision of this Article, structure over fifty (50) years of age (for purposes of this Section only, a "historic structure") shall not be demolished unless the Board finds that all of the following criteria are first met:

i. The historic structure is dangerous or unsafe as determined by the Building Inspector.

ii. The record owner of the subject property submits a plan for the site designed to preserve other historic structures on the property that are not currently dangerous or unsafe.

(b). The Board may allow the partial demolition of a portion of an historic structure as part of an approved rehabilitation and development plan for the subject property subject to an approved deconstruction and recycle plan under Article 15 of Chapter 18 of the Code.

d. **Article 2 of Chapter 16** is amended to add a new **Section 16-2-70** to read as follows:

Sec. 16-2-70. Exclusion from definition of historic building.

(a) A building may be excluded from the definition of *historic building* contained in Sec. 16-1-20 if all of the following criteria are met at the time of the request:

(1) The building currently meets the definition of *historic building* under Sec. 16-1-20.

(2) The building was not constructed during the established Period of Significance, i.e.1880-1952.

(3) The building does not convey an appreciable architectural relationship with historic buildings that were constructed during the Period of Significance, and is of a like use (residential, commercial, accessory building, structure), subject to the following provisions:

a. The building does not convey two (2) out of the three (3) criteria related to mass, scale and form:

i. Building mass and scale conveys and appreciable relationship with the Historic Building Types in Chapter 1, Historic Overview of the Crested Butte Design Guidelines (pp. 5-8), as amended.

ii. Building forms with regards to conventional rectangular modules appear consistent with

historic buildings constructed during the period of significance.

iii. Roof angle and roof forms appear consistent with historic buildings constructed during the period of significance.

b. The building does not convey two (2) or more of the criteria related to design and details:

i. Architectural styles appear relational with historic resources.

ii. Window fenestration appear relational with historic resources.

iii. Porch styles appear relational with historic resources.

iv. Material type and coverage appear consistent with historic resources.

(4) The building is no less than 45 years old from its original construction, as determined by the Town or Designee.

(b) The exclusion of a building that may result in a future application for the demolition of the structure must comply with demolition requirements in Sections 16-1-20, 16-14-190 and 18-15-10 of the Code.

e. **Article 2 of Chapter 16** is amended to add a new **Section 16-2-80** to read as follows:

Sec. 16-2-80. Request to Modify Period of Significance.

Property owners of buildings that are not within the Period of Significance, but that exemplify the evolution of the skiing, tourism, and recreation era between 1960-1978 may request that the Town protect these buildings pursuant to a new historic designation. The Town Council may amend the Code to include a new the Period of Significance to accommodate such buildings.

f. **Sec. 16-14-190** is amended to read as follows:

Sec. 16-14-190.- Demolition Requirements.

(a) Notwithstanding restrictions that may apply to historic buildings or other structures, no primary building may be demolished unless:

(1) the Board has first approved the demolition together with a site redevelopment plan that includes the replacement of the primary building, and

(2) a building permit has been issued for the replacement of the primary building.

(b) In addition to the requirements of Sec. 16-14-190 (a), the Board may

approve the demolition of a structure if all of the following criteria are met.

- (1) a redevelopment plan for the property where the structure is located has been approved by the Board.
 - (2) To the extents possible for reconstruction of a historic building, it will be as a reasonable facsimile of the existing building.
 - (3) all owners having property interest consent in writing to the application for a demolition permit.
 - (4) the long term rental or owner occupied requirement is satisfied regarding loss of long term housing, and there will be no net loss of deed-restricted housing units.
 - (5) A structure fifty (50) years or older has been excluded from the definition of historic structure pursuant to Sec. 16-2-70.
 - (6) A demolition that includes consolidation of residential properties subdivided into condominiums or town homes complies with Sec. 16-12-70.5.
- (c) Following Board approval, the Building Official may issue building permits for the demolition of a structure once applicable Town fees have been paid and a site specific deconstruction, recycle plan, and reconstruction plan has been approved in conformance with Article 15 of Chapter 18 of this Code.

Section 2. **Article 15 of Chapter 18** of the Town Code is amended to read as follows:

Sec. 18-15-10. – Reuse and Recycling of Building Materials in a Structure

- (a) If a permit is requested for the demolition of an existing structure in accordance with Sec. 16-2-60 or 16-14-190 of this Code, a site specific deconstruction and recycle plan must be approved by the Building Official.
- (b) A hazardous materials assessment report must be submitted to the Building Inspector.
- (c) The Building Inspector or designee shall promulgate rules that define the requirements of an acceptable waste diversion plan. The general contractor and/or homeowner will meet with the Building Inspector to perform a material review survey. The Building Inspector will evaluate the materials with a checklist to maximize their use. The plan shall describe minimum levels of building materials that must be diverted from landfills established on the basis of a review of practices employed by the building industry. The levels may vary by disposal method or type of material and shall reflect, in the Town’s opinion, the degree of waste diversion reasonably attainable through the use of accepted industry practices. The Building Inspector or designee may alter the levels as industry practices evolve throughout the structure’s demolition.
- (d) The applicant for a permit shall demonstrate compliance with the approved

waste diversion plan by submitting a report to the Building Inspector or designee documenting, at a minimum, the amount of and manner in which building materials were diverted from landfills. The applicant shall submit the report no later than 90 days after the issuance of the demolition permit or such later date for good cause as may be agreed to by the Building Inspector or designee. Failure to demonstrate compliance with the waste diversion plan is a violation of Sec. 16-24-20.

(e) Reusable materials include but are not limited to dimensional lumber, lower values doors, siding, trim, insulation, roofing, lighting, skylights, paneling, beadboard, wainscot and windows. Materials should typically be removed in the opposite order in which they were installed to maximize reuse.

(e) Recycled materials may be placed may be placed on the Town right of way from April through October pursuant to a ROW permit approved by the Town. The permittee shall use newspaper, radio, social media and other means to get rid of recycled materials

Section 3. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 4. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS ___ DAY OF _____, 2018.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS _____ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

[SEAL]



Staff Report

To: Mayor Schmidt and Town Council

From: Michael Yerman, Community Development Director
Barbara Green, Town Attorney

Thru: Dara MacDonald, Town Manager

Subject: **Ratification of Emergency Moratorium on Applications for and Demolition of Structures Pending Revisions to the Town Code.**

Date: January 22, 2019

Background:

The Town of Crested Butte was established as a Historic District by ordinance in 1972. Portions of the Town were listed on the National Register of Historic Places (NRHP) in 1974. The Board of Zoning and Architectural Review (BOZAR) was established as the body responsible for the review of demolition, alterations or additions to historic buildings and all new construction pursuant to “Design Guidelines.”¹ The National Park Service (NPS) which administers the NRHP requires that a building or structure be at least fifty (50) years old to be classified as historic.

The historic buildings in Crested Butte were professionally identified and studied in three separate documents under the auspices of the Colorado Historical Society. They include Crested Butte Historic Building Surveys of 2000 and 1998-99, and the 1994 Colorado Cultural Resource Survey of the NPS Forest Service station and residential buildings located at 104 and 108 Gothic Avenue.

The NRHP recognizes buildings, sites, and districts for their historic significance, and requires that that significance be associated with a discrete chronological period: the period of significance (“POS”). A historic place may have multiple POSs, but those periods must be strictly demarcated by year. In 2000, Crested Butte’s NRHP boundary was changed and the Historic District’s POS was set from 1880 to 1952. The Town Code protects structures built during the POS from demolition unless they pose immediate life safety risks. Even if a historic structure does pose these immediate risks, the Code imposes requirements to ensure their protection and preservation. Currently, the Town Code classifies any building over fifty (50) as historic, subject to the Design Guidelines and other Code requirements.

¹ Even though BOZAR regulations are referred to as “guidelines,” they are part of the Crested Butte Municipal Code and comprise mandatory criteria and requirements enacted by Council and that have the full force and effect of law.

In the summer of 2018, the Community Development Department received inquiries on the possible demolition of non-historic buildings built outside the POS. In reviewing Section 16-2-70 of the Code, staff identified several provisions that could be improved regarding demolition of a non-historic structure, and the need in some circumstances for exclusions from historic classification for structures older than fifty (50). Staff also considered whether multiple POSs should be established in the Town.

To address these issues, the staff prepared proposed Code revisions in late summer 2018. BOZAR reviewed the proposed revisions in October and November of 2018 and recommended certain revisions to Town Council that were incorporated into Ordinance 26, Series 2018 (Ord. 26-18). Council held a public hearing on Ord. 26-18 on December 17, 2018. During the public hearing and in written comments, several members of the public asked for revisions to Ord. 26-18. The Council continued the public hearing on Ord. 26-18 until January 22, 2019 to allow for additional revisions and public comments.

The issues raised regarding Ord. 26-18 are significant and complex, implicating several different sections of the Town Code. Thus, additional research and public input at the staff and BOZAR level are necessary before proposed revisions can be presented to Council for consideration. The Town also anticipates additional applications for demolition to be filed soon. Given the considerable time research and input deserve, and the likelihood of multiple demolition permit applications being filed in the near future, staff is recommending that Council adopt an emergency moratorium. The Moratorium will provide a “time out” to allow for research and public input without the Town’s architectural integrity being threatened by additional demolition applications prior to the effective date of the Town’s regulatory revisions. If the Moratorium is adopted, Council can withdraw Ord. 26-18 from consideration on January 22, 2019.

Process for Emergency Ordinances:

The Town Council passed a motion on January 7, 2019 to adopt the Emergency Moratorium Ordinance 1, Series 2019. The first 4 steps were completed as outlined below. For the Moratorium to take effect the Council must take the final steps as outline in Section 5 and 6 below to ratify this Ordinance.

Section 4.12 of the Charter governs emergency ordinances as follows:

1. Emergency ordinances are ordinances that are necessary for preservation of public property, health, peace or safety. The facts showing urgency and need must be specifically stated in the measure itself.
2. Such ordinances require approval by the vote of at least five (5) members of the Council and become effective immediately upon adoption.
3. Neither a first reading nor a prior public hearing are required but they must be published in full as soon as possible and no later than ten (10) days after adoption.
4. Upon the adoption of an emergency ordinance, Council must schedule a public hearing to be held within twenty (20) days for the purpose of ratifying the emergency ordinance. Public notice is accomplished in the same way as other ordinances.
5. The Council must ratify the emergency ordinance, either in whole or in part and with or without amendments. Upon ratification, notice must be published in accordance with [Section 4.11\(d\)](#).

6. Any emergency ordinance which is not ratified by the affirmative vote of five (5) members of the Council is deemed repealed as of the date of the hearing at which ratification was attempted.

Recommendation:

By affirmative vote of at least five (5) councilmembers:

Ratify Ordinance 1 Series, 2019, a moratorium on applications for and demolition of structures and direct the Town Clerk to publish the ordinance in accordance with Section 4.11 (d) of the Town Charter.

ORDINANCE NO. 1

SERIES 2019

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL
DECLARING A TEMPORARY MORATORIUM ON DEMOLITION
AND THE PROCESSING AND APPROVAL OF APPLICATIONS
FOR DEMOLITION OF PERMANENT STRUCTURES WITHIN
THE TOWN OF CRESTED BUTTE PENDING AMENDMENT OF
THE MUNICIPAL CODE OF THE TOWN OF CRESTED BUTTE**

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

WHEREAS, pursuant to Article XX of the Colorado Constitution and the Land Use Control Enabling Act (Article 20 of Title 29, C.R.S), the Town has the power to regulate the use of land within the community, and the authority to exercise its police powers to protect the health, safety, and welfare of the community and its citizens; and

WHEREAS, the Town is a historic district and portions of the Town are listed on the National Register of Historic Places ("NRHP"); and

WHEREAS, the NRHP established the period from 1880 to 1952 as the district's period of significance ("POS"); and

WHEREAS, the Town has initiated the process of examining appropriate regulatory tools and municipal code amendments to regulate *inter alia* historic structures, structures outside the POS; and demolition of such structures; and

WHEREAS, demolition of structures without appropriate criteria and standards can threaten the Town's historic, unique character and endanger the public health, welfare and the environment; and

WHEREAS, several structures within the Town are in jeopardy of being demolished; and

WHEREAS, the Town Council of the Town of Crested Butte finds that a temporary moratorium of nine (9) months duration is necessary for the Town to gather public input and continue discussion and analysis of appropriate measures to address these concerns before amending the Town Codes; and

WHEREAS, proper notice of the public hearing to consider this Ordinance has been accomplished.

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

Section 1. Nine-month Moratorium Imposed. Upon the adoption of this Ordinance, a nine-month moratorium is imposed upon the demolition and processing and approval of applications for demolition of any permanent structure sited within the municipal boundaries of the Town of Crested Butte other than as may be necessary to comply with Sec. 7-2-210. - Dangerous and unsafe buildings.

Section 2. Exception to Moratorium. This Ordinance shall not apply to the demolition of any structure for which an application for a demolition permit has been deemed complete as of the effective date of this Ordinance.

Section 3. Severability. If any section, sentence, clause, phrase, word, or other provision of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words, or other provisions of this Ordinance, or the validity of this Ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 4. Authority. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to Article XX of Colorado Constitution and the Local Government Land Use Control Enabling Act (Article 20 of Title 29, C.R.S).

Section 5. Emergency Declared, Effective Date, and Expiration. The Town Council finds, determines and declares that passage of this Ordinance is necessary for the immediate protection of the health, safety and welfare of the citizens of the Town of Crested Butte and of the environment because of the detrimental impact on the Town's historic and unique character resulting from the demolition of permanent structures without additional criteria and standards. The Town Council further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Crested Butte. This Ordinance shall be effective upon adoption. The moratorium imposed by this Ordinance shall expire nine (9) months hereafter, at 12:00 am on October 8, 2019 unless repealed prior to that date or extended by action of the Town Council.

ADOPTED BY THE TOWN COUNCIL THIS 7th DAY OF January, 2019

TOWN OF CRESTED BUTTE, COLORADO

By _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk



Staff Report

January 22, 2019

To: Mayor and Town Council
From: Bob Nevins, Town Planner
Thru: Dara MacDonald, Town Manager
Subject: The Corner at Brush Creek-Consent to Proceed with Preliminary Plan

Purpose: To consider providing written consent that allows APT Brush Creek Road, LLC to proceed with Preliminary Plan in accordance with the Board of County Commissioners of Gunnison County Resolution No. 2018-28 approving the Sketch Plan for LUC 17-00034 The Corner at Brush Creek:

Condition 1. *“As proposed by the applicant, and accepted as a finding, prior to the submittal of the Preliminary Plan, and prior to submittal of the Final Plan, the applicant shall obtain consent of three of the four parties (Gunnison County; Town of Crested Butte; Town of Mt. Crested Butte; Crested Butte Mountain Resort) to the MOU.”*

Background: The Gunnison County Board of Commissioners conditionally approved The Corner at Brush Creek Sketch Plan, LUC 17-00034, as BOCC Resolution No. 2018-28 on August 7, 2018. Since that time, the Town Councils of Crested Butte and Mt. Crested Butte have conducted a series of work sessions, September 1 and October 4, 2018 and most recently on January 7, 2019, to jointly consider if they should consent to the project proceeding to the Preliminary Plan phase of the Gunnison County review process and whether any additional conditions should be included.

During the January 7th work session, a list of eight (8) considerations were offered for discussion by the Town Councils to determine if there was consensus for including them as possible conditions. The discussion topics were:

1. Should five (5) acres of the site should be set-aside for intercept parking and other possible uses as close as feasible to State Highway 135?
2. Should the developer provide two (2) parking spaces for every unit constructed to be provided contemporaneous with the construction of the units.
3. Should fifteen (15) units per acre be the maximum density on the remainder of the parcel after the set-aside described in #1 above?
4. Before the Towns can agree to the developer proceeding to Preliminary Plan, must the developer prepare and submit for review to the Towns, a site plan depicting the five (5) acres of intercept parking, two (2) parking spaces per unit, and a density of no more than fifteen (15) units per acre after the land set-aside described in #1 above?

5. Prior to execution of the contract for sale, must the developer provide a pro forma to the Towns to be reviewed by an outside expert retained by the Towns that demonstrates his financial capability to construct and operate the project?
6. Shall a transit feasibility study that explores the best route opportunities and costs of implementation be conducted by the developer in collaboration with the RTA and Mountain Express and submitted to the County as part of the Preliminary Plan submittal?
7. Should the developer consider including for-sale units for people falling within the range of 80 -120% of AMI?
8. Should there be an entity established to address landlord/tenant disputes with the purpose of ensuring protection of tenants from unfair treatment and ensuring that the units remain habitable and affordable? This could be an existing entity such as the Gunnison Valley Regional Housing Authority or a dispute resolution board established as part of the development.

Summarized below are the outcomes from the January 7th joint work session:

- A. Both Councils agreed that they would each go back and re-consider what conditions, if any, they would like to place on The Corner at Brush Creek prior to allowing the applicant to proceed to the Preliminary Plan phase with Gunnison County.
- B. Both Councils reached general consensus that there were three (3) primary conditions that should be included as part of their consent to move the project forward into Preliminary Plan:
 - i. Land should be set aside for parking or other future uses;
 - ii. Two (2) parking spaces per unit should be provided by the developer; and
 - iii. Maximum density or the total number of units on the remaining land should be established at something less than the maximum of 180 units for purposes of Sketch Plan approval by Gunnison County.
- C. After several straw polls regarding conditions ‘i’ and ‘iii’ above, most Council members agreed to set aside five (5) acres for parking or other future uses; and to allow a maximum of 156 units on the remainder of the parcel. When Council members were asked if they could accept those limitations, five (5) members from each Council raised their hands.
- D. The Town of Crested Butte’s proposed condition to establish an entity to assist with the resolution of tenant/landlord disputes was discussed, yet there was no clear consensus on whether to include something to that effect as a fourth condition.
- E. The intention is for each Council to have further discussion amongst themselves and then if the proposed conditions are consistent, the two municipalities will send letters to the other MOA parties acknowledging that they will allow the application to proceed subject to the agreed upon conditions.

Mt. Crested Butte Town Council Consent Approval: The Mt. Crested Butte Town Council met on January 15, 2019 to consider this topic. Following a thorough and thoughtful discussion, the Mt. Crested Butte Town Council voted 6-1 to approve the Memorandum dated January 15, 2019 that provides the Town’s written consent with three (3) conditions. The staff memorandum and Town Memorandum of Consent are included as Attachments 1 and 2, respectively.

Crested Butte Town Council Consent Recommendations: Pursuant to BOCC Resolution No. 2018-28, in order for The Corner at Brush Creek project to move forward into the Preliminary Plan review phase, the applicant needs to obtain consent from three of the four MOA parties (Gunnison County, Town of Crested Butte, Town of Mt. Crested Butte and Crested Butte Mountain Resort). Having worked jointly with the Town of Mt. Crested Butte Council since September 2018 and following its recent approval of consent with conditions, the Crested Butte Town Council may consider approving a similar Memorandum of Consent with the same three (3) conditions:

1. Five (5) acres of the site shall be set aside to the MOA parties for such future uses as the MOA parties may determine, consistent with the terms and processes contained in the MOA. This condition is tied to and specifies the set-aside required in condition #13 of the BOCC Resolution approving the Sketch Plan submittal.
2. The total number of residential units for the remainder of the parcel (after 5 acres are set-aside to be retained by the MOA Parties) shall not exceed 156 units. This condition further limits the maximum number of units allowed in condition #4 of the BOCC Resolution approving the Sketch Plan submittal.
3. The developer shall provide two (2) parking spaces for every unit constructed, to be provided contemporaneous with the construction of the units. This condition is tied to finding #25 of the BOCC approving the Sketch Plan submittal.

The Applicant must agree to such conditions and formally amend its application to reflect these conditions in order for the Town of Crested Butte's consent to remain valid.

A draft Memorandum of Consent is included as Attachment 3.

Summary: BOCC Resolution No. 2018-28 requires that three (3) of the four (4) MOA Parties provide their consent in order for the applicant to proceed into the Preliminary Plan phase of review. To satisfy Condition 1 of the Sketch Plan approval, Gunnison County and/or Crested Butte Mountain Resort need to provide their written consent with or without the three (3) conditions. However, if the Applicant does not amend the application to reflect the three (3) conditions approved by both, Town of Crested Butte and Town of Mt. Crested Butte, the Towns' consent will not remain valid.

Recommended Action.

A Council member make a motion to approve the Memorandum of Consent followed by a second.

Attachments:

1. Mt. Crested Butte Staff Memo
2. Mt. Crested Butte Memorandum of Consent
3. Town of Crested Butte Memorandum of Consent

TOWN of MT. CRESTED BUTTE
 P.O. Box 5800
 Mt Crested Butte, CO 81225
 (970) 349-6632 Fax: (970) 349-6326

Memorandum

Date: January 15, 2019
 To: Mt Crested Butte Town Council
 From: Carlos Velado, Community Development Director
 Subject: The Corner at Brush Creek

On August 7, 2018 the Gunnison County Board of County Commissioners conditionally approved the Sketch Plan for LUC-17-00034 APT Brush Creek Road, LLC (AKA the Corner of Brush Creek). Condition #1 of the sketch plan approval states that *prior to the submittal of the Preliminary Plan, and prior to the submittal of the Final Plan the applicant shall obtain consent of three of the four parties (Gunnison County, Town of Crested Butte, Town of Mt Crested Butte, and Crested Butte Mountain Resort)*. The Mt Crested Butte Town Council has independently discussed the consideration of giving their consent for the application to move into Preliminary Plan process at public meetings on August 7, 2018, December 18, 2018, and January 2, 2019 and at worksessions on September 18, 2018, October 16, 2018, and December 3, 2018. In addition, the Mt Crested Butte Town Council held joint worksessions with the Crested Butte Town Council on September 4, 2018, October 1, 2018, and January 7, 2019.

The Council has, by majority opinion, settled on three conditions that the applicant must agree to in order to obtain the Town of Mt Crested Butte's consent to the applicant moving into the Preliminary Plan process.

Proposed Motion

I move to approve the Memornadum dated January 15, 2019 to the Gunnison County Planning Commission, Crested Butte Town Council, Gunnison County Board of County Commissioners, Crested Butte Mountain Resort, and APT Brush Creek Road, LLC, which outlines the three conditions to the Town of Mt Crested Butte's consent for the applicant to move into the Preliminary Plan process.

TOWN of MT. CRESTED BUTTE
 P.O. Box 5800
 Mt Crested Butte, CO 81225
 (970) 349-6632 Fax: (970) 349-6326

Memorandum

Date: January 15, 2019

To: Gunnison County Planning Commission, Gunnison County Board of County Commissioners, Crested Butte Town Council, Crested Butte Mountain Resort, APT Brush Creek Road, LLC

From: Mt Crested Butte Town Council

Subject: The Corner at Brush Creek

On August 7, 2018 the Gunnison County Board of County Commissioners conditionally approved the Sketch Plan for LUC-17-00034 APT Brush Creek Road, LLC (AKA the Corner of Brush Creek). Condition #1 of the sketch plan approval states that *prior to the submittal of the Preliminary Plan, and prior to the submittal of the Final Plan the applicant shall obtain consent of three of the four parties (Gunnison County, Town of Crested Butte, Town of Mt Crested Butte, and Crested Butte Mountain Resort)*. The Mt Crested Butte Town Council has independently discussed the consideration of giving their consent for the application to move into Preliminary Plan process at public meetings on August 7, 2018, December 18, 2018, and January 2, 2019 and at worksessions on September 18, 2018, October 16, 2018, and December 3, 2018. In addition, the Mt Crested Butte Town Council held joint worksessions with the Crested Butte Town Council on September 4, 2018, October 1, 2018, and January 7, 2019. From these discussions, the Mt Crested Butte Town Council gives their consent for APT Brush Creek Road, LLC to submit its Preliminary Plan Application to Gunnison County with the following conditions:

- 1) Five acres of the site shall be set aside to the MOA parties for such future uses as the MOA parties may determine, consistent with the terms and processes contained in the MOA. This condition is tied to and specifies the set-aside required in condition # 13 of the BOCC Resolution approving the Sketch Plan submittal.
- 2) The total number of residential units for the remainder of the parcel (after 5 acres are set aside to be retained by the MOA parties) shall not exceed 156. This condition further limits

the maximum number of units allowed in condition #4 of the BOCC Resolution approving the Sketch Plan submittal.

3) The developer shall provide two parking spaces for every unit constructed, to be provided contemporaneous with the construction of the units. This condition is tied to finding #25 of the BOCC Resolution approving the Sketch Plan submittal.

The Applicant must agree to such conditions and formally amend its application to reflect these conditions in order for the Town's consent to remain valid.

DRAFT



MEMORANDUM OF CONSENT
January 22, 2019

TO: Gunnison County Board of County Commissioners, Crested Butte Mountain Resort, Town of Mt. Crested Butte, APT Brush Creek Road, LLC and Gunnison County Planning Commission

FROM: Mayor and Town Council of Crested Butte

SUBJECT: The Corner at Brush Creek, LUC 17-00034

The Gunnison County Board of County Commissioners conditionally approved The Corner at Brush Sketch Plan, LUC 17-00034, as Resolution No. 2018-28 on August 7, 2018. Condition #1 of the Resolution approving the Sketch Plan states:

“As proposed by the applicant, and accepted as a finding, prior to submittal of the Preliminary Plan, and prior to submittal of the Final Plan, the applicant shall obtain consent of three of the four parties (Gunnison County; Town of Crested Butte; Town of Mt. Crested Butte; Crested Butte Mountain Resort) to the MOU.”

Over the past six (6) months, the Town Councils of Crested Butte and Mt. Crested Butte have held independent public meetings and conducted joint public work sessions concerning The Corner at Brush Creek proposal. Based on these discussions and upon finding general consensus with the Town of Mt. Crested Butte, the Town Council of Crested Butte hereby provides its written consent for APT Brush Creek Road, LLC to prepare a Preliminary Plan application with the following conditions:

1. Five (5) acres of the site shall be set-aside to the MOA parties for such future uses as the MOA parties may determine, consistent with the terms and processes contained in the MOA. This condition is tied to and specifies the set-aside required in condition #13 of the BOCC Resolution approving the Sketch Plan submittal.
2. The total number of residential units for the remainder of the parcel (after 5 acres are set-aside to be retained by the MOA parties) shall not exceed 156 units. This condition further limits the maximum number of units allowed in condition #4 of the BOCC Resolution approving the Sketch Plan submittal.

3. The developer shall provide two (2) parking spaces for every unit constructed, to be provided contemporaneous with the construction of the units. This condition is tied to finding #25 of the BOCC approving the Sketch Plan submittal.

The Applicant must agree to such conditions and formally amend its application to reflect these conditions in order for the Town of Crested Butte's consent to remain valid.

INTRODUCED, READ AND APPROVED THIS 22nd DAY OF JANUARY, 2019.

TOWN OF CRESTED BUTTE

James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

[SEAL]

Annual Report
Mountain Express
2018

The Intergovernmental Agreement (IGA) between the towns of Crested Butte and Mt Crested Butte establishes Mountain Express (MX) as a separate transportation entity and generally describes its operation. The IGA calls for an annual written report to the two towns and specifies areas to be covered.

Ridership

Through October 2018 MX buses carried 555,500 passengers, a decrease of 13% from 2017.

Route Configuration

MX will once again provide service to Crested Butte South. Starting on November 21, 2018 and running until April 7, 2019, MX will provide six round trips per day from Crested Butte South to the Mt Crested Butte transit center. There will be three trips in the morning and three trips in the afternoon. MX will work with the Gunnison Valley RTA buses and together provide 23 round trips of service to Crested Butte South. The Crested Butte South POA has helped fund this service.

2018/2019 Winter Service – The town shuttle buses will run every 15 minutes until midnight, condo buses will run every 30 minutes until 11:00 pm and the Condo Express service will run from 11:00 pm until midnight.

The summer bus service ran through September 30th. Summer bus ridership was down 1% from last summer. The “Express Bus” operated from late June until early August and also saw a 1% decrease in ridership.

MX continued to provide summer service to the Gothic town site from early June through mid-August. Ridership was down 2% over last summer. MX provided extended service to the Judd Falls parking area this summer and while ridership did increase, there wasn't any change in the number of vehicles parking in the area and the traffic congestion was just as bad. A total of 373 passengers took advantage of this service. MX is considering discontinuing the Judd Falls service next summer.

Operations

Employees are a major strength of MX. Employee turnover continues to be low. MX has hired six new drivers for the 2018/2019 ski season. This will help keeping MX fully staffed during the busy times.

MX works with Gunnison County and the Gunnison Valley RTA to provide the senior van operations, servicing the north end of Gunnison valley. MX is reimbursed driver wages and mileage expenses from the Gunnison Valley RTA.

Special service is provided in addition to scheduled runs as needed and requested by the two towns and activity planners. MX provided 59 hours of additional service and late night service carrying 2,450 passengers from 10/31/17 through 10/31/18.

Fleet status

As more fully described in the capital plan, the average age of the bus fleet is improving. With the addition of three new big buses and one new small bus in 2018, the average age of the fleet improved to 5 years for the big buses and 4 years for the small buses. FTA funding was secured to purchase those four vehicles.

MX will receive two new shop vehicles in 2018. FTA funding was secured to purchase those two vehicles.

MX is applying for grants to purchase three buses in 2020 in a Capital grant that will be submitted in December.

Land Purchase

MX has purchased a lot in conjunction with the Gunnison Valley RTA at the new Whetstone Industrial Park and also a second lot on its own. The lots will be used for bus storage initially. MX has applied for a capital grant from CDOT to provide for planning a new maintenance facility on the Whetstone lots. The towns of Crested Butte and Mt. Crested Butte contributed \$100,000 each towards the purchase of the second lot.

Financial status

Salaries and hourly wages were increased 5% in 2018 and in 2019 a similar wage increase will be given. Health care costs continue to increase every year even after an increase in deductibles. Vehicle repair and fuel costs are difficult to budget and control. Repair costs have been decreasing due to the newer fleet and fuel costs have increased due to rising fuel prices. Projections for 2018 show net income after capital expenditures of (-) \$400,000 due primarily to the purchase the Whetstone lots. The board has set up \$800,000 in operating reserves to provide for emergencies and cash flow delays and capital reserves of \$600,000. Projections show about \$200,000 negative fund balance at December 31, 2018, which will reduce capital reserves to \$400,000.

Service agreements

The IGA between the two towns is current through August 31, 2027.

Recommendations

The focus of the board is to meet growing service needs and planning the new maintenance facility.

Board Approved December 13, 2018

Capital Plan
Mountain Express
2018

Background

Bus fleet is presently 14 large buses and 6 small buses. Large buses (39 passengers) are generally used on the town routes and small buses (24 passengers) on the condo routes. The large buses average 5 years and 103,900 miles. The small buses average 4 years and 55,000 miles. Of the 20 buses, six have engines with over 10,000 hours. Even with the upgrading of the fleet, repairs are a major cost (about \$90,000 per year).

During peak ski season days, six town buses, three condo buses and one Crested Butte South bus are used. Additionally, four buses are rotated every other day on the four high mileage routes, resulting in continuing use for 14 buses. The other six buses are used for back-up whenever buses are out of service for repairs or maintenance. In 2018, three large buses and one small bus were purchased. Those buses were purchased with 80% grants from CDOT, which is funded by the FTA, and 20% local funding from MX. The remaining vehicles are a senior van purchased in 2016 with 25,900 miles, and four pickup trucks purchased in 2005, 2006, 2011 and 2017 with 180,000, 81,200, 32,000 and 3,200 miles. MX was awarded a FTA grant to replace the 2005 and 2006 shop pickup trucks in 2018.

The bus barn was completed in 2009 and a bus lift was added in 2012.

Land Purchase

MX purchased a lot at the new Whetstone Industrial Park with the Gunnison Valley RTA and a second lot on its own. The lots will initially be used for bus storage. Mx has applied for a capital grant from CDOT to provide for planning a new maintenance facility on the Whetstone lots. The Towns of Crested Butte and Mt. Crested Butte have contributed \$100,000 each to facilitate the purchase of the second lot.

Considerations

- Determining a replacement policy for buses is difficult because of the way the buses are used, with much idling, and our excellent repair capabilities. With two full-time mechanics and a complete shop, we can keep buses running indefinitely, although they begin to look shabby and become costly to keep repairing.
- There is very little salvage value in used buses.
- We don't need six back-up buses. However, since there is little salvage value, old buses are retained and used lightly until a major repair is needed or for parts.
- The newest small buses are used on the Town routes during off-season.
- With all of the back-up buses, ridership increases will have a minimal impact on capital needs.
- It takes up to six months to receive a new bus The ideal time to receive new buses is in the fall to allow time to get them broken in before the ski season.
- Total bus miles in the 12 months ended December 31, 2017 was 201,000 and 18,900 service hours.
- Big buses cost \$188,000 and small buses \$151,000.
- Buses have been purchased using FTA grants and a 20% local match. The deficits being debated in Washington could result in future reductions to FTA funding and therefore reductions in future grants available.
- Cameras and digital destination signs were installed in the bus purchased beginning in 2014 and have been included in subsequent bus purchases.

Plan

MX is applying for a capital grant from CDOT to purchase two big buses and one small bus in 2020 and another capital grant to plan the new maintenance facility.

The Town of Crested Butte would like use of MX existing maintenance facility and bus parking area, therefor initiating the Whetstone lot purchases and new maintenance facility planning.

Board Approved December 13, 2018

2019 Mountain Express Budget Board Approved 12.13.2018

	2019 Budget
INCOME	
Operating Grant	\$258,500
Interest income	3,000
Advertising	12,000
Service revenue	16,500
Senior Van Service	24,000
Other	1,000
Admissions tax-Mt CB	204,200
Mt CB sales tax	488,700
CB sales tax	<u>826,000</u>
TOTAL REVENUE	1,833,900
EXPENSES	
LABOR & BENEFITS	
Permanent salaries	270,700
Seasonal hourly	580,000
Overtime	5,000
Late night shift	700
Sick leave	4,000
FICA	70,700
Health insurance	233,000
Retirement	47,000
Medical exams	4,000
Drug/alcohol screens	3,400
Uniforms	5,000
Bonus	30,000
Other Benefits	<u>3,500</u>
Total	1,257,000
RENT & UTILITIES	
Rent	4,200
Utilities	19,200
Telephone	7,000
Trash	1,200

2019 Mountain Express Budget Board Approved 12.13.2018

Building repairs	3,000
Snow removal	5,000
HOA Dues	<u>2,000</u>
Total	41,600

ADMINISTRATIVE

Administrative service	45,200
Audit	4,200
Legal services	2,000
Consultants	11,000
Travel	2,000
Office expense	8,000
Membership	6,000
Education/Seminars	1,000
Donations	<u>1,000</u>
Total	80,400

2019
Budget

INSURANCE

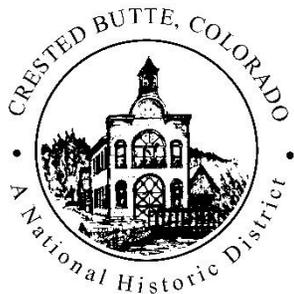
Vehicle Insurance	33,000
Workers comp	26,300
Unemployment	<u>2,400</u>
Total	61,700

VEHICLE EXPENSE

Repair & maintenance	82,000
Shop supplies	15,000
Fuel	122,000
Oil & fluids	18,000
Tires	32,000
Operations	9,000
Tools	700
Signs	1,500
Other	<u>300</u>

2019 Mountain Express Budget Board Approved 12.13.2018

Total	280,500
TOTAL OPERATING EXP	1,721,200
NET INCOME BEFORE CA	112,700
WIP lot prep work	30,000
Bus painting	18,000
5304 Planning grant	60,000
Federal grant	-48,000
Tire machine	25,000
Total	<u>85,000</u>
NET INCOME AFTER CAP	<u>\$27,700</u>



To: Mayor Schmidt and Town Council

From: Michael Yerman, Community Development Director

Thru: Dara MacDonald, Town Manager

Subject: **Bywater Contract to Build Affordable Housing in Paradise Park**

Date: January 22, 2019

Background:

The Town began the process of developing a large for sale affordable housing build in Paradise Park in the winter of 2018. Through a competitive Request for Qualifications and Request for Proposals process throughout the spring and summer of 2018 Bywater was selected to build 27 units in Paradise Park. This is the largest for sale affordable housing build undertaken by the Town.

When the Town Council selected Bywater to be the developer of this project, a Memorandum of Understanding (MOU) was entered into to allow Bywater to begin to design and receive land use approvals for the project. Since the execution of the MOU, Bywater has successfully obtained approval from BOZAR for 5 of the 7 Buildings in Phase 1. The remaining 2 buildings in Phase 1 are set to go before BOZAR at the end of the month. Bywater also received subdivision approval of Block 76 to reduce the overall lot count after trying to address neighborhood concerns about density.

The contract with Bywater will require the transfer of the land in two phases. The first transfer of the land, Phase 1, will transfer Block 76 Lots 1-6 and Block 77, Lot 10. The transfer of land will allow the developer to execute the needed financing to break ground in June of this year. The second phase will occur after the lottery for units in Block 76. The duplex located in Block 77, Lot 10 will be bought by the Town and serve as a pre-sale to assist the developer in the ground breaking. The Town will purchase the duplex (2 units) for total of \$600,000 with the first \$420,000 due concurrently with the transfer of land in Phase 1. The remaining \$180,000 will be paid when the Town takes ownership of the duplex. This duplex will be retained by the Town for employee housing. This will assist Bywater in obtaining construction financing.

Phase 2 will include the transfer of land and will occur after the lottery for Phase 1. This helps to insulate the Town's risk and protect the other lots in the event the units in Phase 1 do not sell as anticipated. If the lottery is successful, Phase 2 will occur in early summer and ensure Bywater is able to continuously proceed with construction and pouring of foundations. Phase 2 will transfer Block 78, Lot 6, Block 79, Lots 10, and 11, and Block 80, Lot 3.

The contract is a lump sum contract that provides Bywater with maximum total sales of \$7,669,270. Bywater is responsible for paying the GVRHA a 2% fee on each unit sold to an individual. Since Bywater will be the seller of the units to applicants, the transaction is subject to the Town's Real Estate Transfer Tax. Bywater will be responsible to pay the tax at the time of closing. The Town will pay Bywater a 3% developer incentive fee for acting as the seller within 30 days of closing.

The contract also ensures the quality of construction and interior finishes, spells out the Town and Bywater responsibilities throughout the duration of the construction, requirements to execute a performance bond, and remedies that protect the Town's interests in the event of a default by Bywater.

Recommendation:

A Council member make a motion followed by a second to approve the contract with Bywater, LLC for the development of 27 units of affordable housing in Paradise Park.

**CONTRACT TO BUY, SELL AND DEVELOP DEED RESTRICTED
HOUSING IN THE TOWN OF CRESTED BUTTE’S PARADISE PARK SUBDIVISION**

This Contract (“Contract” or “Agreement”) is entered into on this ___ day of _____, 2019, between the Town of Crested Butte, Colorado (“Town”), a Colorado home rule municipal corporation, and Bywater, LLC, an Oklahoma limited liability company (“Bywater”), together (“the Parties”).

RECITALS:

A. The Paradise Park Subdivision (“Subdivision”) is located in the Town of Crested Butte, Colorado and the Subdivision is encumbered by certain Deed Restrictions (“Deed Restrictions”) that require use of the Subdivision for employee housing, primarily for persons living in and employed by entities within Gunnison County. **Exhibit A – Deed Restrictions** contains the Deed Restrictions recorded at Reception No. 641510 of the Gunnison County Clerk and Recorder for Blocks 79 and 80. Deed Restrictions for the other blocks and lots will be substantially the same.

B. The Town owns the following property within the Subdivision:

Block 76, Lots 1, 2, 3, 4, 5, and 6

Block 77, Lot 10

Block 78, Lot 6

Block 79, Lot 10, and 11

Block 80, Lot 3

These Lots are collectively referred to hereinafter as the “Property” or “Town Property.”

Exhibit B – Lot Map is attached hereto and incorporated herein.

C. The Town conducted a competitive Request for Proposal process to find a qualified developer to build up to 27 affordable homes on the Town Property that will be offered for sale to qualified applicants. Bywater was selected based on its qualifications, ability to meet neighborhood compatibility, competitive pricing, ability to meet the Town’s Design Guidelines, and construction schedule.

D. The Town and Bywater executed a Memorandum of Understanding on October 15, 2018, in which they agreed to the construction of the affordable housing units on the Town Property.

E. The Parties desire to enter into a contract for the purchase, development and sale of the affordable housing units on the Town Property developed under and subject to the protective covenants and Deed Restrictions governing the Town Property.

THEREFORE, in consideration of the foregoing Recitals and the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Bywater agree as follows:

1. Provisions Specific to Development of the Property. Each of the following provisions shall be a material condition of this Contract and the subsequent closings for the conveyance of the Town Property. Each provision shall survive closing and shall be specifically enforceable by the parties:

- a. The project is described in two phases:
 - Phase 1 - Block 76, Lots 1, 2, 3, 4, 5, and 6 and Block 77, Lot 10
 - Phase 2 – Block 78, Lot 6, Block 79, Lots 10 and 11 and Block 80, Lot 3

- b. Bywater commits to complete the entitlement process, secure construction financing, secure subcontractor agreements, and work diligently to build a total of 27 units of deed restricted workforce housing in Phase 1 and Phase 2, the details of which are further described throughout this document; and provide construction bonding per Section 11, and a one year warranty on materials and craftsmanship and a two-year warranty for mechanical systems, and plumbing per Section 12.
- c. Town commits to:
 - i. Install water main and taps for water service by August 31, 2019 for each unit to be constructed in Block 76. The Town will connect Water services concurrent with the water main extension.
 - ii. Cover the cost of Town water and sewer utility tap fees for all units
 - iii. Explore the potential of a solar garden that would enable eliminating extension of the gas main to serve Block 76. Town will make a decision on feasibility of the solar garden by January 31, 2019.
 - iv. Provide townhome surveys, legal descriptions, title work required for the transfer of sales, and prepare individual Deed Restrictions for title work 60 days prior to sale of homes.
 - v. Create and record party wall agreements.
 - vi. Create and record snow removal agreements for Block 76, 78, and 80.

- d. To assist Bywater in constructing affordable housing units, the Town agrees to waive its Design Review Fee, Building Permit Fees, Resident Occupied Affordable Housing fees, performance deposit fee, and Town Impact Fee for the Town design review, approval, and issuance of building permits for the units that Bywater develops. The Town will assist Bywater in supplying any necessary documentation showing tax exempt status for the project. While the development fees are waived for these units, the Town expects that Bywater will complete the Board of Zoning and Architectural Review (“BOZAR”) review process and meet construction standards expected of similar housing types in Crested Butte. Bywater shall pay the 3% Real Estate Transfer Tax at the time of closing for each unit except for those units purchased by the Town.

- e. Bywater agrees to begin construction as soon as possible following first conveyance of any of the Town Property to Bywater, weather conditions permitting, and be concluded through issuance of a certificate of occupancy or temporary certificate of occupancy no later than September 1, 2020 for Phase 1, and August 15, 2021 for Phase 2. Failure to commence or to complete construction within the established timeframe may result in the exercise of remedies by the Town as set forth herein.
- f. Bywater shall be responsible for the costs of extending the gas line for Block 76. If the Town determines the solar garden is feasible, and there is no need to extend the gas line, Bywater will pay the cost savings of not extending the gas line to the Town or its designee, the amount of which is anticipated to be \$50,000. The precise amount of Bywater's contribution to the solar garden will be established by a bid for the gas line extension from ATMOS Energy. Bywater will remit funds to Town or Gunnison County Electric Association (GCEA) as appropriate.
- g. In Phase 1, Bywater shall construct 17 units on the Phase 1 Property, each unit to be deed restricted for affordable/workforce housing pursuant to the Deed Restrictions. Such units will be sold at prices not to exceed those described in **Exhibit C -AMI Table** attached hereto and incorporated herein.
- h. In Phase 2, Bywater shall construct 10 units on the Phase 2 Property, each unit to be deed restricted for affordable/workforce housing pursuant to the Deed Restrictions. Such units will be sold at prices not to exceed those described in **Exhibit C -AMI Table**.
- i. Bywater shall construct all units in compliance with the design guidelines for the Town BOZAR and all applicable Town building codes and regulations. Bywater shall construct foundation, exterior wall, two hour fire wall, insulation, eve detail, roof assembly and interior finishes in a manner substantially similar to **Exhibit D - Construction details** attached hereto and incorporated herein. The size of the units and bedroom count shall conform to **Exhibit C -AMI**.
- j. All units will be designed by an architect and structural engineer licensed in the State of Colorado.
- k. All units will be sold subject to the current Deed Restrictions, future Deed Restrictions specific to individual units as required by this Agreement, the protective covenants for the Paradise Park Subdivision, and in accordance with the income qualification and Town of Crested Butte Housing Guidelines, as in effect at the time of the sale.

l. Bywater will work in good faith with The Gunnison Valley Regional Housing Authority (“GVRHA”) to sell units to qualified buyers. If a qualified buyer has not placed a unit under contract within six months of the issuance of the Certificate of Occupancy for the unit, Bywater may elect to make the unit available for rent for a lease term of one year to qualified renters as define by the Town of Crested Butte Affordable Housing Guidelines, as may be amended. Prior to renewing the lease after one year, Town, Bywater, and GVRHA will decide if the unit should be again marketed for sale, or the rental use should be extended by another year. If the parties cannot agree on whether a unit should be leased or marketed for sale, the Town will make the final decision.

m. GVRHA and the Town will be responsible for qualifying prospective buyers. GVRHA will also serve as transaction broker for home sales to qualified buyers. GVRHA will responsible for establishing appropriate shared closing costs with potential buyers.

n. The Town will pay Bywater a developer incentive fee in the amount of 3% of the sale price within 30 days of the closing of any unit sold except for those units purchased by the Town.

2. Project Milestones. Each of the following provisions shall be a material condition of this Contract and the subsequent closings for the conveyance of the Town Property. The Town and Bywater agree that the development and construction of the housing units shall occur according to the following schedule, subject to Town Council approval of specific actions:

- a. November 30, 2018 – Bywater BOZAR submissions begin – including Minor Subdivision and two building designs.
- b. January 2019 - Execution of this Development Contract; Town and GVRHA sponsor homebuyer classes and conduct community outreach. Bywater submits two building designs for BOZAR review. Bywater begins financial underwriting for construction loan.
- c. February 2019 – Subcontractor bid process begins; financial underwriting begins; Bywater submits two more building designs to BOZAR. Town and GVRHA conduct lottery for buyers of Town-owned lots and 2018 duplexes, currently being constructed per contract between High Mountain Concepts and Town of Crested Butte, in Paradise Park and provide feedback to Bywater on qualified applicant pool.
- d. February 19, 2019 - First reading of ordinance to convey lots to Bywater for Phase 1.
- e. March 4, 2019 - Second reading of ordinance to convey lots to Bywater for Phase 1
- f. March 19, 2019 – Earliest date for construction loan closing and conveyance of lots for Phase 1.

- g. March, 2019 – Bywater submits the next two building designs to BOZAR. Construction loan closing anticipated, Town transfers land to Bywater.
- h. April 2019 – Bywater submits the next two building designs for BOZAR review. Bywater submits first four building permit plan sets, Block 77 Lot 10, and Blocks 76 Lots 4, 5, and 6 for building permit review.
- i. April 2, 2019 - Financing contingency deadline for Bywater.
- j. April 30, 2019 – Subcontractor bid process finalized and subcontractor agreements executed.
- k. May 15, 2019 –Notice to proceed issued from Bywater to excavation subcontractors. Bywater submits additional four building plans for building permit review for Block 76 Lots 1, 2, and 3. Bywater submits one building design to BOZAR.
- l. June 1, 2019 – Groundbreaking for units located in Phase 1 of the construction schedule will begin with the construction of a duplex on Block 77, Lot 10 of the Town Property (“Town Units”), followed by the construction of additional housing units on the six Lots in Block 76 of the Town Property.
- m. June 20, 2019 – Lottery for buyers of Phase 1 homes conducted by GVRHA and Town.
- n. July 1, 2019 - Phase 2 “Gating” Meeting - Town and Bywater will meet to evaluate market conditions and progress on Phase 1 project construction pricing and lottery demand. The Town and Bywater will then mutually agree upon any revisions and refinements required to this Agreement prior to commencing Phase 2 construction. If the Town and Bywater agree that market conditions are satisfactory and the Town finds that Bywater is meeting deadlines and quality expectations, and controlling costs, the Town will transfer Lots for Phase 2 to Bywater. Bywater will then commence excavation and foundation work on Phase 2. If the Parties cannot come to a mutual agreement on Phase 2, Bywater will not commence development and construction of any housing units for Phase 2. Town will retain ownership of the Phase 2 Lots, and Bywater will provide full electronic copies of all architecture and engineering to the Town. Town will compensate Bywater in the amount not to exceed \$120,000 for design work for both Phase 1 and Phase 2.
- o. July 15, 2019 – First reading of ordinance to convey lots for Phase 2.
- p. August 6, 2019 – Second reading of ordinance to convey lots for Phase 2.
- q. August 18, 2019 –Foundations for all buildings in Phase 1 completed prior to the conveyance of lots for Phase 2.

- r. November 1, 2019 – Work completed and inspected such that Certificate of Occupancy can be issued for Town Units on Block 77, Lot 10, with additional certificates of occupancy issued each month through March of 2020 to complete all units in Phase 1.
- s. December 1, 2019 - Complete foundations for all buildings in Phase 2.
- t. August 15, 2021 - Certificate of Occupancy issued for all units in Phase 2.

The Town and Bywater may mutually agree to extend or shorten these deadlines in a separate written document or amendment to this Agreement signed by both parties.

3. Transfer for Town Property. The Town and Bywater agree that the Town will transfer title through General Warranty Deed, to Bywater in order to permit Bywater to encumber the land to secure construction financing. Bywater will purchase the Town Property at a nominal price of \$ 10 per Lot.

Phase 1 - For Block 76 and Block 78, Lot 6, the Town will record affordable housing Deed Restrictions prior to the Town’s transfer of the Town Property for Phase 1 to Bywater in a form substantially similar to **Exhibit A – Deed Restrictions**. The Town will not be obligated to transfer title to any of the Town Property for Phase 1 until after all buildings to be constructed on Block 76 are finally approved by the Town and Bywater has secured a commitment for construction financing. Bywater and its construction lender will agree that the Town will be in a second lien position after the Town transfers title to the Town Property to Bywater and that the Town shall have the right and option to require that the Town Property be reconveyed to the Town in the event of default per Section 20 of this Agreement. The Town will convey the Phase 1 Property to Bywater subject to the Option attached hereto as Exhibit F.

Phase 2 – Lots for Phase 2 will be conveyed no sooner than the dates outlined in Section 2 and the completion of all foundation in Phase 1. Bywater and its construction lender will agree that the Town will be in a second lien position after the Town transfers title to the Town Property to Bywater and that the Town shall have the right and option to require that the Town Property be reconveyed to the Town in the event of default per Section 20 of this Agreement. The Town will convey the Phase 2 Property to Bywater subject to the Option attached hereto as Exhibit F.

4. Town Purchase of Block 77 Housing Units. The Town agrees to purchase the housing units constructed on Block 77, Lot 6, which will be a duplex containing a 2 Bedroom home and 3 Bedroom home. The Town and Bywater will execute a separate contract for the sale and purchase of these units. The purchase price for these housing units will not exceed \$600,000. To assist with reducing construction interest costs for the entire project during Phase 1, the Town will pay a “deposit” of 70% of the purchase price for these two homes (\$420,000) at the closing of Phase 1. The Town will pay the remaining 30% of the purchase price (\$180,000) following the issuance of the certificate of occupancy for these housing units, or when Bywater transfers title to these housing units to the Town, whichever is later. The Town’s financial

obligations shall be subject to Article XX of the Colorado Constitution pursuant to Paragraph 30 of this Contract.

5. **Additional Assistance from the Town.** The Town will provide a further reduction of sales risk to Bywater by agreeing to purchase up to two more Phase 1 housing units, should a unit remain on the market for more than nine months following the date the Town issues the certificate of occupancy for the unit. The total purchase price for these two additional units will not exceed \$680,000. The Town will also seek additional sources such as the Gunnison Valley Housing Foundation to assist in writing down the cost of some homes to provide them to buyers at greater affordability than what is proposed here. The Town will also work with the Gunnison Valley Housing Foundation on the possibility of providing ADA compliant or senior housing. The Town's obligation to purchase the lots and to provide financial assistance is subject to annual appropriations under Article X of the Colorado Constitution as set forth in Paragraph 30 of this Contract. The Town will provide no additional financial assistance to Bywater other than what is stated in this Contract.

6. **Transaction Fees.** The Town and the GVRHA will be responsible for marketing the housing units to buyers and for ensuring that the buyers meet the eligibility guidelines in the Deed Restrictions to purchase the housing units constructed under this Agreement. Bywater agrees to pay a 2% transaction fees to the GVRHA upon the closing for the sale of each home. However, sales to the Town and Town employees will be exempt from this fee. In addition to sale of homes to qualified buyers, Town agrees that up to seven homes may be sold directly to employers in Gunnison County for provision of housing to their employees. The definition of employers will be updated per direction of Crested Butte Town Council. Bywater agrees to pay a transaction fee of 1% for sales to local business that do not use the GVRHA as their broker and 2% to the GVRHA for local businesses that use the GVRHA to broker the purchase of a unit. Bywater shall have no additional payment obligations to buyers who choose to be represented by their own transaction agent.

7. **Architecture and Engineering.** Within 60 days of release of building permits, Bywater shall provide evidence of payment to design firms, and release complete and final digital work product to the Town for plans.

8. **Financing Conditions and Obligations.** Any development loan or financing by Bywater that is secured by any portion of the Town Property shall be subordinate and subject to the Deed Restrictions, as defined in Recital Paragraph A. Bywater has the right to terminate this agreement on or before March 31, 2019, if Bywater determines, in its sole subjective discretion, that financing options for the proposed affordable housing development are not satisfactory to Bywater.

9. **Town Warranties.** The Town makes the following warranties and representations to Bywater, which warranties and representations shall not be merged by any instruments of conveyance:
 - a. There are no actions, suits, litigation, condemnation, or other proceedings or investigations pending, against or affecting the Property.

- b. The Town will make its best effort to obtain the requisite consent of its Town Council and enact an ordinance to convey any of the Town Property to Bywater prior to any conveyance.
 - c. Title Warranty shall be clear, marketable and no liens, except for the Deed Restrictions, the Town Option attached hereto as Exhibit F, and other matters of public record.
- 10. Bywater Warranties.** Bywater makes the following warranties and representations to the Town, which warranties and representatives shall not be merged by any instruments of conveyance:
- a. Bywater acknowledges that, excluding Block 77 Lot 10 and the possibility of the Town's additional unit purchases per Section 5, the Town has made no representations as to the investment potential of the Town Property, whether the development costs submitted by Bywater are reasonable or attainable, or statements or guarantees regarding unit sales prices.
 - b. Bywater warrants and represents that it has the financial ability and experience to develop the Town Property as a quality affordable/workforce residential housing development consistent with affordable housing developments in the Town of Crested Butte and to obtain the necessary financing to pay for the costs of construction of the units on the lots. Bywater shall satisfy this representation at all times prior to full performance by Bywater hereunder, and the Town may examine Bywater's financial records with reasonable notice, previous development projects, and current development progress at any time prior to Bywater's full performance hereunder.
 - c. Bywater has obtained the requisite corporate authority to receive title to and to develop the Town Parcel as contemplated by this Contract.
 - d. Bywater acknowledges that except as set forth in this Contract and in the forthcoming General Warranty Deed, the Town has made no warranty or representation as to the condition of the Town Property and, subject to the within provisions, the Town Property shall be conveyed to Bywater "AS IS" and "WITH ALL FAULTS."
 - e. Bywater acknowledges that it is neither a party to, nor subject to or bound by, any agreement of any kind that would conflict with its performance under this contract.
 - f. Bywater has the capability to obtain necessary permits and registrations to develop the Town Property as required by this Contract.

These representations and warranties shall survive the closing of this Contract and shall not be merged into the deed.

- 11. Performance Bond.** Bywater shall provide the Town with a Performance Bond in the amount of 120% of cost to construct, exclusive of developer overhead and profit. The amount of the Performance Bond is anticipated to be \$6,000,000. This is 120% of the cost to construct. Bywater shall use the form of the Performance Bond attached as **Exhibit E**. The Town shall be authorized to draw upon the Performance Bond to correct any default by Bywater under this Agreement, which default shall be determined and substantiated by a written letter or an Affidavit of Default signed by the Town Manager. Performance Bond shall be issued prior to the Groundbreaking deadline of June 1, 2019.
- 12. Bywater Warranties for Construction of Units.** Bywater shall warrant any and all work performed in construction of the units for a period of twelve (12) months from the certificate of occupancy on each building. In addition, Bywater shall warrant all mechanical systems, and plumbing for a period of twenty-four (24) months from the issuance of the certificate of occupancy of each building. Warranties will be provided to purchasers of all units. Specifically, but not by way of limitation, Contractor shall warrant to the purchaser that:

 - a. Any and all improvements constituting the Project shall be free from any security interest or other lien or encumbrance; and
 - b. Any and all structures so conveyed shall be free of any defects in materials or workmanship for a period of one (1) year.
 - c. Any and all mechanical systems and plumbing shall be warranted for two (2) years.
 - d. Manufacture warranties on appliances will be provided to the buyer for their assumption with the manufacture.
- 13. Corrections to Project.** If, within one 1 year after the issuance of a certificate of occupancy for any housing unit any of Bywater's work is found to be not in accordance with the standards set forth in this contract, Bywater shall, at Bywater's expense, correct it promptly after receipt of a written notice from the Town or other buyer to do so unless the Town or other buyer has previously accepted the condition of the unit. Such notice shall be either delivered personally or by overnight express courier, or sent by registered or certified mail, postage prepaid, return receipt requested, and must be received by Bywater as soon as practicable after the Town discovers the defect or the loss or damage caused by such defect, but in no event later than the date that the warranty given hereby expires.
- 14. Conveyance Documents, Instructions and Closing.** The Town and Bywater will cooperate with the closing company to enable the closing company to prepare and deliver documents required for conveyances to Bywater and the Town and their designees. Bywater and the Town will furnish any additional information and documents required by closing company that will be necessary to complete this transaction. Bywater and The Town will sign and complete all customary or reasonably required documents at or before conveyance. Delivery of the deeds from the Town to Bywater will be at conveyance. Closing will be on the conveyance dates or by mutual agreement of the parties. The hour and place of conveyance closing will be designated by the parties.

- 15. Conveyance Costs, Closing Fees and Taxes.** Bywater and the Town will pay their respective closing costs and all other items required to be paid at conveyance, except as otherwise provided herein. The fee for real estate closing services will be paid at conveyance one-half by Bywater and one-half by the Town.
- 16. Recommendation of Legal and Tax Counsel.** By signing this Contract, Bywater and the Town agree that this Contract has important legal consequences and it is recommended that the parties consult with legal and tax or other counsel before signing this Contract.
- 17. Time of Essence, Default and Remedies.** Time is of the essence for all dates and deadlines in this Contract.
- 18. Legal Fees, Cost and Expenses.** Anything to the contrary herein notwithstanding, in the event of any litigation relating to this Contract, prior to or after Closing Date, the court shall award to the prevailing party in such litigation reasonable attorney fees, costs and expenses.
- 19. Default.** The parties covenant and agree that the following items shall be considered a default by Bywater, if any such item remains uncured for more than period of thirty (30) days:
 - a. Failure to have or secure access to funds sufficient to construct the units on Town Property within 90 days of the financing objection deadline set forth in Section 2.
 - b. Default by Bywater on any of the terms and conditions of any financing obtained.
 - c. The filing of a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law by Bywater, or the admission by Bywater that it is unable to pay its debts as they become due.
 - d. The consent of Bywater to an involuntary petition in bankruptcy or the failure to vacate, within thirty (30) days from the date of entry thereof, any order approving an involuntary petition against Bywater.
 - e. The entering of an order, judgment or decree by any court of competent jurisdiction, on the application of a creditor, adjudicating Bywater as bankrupt or insolvent or approving a petition seeking reorganization or appointing a receiver, trustee, or liquidator of all or a substantial part of Bywater's assets or the Town Property.
 - f. Any attachment or execution levied upon Bywater's assets and the Property which causes Bywater to be unable to perform its obligations hereunder.
 - g. Any commencement of foreclosure proceedings for any lien against the Property, which mechanic's lien or foreclosure proceedings are not dismissed or the lien is bonded over and released within 30 days of the filing of the foreclosure proceedings or recording of the lien.
 - h. Failure to construct 27 affordable housing units on the Property in accordance with the Design Guidelines, square footage requirements, or Town building codes and regulations.
 - i. Failure to construct 27 affordable housing units within the time-frame established by this Contract, or such extension to which the parties may have agreed in writing.

j. Any other material default of the terms and conditions established by this Contract that remains uncured for a period of 30 days.

k. Failure to complete foundations for all units within 90 days of the milestones set out in Section 2.

l. Failure to obtain Certificate of Occupancy for all units within 90 days of the milestones set out in Section 2. Issuance of such Certificates of Occupancy will not be unreasonably withheld by the Town.

20. Remedies Upon Default of Bywater. Upon default by Bywater, in addition to any remedies available to the Town in law or equity, the Town has the right to exercise the right of reversion contained in the deed granted to Bywater for the Town Property, subject to compensation of Bywater for the work completed, and to terminate this Contract as set forth below:

a) If Bywater is in Default prior to the first conveyance of any Town Property, the Town has the right to terminate the Contract.

b) If Bywater defaults after the first conveyance of Town Property, the Town has the right to require Bywater to reconvey the Town Property to the Town pursuant to the Option attached hereto as Exhibit F. Bywater agrees to reconvey all or part of the Town Property and the Town agrees that Bywater and/or Bywater's Lender shall be entitled to recover amounts paid or loaned to Bywater for construction of improvements upon the Town Property once construction of the units is completed and the units are sold to a qualified buyer.

21. Remedies Upon Default of The Town. In the event of a default by The Town hereunder, which remains uncured for a period of thirty (30) days, Bywater shall have all rights and remedies available to Bywater at law or equity.

22. Termination. Prior to the first conveyance of any Town Property, either party has a right to terminate, the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the first conveyance deadline specified in Section 2. If the Notice to Terminate is not received on or before the specified deadline, the parties with the Right to Terminate accept the specified matter, document or condition as satisfactory and waive the Right to Terminate under such provision.

23. Effect of Termination. In the event this Contract is terminated, the Parties are relieved of all obligations hereunder, subject to the Option attached as **Exhibit F**, Bywater's obligation for payment for all inspections, tests, surveys, engineering reports, or other reports or work performed at Bywater's request, and Bywater must pay for any damage that occurs to the Property as a result of such work. Bywater must not permit claims or liens of any kind against the Property for work performed on the Property. Bywater agrees to indemnify, protect and hold the Town harmless from and against any liability, damage, cost or expense incurred by the Town and caused by any such work, claim or lien. This indemnity includes the Town's

right to recover all costs and expenses incurred by the Town to defend against any such liability, damage, cost or expense, or to enforce this provision, including the Town's reasonable attorney fees and expenses. This provision shall survive the termination of this Contract.

24. Entire Agreement, Modification, Survival; Successors. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. Where possible, amendments and modifications to this Contract may be made by mutual agreement of Bywater and the Town and signed by the Town Manager. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a Party receives the predecessor's benefits and obligations of this Contract.

25. Notice, Delivery, and Choice of Law.

- a. Physical Delivery and Notice. Any document or notice to Bywater or the Town must be in writing and is effective when physically received by such party.
- b. Electronic Notice. As an alternative to physical delivery, any notice may be delivered in electronic form to Bywater or the Town.
- c. Electronic Delivery. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the Fax No. of the recipient.
- d. Choice of Law. This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

26. Notice of Acceptance, Counterparts. Once accepted, this document will become a contract between the Town and Bywater. A copy of this Contract may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

27. Good Faith. Bywater and the Town acknowledge that each party has an obligation to act in good faith including, but not limited to, exercising the rights and obligations set forth in the provisions of this Contract.

28. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

- 29. Severability.** If any portion of this Agreement, or amendment thereto, shall be held invalid or contrary to law, such portion shall be severable from this Agreement and the remainder of this Agreement shall remain in full force and effect and shall be valid and enforceable between the parties.
- 30. Binding Agreement.** This Agreement shall be binding upon the Parties, their respective heirs, personal representatives, successors and assigns.
- 31. Electronic Signatures.** Electronic signatures shall be deemed as valid as an original signature.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

THE TOWN

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

By: _____
James A. Schmidt, Mayor

ATTEST:

By: _____
Lynelle Stanford, Town Clerk

BYWATER

BYWATER, LLC, a Colorado limited liability company

By: _____

Its: Managing Member

Exhibit A – Deed Restriction

Exhibit B – Lot Map

Exhibit C - AMI Table

Exhibit D - Construction details

Exhibit E – Form of Performance Bond

Exhibit F – Option Agreement

EXHIBIT "A"

Deed Restriction

[attach approved form here]

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

Town of Crested Butte
Attn: Town Clerk
P.O. Box 39
507 Maroon Avenue
Crested Butte, CO 81224

**ACKNOWLEDGEMENT OF DEED RESTRICTION
AND MAXIMUM RESALE PRICE**

By execution of this **ACKNOWLEDGEMENT OF DEED RESTRICTION AND MAXIMUM RESALE PRICE** (this "DR Acknowledgement"), the undersigned fee title owner ("Owner") of the following real property and improvements thereon:

[insert legal description here],

also commonly known as: _____, Crested Butte, Colorado 81224 (the "Unit"), hereby acknowledges, confirms and agrees to be bound by the terms, agreements, conditions, covenants and requirements of that certain Master Deed Restriction (the "Deed Restriction") dated August 24, 2016, and recorded in the official real property records of the Clerk and Recorder of Gunnison County, Colorado on August 24, 2016 at Reception No. 041510, respecting the Unit, as and when the circumstances may dictate. For purposes hereof, the contents, terms and conditions of the Deed Restriction are hereby incorporated herein as if fully set forth verbatim herein. In addition, the following matters shall also apply to the Unit:

1. (a) \$ _____ represents the "Original Purchase Price" as of the effective date of this DR Acknowledgement.

- OR (as applicable) -

(b) \$ _____ represents the "Original Purchase Price" as of the effective date of this DR Acknowledgement which is based on a valuation of the Unit as assigned by the Town following the performance of a valuation of the Unit pursuant to the Affordable Housing Guidelines.

2. In no event shall the Unit be sold for an amount in excess of the lesser of:

(a) The Original Purchase Price plus an increase of three percent (3%) of such price per year from the date of purchase to the date of Owner's notice of intent to sell (prorated at the rate of .25 percent for each whole month for any part of a year); or

(b) an amount (based upon the Consumer Price Index, Seasonally-adjusted Housing Category, U.S. City Average, Urban Wage Earners and Clerical Workers (Revised), published by the U.S. Department of Labor, Bureau of Labor

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Statistics) calculated as follows: Owner's purchase price divided by the Consumer Price Index published at the time of Owner's purchase stated on the Settlement Statement, multiplied by the Consumer Price Index current at the date of intent to sell. In no event shall the multiplier be less than one (1). For purposes hereof, the "date of intent to sell" or Owner's notice shall be the date of execution of a listing contract, or if a listing contract is not otherwise necessary, the date shall be determined to be the date upon which an Owner provides written notice of intent to sell to the Town or a requirement for Owner to sell is first applicable (the "**Maximum Resale Price**").

3. Subject to the limitations of this Section, for the purpose of determining the Maximum Resale Price in accordance with this Section, Owner may add to the amount specified above, the cost of Permitted Capital Improvements as described in the Affordable Housing Guidelines.

4. For the purpose of determining the Maximum Resale Price, Owner may also add the cost of any permanent improvements constructed or installed as a result of any requirement imposed by any governmental agency, provided that written certification is provided to the Town of both the applicable requirement and the information required in the Affordable Housing Guidelines.

5. In order to obtain Maximum Resale Price, Owner must ensure that the Unit meets the Town's generally applicable minimum standards for a seller of a deed-restricted unit to receive full value as determined by the Town in its discretion. This shall include requirements to clean the home, ensure that all fixtures are in working condition and to repair damage to the Unit beyond normal wear and tear and as stated in the Minimum Standards for Seller to Receive Full Value at Resale as set forth in the Affordable Housing Guidelines. If the seller does not meet this requirement, the Town may require that Owner escrow at closing a reasonable amount as determined by the Town to achieve compliance, or reduce the Maximum Resale Price accordingly.

6. Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Deed Restriction and the Affordable housing Guidelines.

7. In the event of any inconsistency between this DR Acknowledgement, the Deed Restriction and the Affordable Housing Guidelines, this DR Acknowledgement shall control, then the Deed Restriction, then the Affordable Housing Guidelines.

[Remainder of Page Intentionally Left Blank;
 Signature Page(s) to Follow]

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IN WITNESS WHEREOF, the Town and Owner have entered into this DR Acknowledgement effective as of the date of Owner's signature set forth below (the "Effective Date").

TOWN:

**TOWN OF CRESTED BUTTE,
COLORADO**, a Colorado home rule
municipal corporation

Date: _____

By: _____
_____, Mayor

ATTEST:

_____, Town Clerk

(SEAL)

OWNER:

Date: _____

By: _____

Name: _____

Address: _____

Attn: _____

Phone: _____

E-mail: _____

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

Town of Crested Butte
Attn: Town Clerk
P.O. Box 39
507 Maroon Avenue
Crested Butte, CO 81224

MASTER DEED RESTRICTION
(Blocks 79 and 80, Paradise Park Subdivision)

THIS MASTER DEED RESTRICTION (this "**Deed Restriction**") is made this 24th day of August 2016 (the "**Effective Date**") by the **TOWN OF CRESTED BUTTE, COLORADO** (the "**Town**"), a Colorado home rule municipal corporation with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, Colorado 81224.

RECITALS:

- A. The Town is the fee simple title owner of the real property legally described in **Exhibit "A"** (the "**Property**") attached hereto.
- B. An individual lot, and the dwellings, structures, appurtenances, improvements and fixtures located thereon and located within the Property is defined herein as a "**Unit**."
- C. "**Qualified Buyers**" are natural persons meeting the income, residency and other qualifications set forth in the Town's Affordable Housing Guidelines, adopted by Resolution No. 2, Series 2016, as may be amended and modified by the Town from time to time (the "**Affordable Housing Guidelines**").
- D. The Town hereby restricts the acquisition, transfer, use and occupancy of the Units to Qualified Buyers who fall within the income categories established in the Affordable Housing Guidelines.
- E. This Deed Restriction shall constitute a resale agreement setting forth the maximum resale price (the "**Maximum Resale Price**") for which the Units may be sold and the terms and provisions controlling such resale.

RESTRICTIONS:

1. **Use and Occupancy.**

1.1 The use and occupancy of the Property, and each of the Units thereon, shall be limited exclusively to Owners who meet the definition of Qualified Buyers and their families, the requirements of this Deed Restriction and the Affordable Housing Guidelines. For purpose hereof, an "**Owner**" is a person(s) who is a Qualified

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Buyer who acquires an ownership interest in a Unit in compliance with the terms and provisions of this Deed Restriction and the Affordable Housing Guidelines, it being understood that such person(s) shall be deemed an "Owner" hereunder only during the period of his ownership interest in the Unit, and shall be obligated hereunder for the full and complete performance and observance of all of the covenants, conditions and restrictions contained in this Deed Restriction and the Affordable Housing Guidelines during such period.

1.2 An Owner, in connection with the purchase of a Unit, must:

(a) occupy the Unit as his sole place of residence during the period that such Unit is owned by him;

(b) not own, directly or indirectly through a legal entity, any interest alone or in conjunction with others, in any developed residential property or dwelling units in accordance with the limitations established by the Affordable Housing Guidelines;

(c) not engage in any business activity in the Unit, other than as permitted by the Affordable Housing Guidelines and the Crested Butte Municipal Code (the "Code");

(d) sell or otherwise transfer the Unit, other than in accordance with this Deed Restriction and the Affordable Housing Guidelines;

(e) not permit any junior lienholder encumbrance to be recorded against the Unit without the Town's prior written approval;

(f) not sell or otherwise transfer the Unit other than in accordance with this Deed Restriction and the Affordable Housing Guidelines;

(g) not permit any use or occupancy of the Unit except in compliance with this Deed Restriction and the Affordable Housing Guidelines;

(h) continue to meet the residency and employment requirements of a Qualified Buyer established by the Affordable Housing Guidelines; and

(i) continue to meet the other requirements of this Deed Restriction and the Affordable Housing Guidelines.

Recertification of employment, residency and ownership of the Unit shall be required as set forth in the Affordable Housing Guidelines.

2. **Maximum Resale Price.** In no event shall the Unit be sold by Owner for an amount in excess of the Maximum Resale Price. On purchase, resale, transfer and issuance of a certificate of occupancy for the Unit as permitted under this Deed

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Restriction and the Affordable Housing Guidelines, at closing, Owner shall execute an "Acknowledgement of Deed Restriction and Maximum Resale Price" (the "**DR Acknowledgement**") in substantially the same form as attached hereto as **Exhibit "B"**. The DR Acknowledgement shall be recorded in the real property records of the Clerk and Recorder of Gunnison County, Colorado immediately after the recording of the vesting deed for the Unit and before the recording of any deed of trust. Failure to so record the DR Acknowledgment before any deed of trust shall void the transfer of the Unit under the vesting deed *ab initio*.

3. **Multiple Qualified Bids.** In the event that one qualified bid is received equal to the Maximum Resale Price, the Unit shall be sold to such bidder at the Maximum Resale Price, and in the event Owner receives two or more such bids equal to the Maximum Resale Price, the Qualified Buyer shall be selected according to the priority for sale set forth in the Affordable Housing Guidelines, and in the event that more than one such qualified bidder is of equal priority pursuant to the Affordable Housing Guidelines, the Qualified Buyer shall be selected by lottery among the qualified bidders of the highest priority, whereupon the Unit shall be sold to the winner of such lottery at the Maximum Resale Price. If the terms of the proposed purchase contract, other than the price, as initially presented to Owner, are unacceptable to Owner, there shall be a mandatory negotiation period of three (3) business days to allow Owner and potential buyer to reach an agreement regarding the terms of purchase, including but not limited to, the closing date and any financing contingencies. If, after the negotiation period is over, Owner and the potential buyer have not reached an agreement for sale, the next bidder's offer shall then be presented to Owner for consideration and a three (3) business day negotiation period will begin again. Owner may reject any and all bids; however, Owner is subject to the provisions in the Affordable Housing Guidelines pertaining to the listing fee. Bids in excess of the Maximum Resale Price shall be rejected. If all bids are below the Maximum Resale Price, Owner may accept the highest qualified bid. If all bids are below the Maximum Resale Price and two or more bids are for the same price, the Qualified Buyer shall be selected by lottery from among the highest qualified bidders.

4. **Non-Qualified Transferees.** In the event that title to the Unit vests by descent in, or is otherwise acquired by any persons(s) who are not a Qualified Buyer (a "**Non-Qualified Transferee**"), the Unit shall immediately be listed for sale as provided herein, for the highest bid by a Qualified Buyer, for not less than ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, whichever is less. If all bids are below ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, the Unit shall continue to be listed for sale until a bid in accordance with this section is made. The cost of an appraisal shall be paid by the Non-Qualified Transferee.

4.1 Non-Qualified Transferees shall join in any sale, conveyance or transfer of the Unit to a Qualified Buyer and shall execute any and all documents necessary to do so.

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4.2 Non-Qualified Transferees agree not to: (a) occupy the Unit; (b) rent all or any part of the Unit, except in compliance with this Deed Restriction and the Affordable Housing Guidelines; (c) engage in any other business activity in the Unit; (d) sell or otherwise transfer the Unit except in accordance with this Deed Restriction and the Affordable Housing Guidelines; or (e) sell or otherwise transfer the Unit for use in a trade or business.

4.3 The Town shall have the right and option to purchase the Unit, exercisable within a period of fifteen (15) calendar days after receipt of any sales offer submitted to the Town by a Non-Qualified Transferee, and in the event of exercising its right and option, the Town shall purchase the Unit from the Non-Qualified Transferee for a price of ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, whichever is less. The offer to purchase shall be made by the Non-Qualified Transferee within fifteen (15) days of acquisition of the Unit.

4.4 Where the provisions of this Section 4 apply, the Town may require Owner to rent the Unit in accordance with the requirements hereof.

5. **Owner Residence, Employment and Continuing Compliance.** The Unit shall be utilized only as the sole and exclusive place of residence of an Owner. In the event that Owner changes his place of residence or ceases to utilize the Unit as his sole and exclusive place of residence, ceases to be a full-time employee in accordance with the Affordable Housing Guidelines, or otherwise ceases to be in compliance as a Qualified Buyer, the Unit must be offered for sale pursuant to the provisions of this Deed Restriction and the Affordable Housing Guidelines. An Owner shall be deemed to have changed his place of residence by becoming a resident elsewhere or accepting employment outside of Gunnison County, or residing in the Unit for fewer than nine (9) months per calendar year without the express written approval of the Town, or by ceasing to be a full-time employee as required by the Affordable Housing Guidelines. The Town may require Owner to rent the Unit in accordance with the requirements hereof. If at any time Owner also owns directly or indirectly through a legal entity any interest alone or in conjunction with others in any developed residential property or dwelling units as described in the Affordable Housing Guidelines, Owner shall immediately list such other property for sale and shall sell his interest in such property in accordance with this Deed Restriction and the Affordable Housing Guidelines. In the event that such other property has not been sold by Owner within one (1) year of its listing, Owner hereby agrees to immediately list the Unit for sale pursuant to this Deed Restriction and Affordable Housing Guidelines. Should Owner not receive a full-price bid on the Unit, Owner must accept the first reasonable offer for the Unit as deemed appropriate by the Town.

6. **Rentals.** An Owner may not, except with prior written approval of the Town, rent the Unit for any period of time. Prior to occupancy, any tenant must be approved by the Town in accordance with the income, occupancy and other qualifications established in the Affordable Housing Guidelines. The Town shall not approve any rental if such rental is being made by Owner to utilize the Unit as an income producing asset, except as provided below, and shall not approve a lease with a rental term in excess

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of twelve (12) months. A signed copy of the lease must be provided to the Town prior to occupancy. Any such lease approved by Town shall state the lease term and the monthly rent. The monthly rent cannot exceed Owner's costs, including monthly expenses of the cost any mortgage principal and interest payments, taxes, property insurance, condominium or homeowners' assessments and utilities in Owner's name, plus any additional amount as permitted by the Affordable Housing Guidelines and a reasonable security deposit. The requirements hereof shall not preclude Owner from sharing occupancy of the Unit with non-owners on a rental basis provided that Owner continues to meet the requirements contained in this Deed Restriction and the Affordable Housing Guidelines. In no event shall Owner create an additional dwelling unit in the Unit as defined in the Code. Nothing herein or in the Affordable Housing Guidelines shall be construed to create any liability for the Town attributable to the rental of the Unit or require the Town to provide a tenant for the Unit, the same being expressly disclaimed hereby.

7. **Compliance Review; Remedies for Breach.** Owner shall promptly provide to the Town all such information as the Town shall reasonably require as necessary to verify compliance with this Deed Restriction and the Affordable Housing Guidelines. The Town shall maintain the confidentiality of any financial data provided by Owner, except for such disclosures as are necessary with respect to any litigation, enforcement or other legal proceedings. In the event that the Town has reasonable cause to believe that Owner is violating this Deed Restriction and the Affordable Housing Guidelines, the Town shall have the right to inspect the Unit at reasonable times on at least 24 hours' written notice. In the event that a violation of this Deed Restriction or the Affordable Housing Guidelines is discovered, the Town shall send a notice of such violation to Owner describing the nature of the violation and allowing Owner fifteen (15) days to cure such violation. Said notice shall state that Owner may request a hearing before the Town within fifteen (15) days to dispute the merits of the allegations. If no hearing is requested and the violation is not cured within the fifteen (15) day period, the violation shall be considered final and Owner shall immediately list the Unit for sale in accordance with this Deed Restriction. The failure to request a hearing shall constitute an exhaustion of administrative remedies for the purpose of judicial review. If a hearing is, (i) the decision of the Town based on the record of such hearing shall be final for the purpose of determining if a violation has occurred, and (ii) the Town shall have absolute discretion to determine the appropriate action to be taken to either remedy the violation or require Owner to list the Unit for sale in accordance with this Deed Restriction.

8. **Notice Obligation.** Owner and any beneficiary of any deed of trust or other encumbrance affecting the Unit shall give immediate notice to the Town of any instance of (a) Owner's receipt of notice of foreclosure or legal proceedings relative to the Unit, (b) any uncured delinquency of ten (10) days or more in Owner's payment of any amounts in connection with the Unit, (c) Owner's uncured default under any deed of trust or other encumbrance affecting the Unit, and (d) any transfer, encumbrance or conveyance of all or part of the Unit.

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9. **Default.** Any breach of the terms and conditions set forth herein, including, without limitation, a transfer, encumbrance or conveyance in violation of the terms hereof shall constitute a “**default**” hereunder. Default by Owner of the terms of any deed of trust or other encumbrance affecting the Unit shall also constitute a default hereunder. In the event of a default, following notice and an opportunity to cure as provided for herein, the Town shall have all rights and remedies set forth herein and available at law and in equity.

10. **Remedies.**

10.1 In the event that Owner fails to timely cure any default, the Town may resort to any lawful means to protect its interest in this Deed Restriction, including, without limitation, curing such default and pursuing an action against Owner and any beneficiary of any deed of trust or other encumbrance affecting the Unit for damages. Any amounts paid by the Town shall accrue interest at the rate of 18% per annum and the Town shall be entitled to recover all costs and expenses to recover any amounts paid by the Town including reasonable attorneys’ fees.

10.2 This Deed Restriction shall be administered by the Town or its designee and shall be enforceable by appropriate legal or equitable action, including, but not limited, to specific performance, injunction, abatement or eviction of non-complying owners or occupants or such other remedies and penalties as may be deemed appropriate by the Town. All such remedies shall be cumulative and concurrent.

10.3 Owner appoints the Town as its attorney in fact for purposes of curing any default. Owner shall give and execute an instrument of authorization reflecting such appointment when required by the Town.

11. **Town Option to Purchase.** In the event of a default of any deed of trust or other encumbrance affecting the Unit that remains uncured by Owner, the Town shall have an option (the “**Option**”) to purchase the Unit. The Town shall have forty-five (45) days after written notice from the holder of any instrument secured by a deed of trust or other encumbrance affecting the Unit of any default to exercise the Option (the “**Option Period**”). The Town shall exercise the Option by delivering to Owner written notice of such exercise within the Option Period. The Town shall be granted entry onto the Unit during the Option Period in order to inspect the Unit. Owner or any lienholder shall maintain utility connections until expiration of the Option Period or Closing (as defined below). The Town shall have the Option to purchase the Unit for the amount due to any holder of a promissory note secured by a first deed of trust on the Unit (the “**Lienholder Amount**”). The Town shall have the following rights and obligations respecting its exercise of the Option:

11.1 Owner shall permit a final walk-through of the Unit by the Town during the final three (3) days prior to Closing.

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R 86.00 D 0.00



11.2 Upon payment of the Lienholder Amount by the Town, Owner shall cause to be delivered to the Town a general warranty deed for the Unit, free and clear of all liens and encumbrances.

11.3 Normal and customary Closing costs shall be shared equally by Owner and the Town. Owner shall be responsible for, at its cost, any and all title insurance fees, document fees and recording fees for the deed. Taxes shall be prorated based upon taxes for the calendar year immediately preceding Closing. Any fees incident to the issuance of a letter or statement of assessments by an association shall be shared paid by Owner. Owner shall receive a credit for that portion of association assessments paid in advance from date of Closing.

11.4 Closing on the purchase of the Unit by the Town shall occur expeditiously, but in any case within sixty (60) days of the Town's exercise of the Option at a date and time to be mutually agreed upon by the Town and Owner (the "**Closing**"). The location of the Closing shall be the title company closing the transaction, said title company to be selected by the Town. Possession shall be delivered to the Town at Closing, unless otherwise agreed between Owner and Town.

12. **Termination of Deed Restriction.** In the event of a sale in foreclosure or acceptance of deed in lieu of foreclosure by the holder of a deed of trust where the Town does not exercise the Option or otherwise fails to close on the Option as provided herein, this Deed Restriction shall automatically and permanently terminate and be of no further force and effect as respects the subject Unit. In the event of the termination of this Deed Restriction, the Town shall cause to be recorded in the real property records of the Clerk and Recorder of Gunnison County, Colorado a full and complete release of this Deed Restriction.

13. **Run with the Land; Binding.**

13.1 Subject to Section 12 hereof, this Deed Restriction shall be a perpetual covenant that shall run with the land as a burden thereon for the benefit of the Town, its designees and assigns, and shall be binding on Owner, its heirs, personal representatives, successors, assigns, lessees, licensees and transferees.

13.2 The Town shall have the right to terminate this Deed Restriction as to any Unit when the Town is the fee title owner of such Unit by recording an instrument reflecting such termination in the real property records of the Clerk and Recorder of Gunnison County, Colorado. Upon such termination, as to the effected Unit, this Deed Restriction shall be null and void.

14. **Transfer and Conveyance.** In the event the Unit is sold, transferred, encumbered or otherwise conveyed without complying with this Deed Restriction, such sale, transfer, encumbrance or conveyance shall be wholly null and void *ab initio* and shall confer no title or other interest whatsoever upon the purported transferee. Each and

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every encumbrance or conveyance of the Unit shall be deemed, for all purposes, to include the Affordable Housing Guidelines.

15. **General Provisions.** The following terms and conditions shall apply to this Deed Restriction:

15.1 **Notices.** Any notice, consent or approval that is required to be given hereunder shall be given by either: mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein; or hand-delivering the same to any address provided herein. Notices shall be considered delivered on the date of delivery if hand-delivered or if both hand-delivered and mailed; or three (3) days after postmarked, if mailed only. Notices, consents and approvals shall be sent to the parties at the addresses last of record for the parties.

15.2 **Severability.** Whenever possible, each provision of this Deed Restriction and any other related document shall be interpreted in such manner so as to be valid under applicable law; but, if any provision of any of the foregoing shall be invalid or prohibited under applicable law, such provisions shall be ineffective only to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document.

15.3 **Attorneys' Fees.** If the Town is required to enforce any provision of this Deed Restriction or the Affordable Housing Guidelines, the Town shall be entitled to collect any and all costs and expenses in connection therewith including, without limitation, reasonable attorneys' fees.

15.4 **Choice of Law; Venue.** This Deed Restriction and each and every related document shall be governed and construed in accordance with the laws of the State of Colorado. Venue for any legal action arising from this Deed Restriction shall be in Gunnison County, Colorado.

15.5 **Assignment and Transfer.** This Deed Restriction and the rights, benefits and obligations contained herein may be assigned and transferred, in whole or in part, by the Town without notice to Owner or any lienholder. Such right of assignment and transfer shall include, without limitation, the rights of performance and enforcement of the terms hereof.

15.6 **Successors and Assigns.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon all heirs, personal representatives, successors, assigns, lessees, licensees and transferees.

15.7 **Section Headings.** Section headings within this Deed Restriction are inserted solely for convenience of reference and are not intended to and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

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15.8 **Recitals**. The Recitals hereinabove contain materials terms to this Deed Restriction.

15.9 **Waiver**. No claim of waiver, consent or acquiescence with respect to any provision of this Deed Restriction shall be valid against any party hereto except on the basis of a written instrument executed by the parties. The party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition in writing however.

15.10 **Gender and Number**. Whenever the context so requires herein, the neuter, male or female gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

15.11 **Construction**. None of the provisions of this Deed Restriction shall be construed against or interpreted to the disadvantage of a party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provisions.

15.12 **Amendments in Writing**. This Deed Restriction may only be modified or amended in writing by the Town. No such modification shall be effective until an instrument in writing is executed and recorded in the official real property records of the office of the Clerk and Recorder of Gunnison County.

15.13 **Conflict**. In the event of any conflict or inconsistency between this Deed Restriction and the Affordable Housing Guidelines, this Deed Restriction shall in all cases prevail and control.

[Remainder of Page Intentionally Left Blank;
Signature Page to Follow]

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EXHIBIT "A"

Property

Paradise Park Subdivision, according to the Replat thereof recorded in the Office of the Clerk and Recorder of Gunnison County, Colorado on April 27, 2016 at Reception No. 639098.

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EXHIBIT "B"

DR Acknowledgement

[attach form here]

EXHIBIT "B"

Lot Map

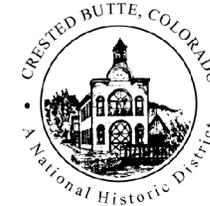
[attach approved form here]



BYWATER DEVELOPMENT LOT MAP EXHIBIT B

- Bywater Development
- Duplex
- Triplex
- Developed / Sold
- Available
- Park / Snow Storage
- Wetlands
- Sidewalk
- (2) Number of Units on Lot

Number Units in Project: 27
 Lottery Units: 25



Town of Crested Butte
 P.O. Box 39
 507 Maroon Ave.
 Crested Butte, Colorado 81224
 (970) 349-5338 (FAX 349-6626)
 email: myerman@crestedbutte-co.gov

EXHIBIT “C”

AMI Table

[attach approved form here]

Pro Forma AMI Disbursement- 2019 Paradise Park Build

Lot/ Block	Home Type	SF	AMI	Sale Price	Total Sale Price/Building
L10/B77	3 bed	1200	100%	\$265,862.00	
L10/B77	2 bed	1000	130%	\$307,070.00	\$572,932.00
L6/B76	2 bed	1000	140%	\$335,628.00	
L6/B76	2 bed	1000	140%	\$335,628.00	\$671,256.00
L5/B76	3 bed	1200	120%	\$331,869.00	
L5/B76	2 bed	1000	100%	\$221,399.00	
L5/B76	1 bed	750	150%	\$293,021.00	\$846,289.00
L4/B76	3 bed	1200	130%	\$364,873.00	
L4/B76	1 bed	750	110%	\$197,769.00	\$562,642.00
L3/B76	2 bed	1000	130%	\$307,070.00	
L3/B76	2 bed	1000	100%	\$221,399.00	
L3/B76	2 bed	1000	150%	\$364,185.00	\$892,654.00
L2/B76	3 bed	1200	140%	\$397,877.00	
L2/B76	2 bed	1000	100%	\$221,399.00	
L2/B76	1 bed	750	110%	\$197,769.00	\$817,045.00
L1/B76	3 bed	1200	150%	\$430,880.00	
L1/B76	1 bed	750	150%	\$293,021.00	\$723,901.00
L10/B79	3 bed	1200	90%	\$232,858.00	
L10/B79	2 bed	1000	100%	\$221,399.00	
L10/B79	1 bed	750	90%	\$150,143.00	\$604,400.00
L3/B80	2 bed	1000	110%	\$249,956.00	
L3/B80	2 bed	1000	100%	\$221,399.00	
L3/B80	2 bed	1000	140%	\$335,628.00	\$806,983.00
L6/B78	2 bed	1000	110%	\$249,956.00	
L6/B78	2 bed	1000	110%	\$249,956.00	\$499,912.00
L11/B79	2 bed	1000	140%	\$335,628.00	
L11/B79	2 bed	1000	140%	\$335,628.00	\$671,256.00
Total sales				\$7,669,270.00	\$7,669,270.00

Square feet 26950

AMI By home type

	1 bed	2 bed	3 bed
90		1	
100			5
110		2	3
120			
130			2
140			5
150		2	1
Total		5	16

Average sales price / SF- \$284.57

1 bed AVG SF \$ \$301.79

2 bed AVG SF \$ \$282.08

3 bed AVG SF \$ \$281.14

AMI Distribution

Percentile Number

90	2
100	6
110	5
120	1
130	3
140	6
150	4
Total	27

Average AMI 121.00

EXHIBIT “D”

Construction Details

[attach approved form here]

Interior finish details-TOCB Paradise Park build 2019**Lots 1-6 B76 L10 L11 B79 L6 B78 L3 B80 L10 B77**

All items are intended to be representative in nature. No guarantee of inclusion of the exact products shown. All items selected for installation will be similar in nature. This exhibit is intended to describe what Bywater agrees to include in the finishes of the homes.

Flooring-

Level 1- stained & sealed concrete

Level 2- carpet/LVT wood

Walls & ceilings-

Textured & painted drywall

Doors and trim-

Painted wood

Cabinets-

Prefinished wood cabinets

Countertops-

Solid surface-quartz or granite

Plumbing Fixtures-

Delta

Appliances-

Energy star GE or equivalent- includes the following- W&D, Refrigerator, Dishwasher, OTR Vent, Range

Lighting-

Decorative lighting in baths and dining area, Led can lighting in balance of house

Hardware-

BHP-includes all door locks, bath hdwe



GE APPLIANCES
a Haier company



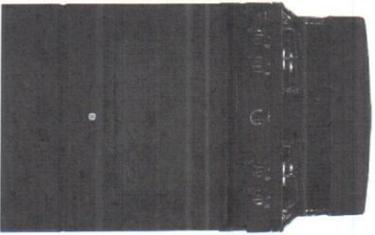
Model#: JN327HBB

GE® Non-Vented Standard Range Hood

Approx Dimensions (HxDxW):
5 1/2 in X 17 1/2 in X 29 7/8 in

- Non-Vented - Filter system cleans and returns air to the kitchen
- Vertical and rear exhaust - Exhausts from the top or rear of the hood

Also Available in:



Model#: JGBS30DEKBB

GE® 30" Free-Standing Gas Range

Approx Dimensions (HxDxW):
46 1/4 in X 28 3/4 in X 30 in

- 13,000 BTU burner - Delivers a wide range of heat output ideal for most cooking requirements
- Big view window - Large, clear window makes checking food easy
- Precise Simmer burner - Delicate foods don't burn with low, even heat
- Sealed cooktop burners - Contains spills and make cleaning quick and easy



Also Available in:



Model#: GSD3300KBB

GE® Built-In Dishwasher

Approx Dimensions (HxDxW):
34 in X 25 3/4 in X 24 in

- 3-level wash system - Powerful wash cleans dishes thoroughly
- Two-stage filtration with Extra Fine filter - Extra filtration keeps water clean
- Piranha™ hard food disposer - Grinds food into small particles that are washed away
- Hot Start option - Provides optimal water temperature for dependable performance



Also Available in:



GE APPLIANCES
a Haier company



Model#: GIE18CTHBB

GE® ENERGY STAR® 17.5 Cu. Ft. Top-Freezer Refrigerator

Approx Dimensions (HxDxW):
67 3/8 in X 32 7/8 in X 28 in

- #1 in Quality and Dependability - Among 14-18 cu. ft. refrigerators based on an independent study of property maintenance personnel. Source: The Stevenson Company, 2016—Market research company with over 20 years of experience in the appliance industry
- Upfront temperature controls - Easy-to-use controls regulate both fresh food and freezer sections
- Adjustable wire shelves - Moveable racks can handle a variety of foods
- Factory-installed icemaker - Refrigerator comes ready to automatically create ice

Also Available in:

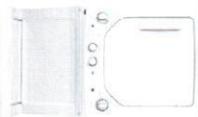


Model#: GUD24E5SSMWW

GE Unitized Spacemaker® 2.3 DOE cu. ft. Capacity Washer with Stainless Steel Basket and 4.4 cu. ft. Capacity Electric Dr

Approx Dimensions (HxDxW):
74 7/8 in X 27 3/8 in X 23 3/4 in

- Rotary- electromechanical controls (dryer) - Allow fast, easy cycle selection
- 11 wash cycles - Cycles are designed to specifically handle various fabrics and soils
- 6 wash / rinse temperatures - Select the right temperature for ideal wash results
- 1 wash / spin speed combination - Speeds are matched to fabric type for great clothes care

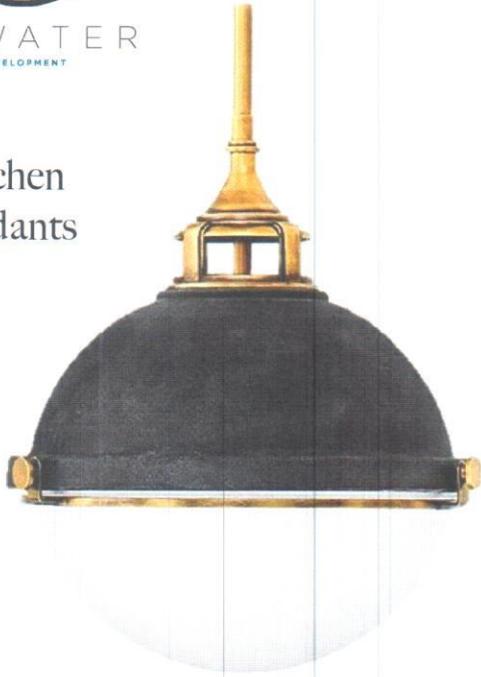




BY WATER
DEVELOPMENT

LIGHTING PACKAGE # I

Kitchen
Pendants



Living Room
Overhead



Bedroom Flush
Mount



Bath
Sconces





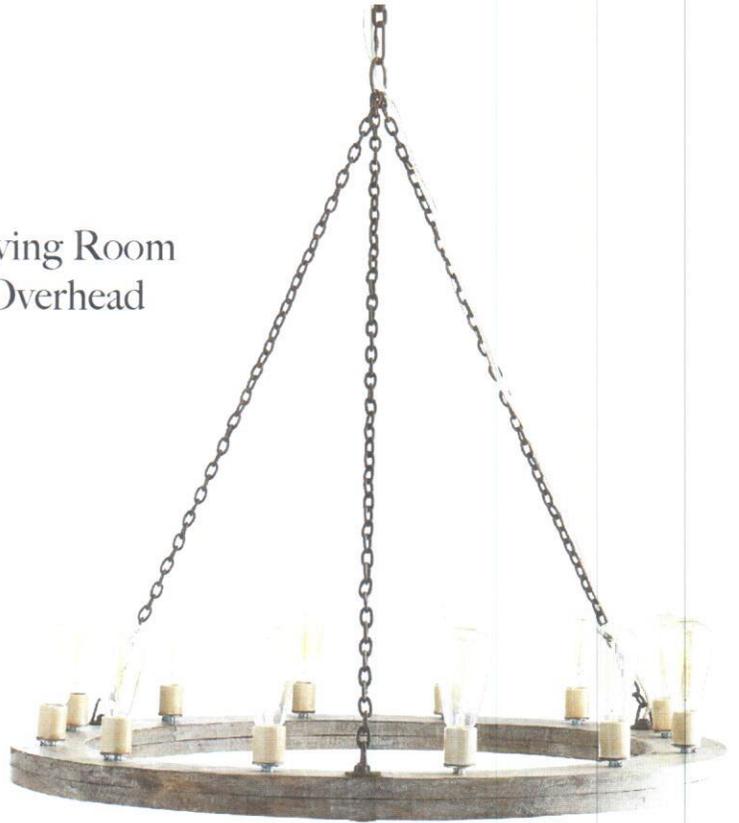
LIGHTING PACKAGE #2

BY WATER
DEVELOPMENT

Kitchen Pendants



Living Room
Overhead



Bedroom Flush
Mount



Bath
Sconces





BY WATER
DEVELOPMENT

LIGHTING PACKAGE #3

Kitchen
Pendants



Living Room
Overhead



Bedroom Flush
Mount



Bath
Sconces

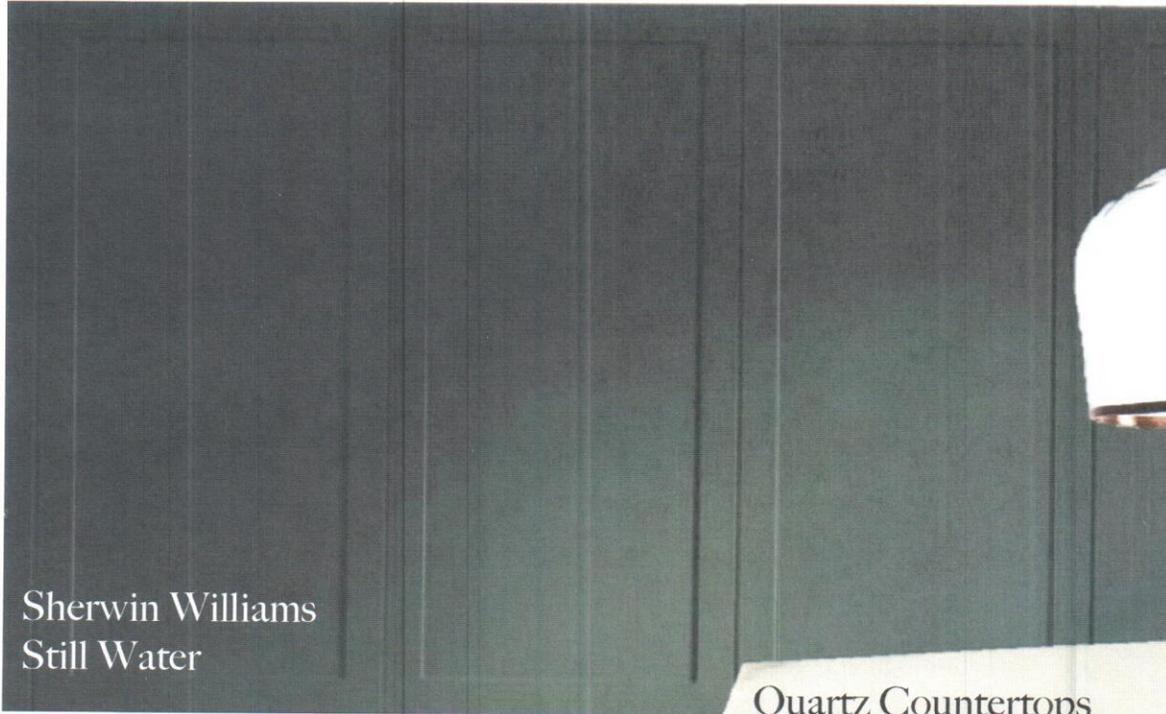




BY WATER
DEVELOPMENT

KITCHEN PALETTE #1

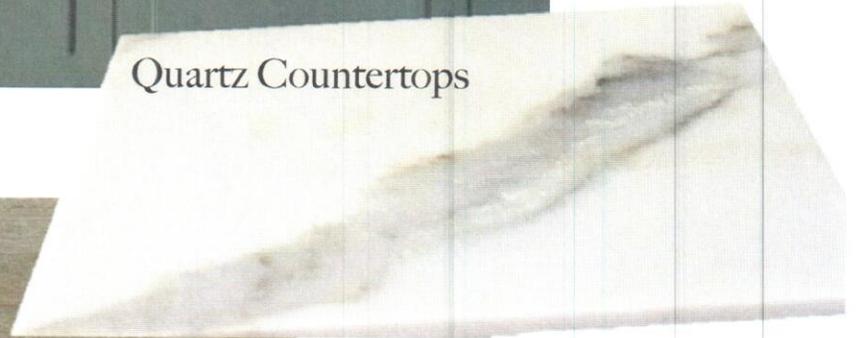
123



Sherwin Williams
Still Water



Kitchen
Pendants



Quartz Countertops



Engineered Hardwoods
Color: Amazon



Kitchen Faucet



BY WATER
DEVELOPMENT

KITCHEN PALETTE #2

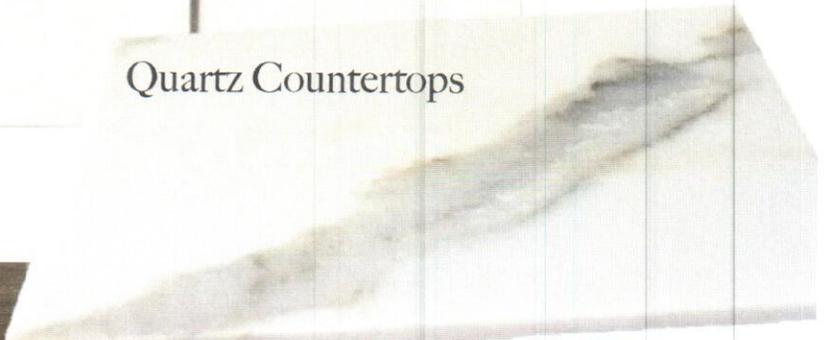


Sherwin Williams
Incredible White



Kitchen
Pendants

Quartz Countertops



Engineered Hardwoods
Color: Bear Lake

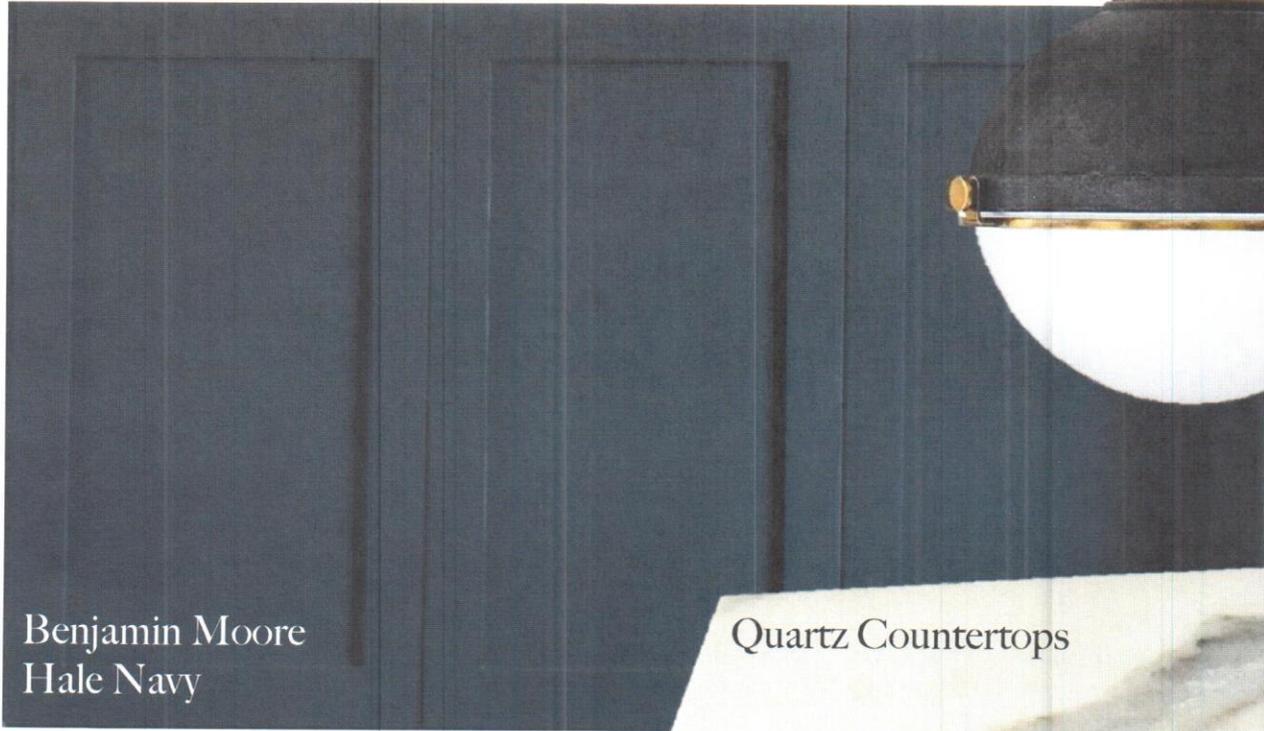


Kitchen Faucet



BY WATER
DEVELOPMENT

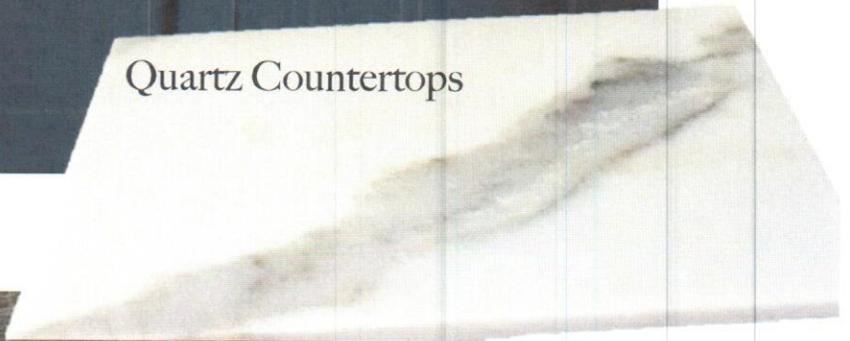
KITCHEN PALETTE #3



Benjamin Moore
Hale Navy



Kitchen
Pendants



Quartz Countertops



Engineered Hardwoods
Color: Havasu



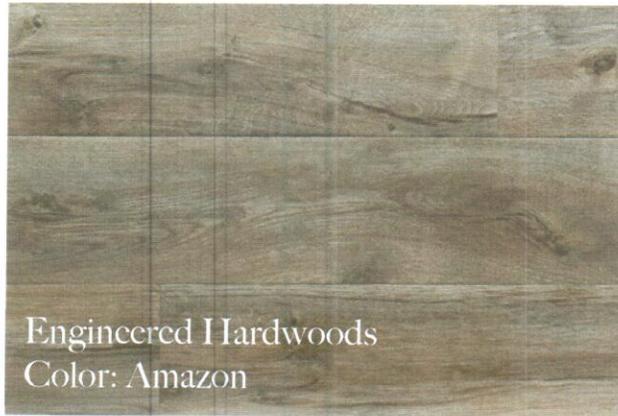
Kitchen Faucet



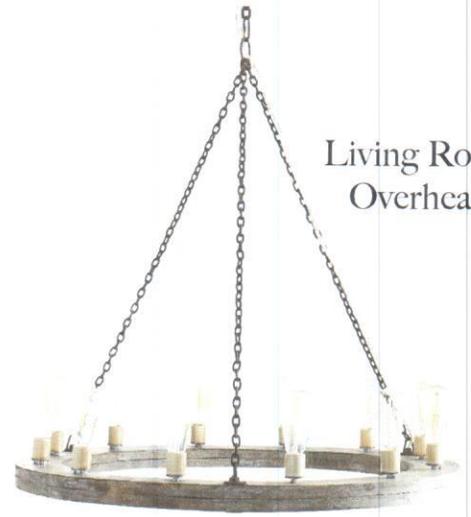
BY WATER
DEVELOPMENT

LIVING ROOM: FLOORING & LIGHTING

Palette #1

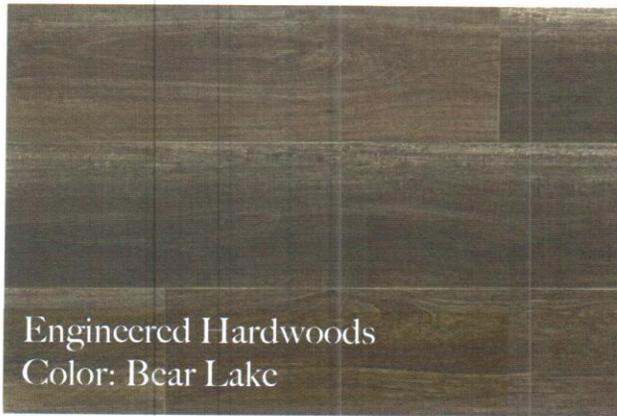


Engineered Hardwoods
Color: Amazon



Living Room
Overhead

Palette #2

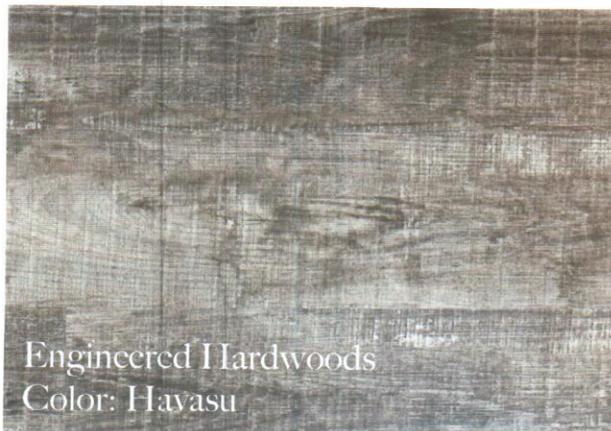


Engineered Hardwoods
Color: Bear Lake



Living Room
Overhead

Palette #3



Engineered Hardwoods
Color: Havasu



Living Room
Overhead

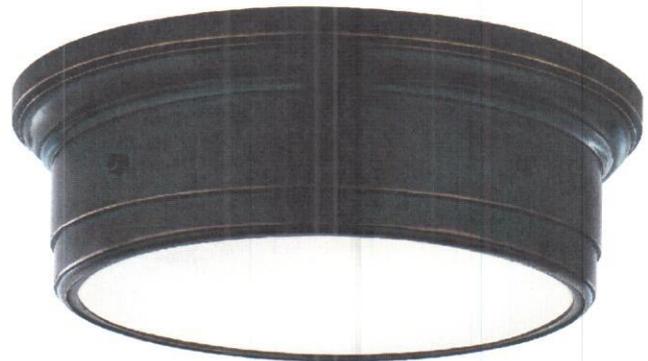


BY WATER
DEVELOPMENT

BEDROOMS: FLOORING & LIGHTING



Low Nap Berber Carpet



Flush Mounts
in Hand-Rubbed Brass
and
Oil Rubbed Bronze

EXHIBIT “E”

Form of Performance Bond

[attach approved form here]

Bond # _____

Exhibit E PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned
 , a _____ organized under the laws of the State of
 , hereinafter referred to as the Contractor and
 _____, a corporation organized under the laws of the State of
 , and authorized and licensed to transact business in the State of Colorado, hereinafter referred to as the
 Surety, are held and firmly bound unto the Town of Crested Butte, Colorado, hereinafter referred to as the
 Town, in the penal sum of \$6,000,000, lawful money of the United States of America, for the payment of
 which sum the Contractor and Surety bind themselves and their heirs, executors, administrators,
 successors and assigns, jointly and severally by these presents.

WHEREAS, the above Contractor has on the 22nd day of January, 2019 entered into a written
 contract with the Town for furnishing all labor, materials, equipment, tools, superintendence, and other
 facilities and accessories for the construction of the **2019 Paradise Park Affordable Housing Build** (the
 “Project”) in accordance with the Contract Documents therefor which are incorporated herein by
 reference and made a part hereof, and are herein referred to as the Contract.

NOW, THEREFORE, the conditions of this performance bond are such that if the
 Contractor:

1. promptly and faithfully observes, abides by and performs each and every covenant,
 condition and part of said Contract, including, but not limited to, its warranty provisions,
 in the time and manner prescribed in the Contract; and
2. pay the Town all losses, damages (liquidated including, but not limited to, damages
 caused by delays in performance of the Contract), expenses, costs and attorneys’ fees,
 that the Town sustains resulting from any breach or default by the Contractor under the
 Contract, then this bond is void; otherwise, it shall remain in full force and effect in
 accordance with the Contract.

IN ADDITION, if said Contractor fails to perform in any respect under the Contract Documents,
 the Surety shall pay any amounts incurred or to be incurred by the Town in connection with such failure
 in an amount not exceeding the amount of this obligation, inclusive of, without limitation, liquidated
 damages, together with any related costs and expenses incurred by the Town, including, without
 limitation, attorneys’ fees.

IN ADDITION, if said Contractor fails to duly pay for any labor, materials, team hire,
 sustenance, provisions or any other supplies used or consumed by said Contractor or its subcontractors in
 its performance of the Work contracted to be done or fails to pay any person who supplies rental
 machinery, tools, or equipment, all amounts due as the result of the use of such machinery, tools or
 equipment in the prosecution of the Work, the Surety shall pay the same in an amount not exceeding the
 amount of this obligation, together with any related costs and expenses incurred by the Town, including,
 without limitation, attorneys’ fees.

PROVIDED, that the said Surety, for value received, hereby stipulates and agrees that any and all changes in the Contract shall not affect the Surety's obligations under this bond and the Surety hereby waives notice of any such changes. Further, Contractor and Surety acknowledge that the penal sum of this bond shall increase in accordance with approved changes to the Contract Documents without obtaining the Surety's consent up to a maximum of twenty percent (20%) of the penal sum hereof.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this _____ day of _____, 2019.

CONTRACTOR:

By: _____

Name: _____

Title: _____

SURETY:

By: _____

Name: _____

Title: _____

(Accompany this Bond with the attorney-in-fact's authority from the Surety to execute this Bond, certified to include the date of the Bond.)

EXHIBIT "F"

Option Agreement

[attach approved form here]

OPTION AGREEMENT

BYWATER, LLC, an Oklahoma Limited Liability Company (“Bywater” or “Grantor”), for good and valuable consideration, in hand paid, hereby grants to the **TOWN OF CRESTED BUTTE, COLORADO** (“Town” or “Grantee”), whose address is 507 Maroon Ave., P.O. Box 39, Crested Butte, Colorado, 81230, an irrevocable option to purchase any of the following real property (the “Property”):

Block 76, Lots 1, 2, 3, 4, 5, and 6
 Block 77, Lot 10
 Block 78, Lot 6
 Block 79, Lot 10, and 11
 Block 80, Lot 3

Paradise Park Subdivision Town of Crested Butte, Gunnison County, Colorado,
 With all appurtenances.

These Lots are collectively referred to hereinafter as the “Property” or “Town Property.” **Exhibit B – Lot Map** is attached hereto and incorporated herein.

The Option granted herein is subject to the following terms and conditions:

1. Consideration for Option. The Option is granted as part of the consideration paid by the Town to Bywater in the form of the conveyance of the Property for the nominal price of \$10 per lot by that certain General Warranty Deed of even date herewith pursuant to the Contract to Buy, Sell and Develop Deed Restricted Housing in the Town of Crested Butte’s Paradise Park Subdivision (“Contract”). No additional consideration is given by Grantee for the Option. The Town shall record this option prior to the time that the Town conveys the Property to Bywater, and prior to the time Bywater’s Lender records any deed of trust to secure construction financing.
2. Term of Option. Unless sooner exercised by Grantee, this Option shall expire upon Bywater’s full performance of its obligations under Phase 1 and Phase 2 of the Contract or December 31, 2021, whichever is earlier.
3. Conditions Precedent to Exercise of Option. The Grantee shall have the absolute right to exercise the Option upon the occurrence of any one of the events of default specified in Section 19 of the Contract.
4. Exercise of Option. At any time after one of the events of default specified in Section 19 of the Contract and prior to expiration of the Option, Grantee may exercise the Option by delivering written notice of exercise of the Option to Grantor or Grantor’s Lender. The purchase



Staff Report

January 22, 2017

To: Mayor and Town Council

From: Rob Zillioux, Finance and HR Director

Subject: Ordinance 2019-2, An ordinance of the Crested Butte Town Council approving the lease of the property at 705 & 715 Seventh Street to Stepping Stones Children's Center

Summary: Stepping Stones has been a long-term tenant of the Town. Their most recent lease expired in 2017. The Council directed staff to review all of the expired leases of town property and to bring forward new leases for those entities. Staff recommends entering into a new lease with Stepping Stones.

Previous Council Action: In January of 2017, with Resolution 2017-02, the Council approved a policy regarding the leasing of non-residential municipal property.

Background: With the creation of a facility manager position a couple of years ago, the Town has begun to get a handle on the maintenance status of the many buildings the Town own and has begun investing in building improvements and deferred maintenance.

As of January, 2019 the Town had six tenants with expired or non-existent leases. All of the tenants are current with payments based upon the terms of the expired leases. Staff has been reaching out to all of our non-residential tenants with expired leases to make them aware that the Town would like to enter into new leases. In some cases this also included new proposed lease rates. Based upon the policy adopted by the Council, staff generated a sliding lease rate based first upon the size of the space rented with the goal of getting all of the tenants to \$2 - \$6 per square foot, per year for non-profits.

Discussion: The space that Stepping Stones leases is approximately 4,690 sq. ft. This is one of the larger spaces that the Town rents. They have been paying \$0 per year rent. Town has performed major maintenance on the building. They have been paying utilities plus basic maintenance for the building. As drafted the lease would continue to require Stepping Stones to pay utilities to perform basic maintenance. The annual lease rate proposed is as follows:

2019	\$4,690	\$1.00 sq. ft.
2020	\$5,863	\$1.25 sq. ft.
2021	\$7,035	\$1.50 sq. ft.
2022	\$8,208	\$1.75 sq. ft.
2023	\$9,380	\$2.00 sq. ft.

The rental term is for 5 years with an automatic 5 year renewal, unless either party provides termination notice

For comparison, the current commercial leases rates in town range from \$5.00 to \$10.00 on similar property:

\$5.00 per sq. ft.	\$23,450
\$7.50 per sq. ft.	\$35,175
\$10.00 per sq. ft.	\$46,900

Section 3(e) of the lease includes an acknowledgement that the lease rate is substantially below market rates in support of the community benefit provided by Stepping Stones as a local non-profit.

Legal Implications: It is in the best interest of both the Town and its tenants to have a clear lease acknowledging the terms under which the tenant is permitted to use the property ensuring adequate insurance is in place and laying out the maintenance responsibilities.

Recommendation: Staff recommends the Town enter into a lease with Stepping Stones Children's Center.

Proposed Motion: Motion and a second to set Ordinance No. 2, Series 2019 to public hearing at the February 4th Council meeting.

ORDINANCE NO. 2**SERIES NO. 2019****AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL APPROVING THE LEASE OF THE PROPERTY AT 705 & 715 SEVENTH STREET TO STEPPING STONES CHILDREN'S CENTER**

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; and

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

WHEREAS, pursuant to Section 713 (c), when the term of such lease is more than one year, the Town Council must approve such lease by ordinance of the Town Council; and

WHEREAS, on April 24, 2002, the Town entered into a multi-year lease with Stepping Stones Children's Center for property owned by the Town located at 705 Seventh Street; and

WHEREAS, the term of the lease expired on April 23, 2017; and

WHEREAS, the Town Council and Stepping Stones Children's Center wish to enter into a long-term Business Lease attached hereto as Exhibit A; and

WHEREAS the Town Council finds hereby that approving leases of various Town properties for use by certain entities 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 foregoing recitals are hereby fully incorporated herein.
2. **Authorization of Town Manager or Mayor**. Based on the foregoing, the Town Council hereby authorizes the Town Manager or Mayor to execute a lease in substantially the same form as attached hereto as **Exhibit "A"**.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL
THIS ____ DAY OF _____, 2019.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A Schmidt, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT “A”**Lease Agreements****BUSINESS LEASE**

THIS BUSINESS LEASE (this “**Lease**”) is entered into this ___ day of _____, 20___, with an effective date of January 1, 2017 (the “**Effective Date**”) by and between the TOWN OF CRESTED BUTTE, COLORADO (“**Landlord**”), a Colorado home rule municipality and the Stepping Stones Children’s Center, a Colorado nonprofit corporation (“**Tenant**”).

AGREEMENT:

Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms and conditions as set forth herein, the real property and improvements thereon located at 705 7th Street, Crested Butte, (the “**Premises**”).

Tenant has inspected the Premises and accepts the same in its “as is” condition.

1. **Use; Parking; Maintenance; Utilities; Signage.**

(a) Tenant may use and occupy the Premises solely for childcare and related purposes in keeping with the mission of the Tenant. Any other uses shall be following Landlord’s prior written consent.

(b) All public facilities on the Premises shall be utilized as directed by Landlord and not restricted by Tenant. There is parking provided on the Premises.

(c) During the Term (as defined below), Tenant shall provide routine maintenance and care respecting the Premises, including, without limitation, regular cleaning and general cosmetic care (collectively, “**Projects**”). All such maintenance and care shall be performed at Tenant’s sole cost and expense.

(d) Tenant shall provide regular grounds maintenance (e.g., lawn care, snow removal) on and adjacent to the Premises. Landlord shall be responsible for snow removal at Premises parking lot.

(e) Tenant shall pay the gas and electric utilities (both pro rata) and communications services used by Tenant on the Premises during the Term, regardless of whether the services are billed directly to Tenant or through Landlord. Such amounts, where payable to Landlord, shall be payable as additional rent to be paid by Tenant within fifteen (15) days after delivery of an invoice from the Town for such charges and expense.

(f) Tenant shall pay the expenses for water, sewer and trash/recycling services for the Premises during the Term.

(g) All exterior signage shall be installed only upon prior approval of Landlord.

2. **Term.**

(a) Provided that Tenant is not in default under any term or condition of this Lease, Tenant shall have and hold the Premises for a five (5) year period (the "**Term**") that shall commence on the Effective Date hereof and expire five (5) years following the commencement of the Term. The Term shall automatically be extended for an additional five (5) years, unless the Lease is terminated in writing by either party at least 90 days prior to the expiration of the initial Term.

(b) At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in broom clean, good order and condition, in the same condition and repair as Tenant initially took occupancy of the Property on the Effective Date, ordinary wear and tear excepted. Tenant shall fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions and improvements. All trade fixtures, equipment, furniture, alterations, additions and improvements not so removed shall conclusively be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without notice to Tenant or to any other person and without obligation to account therefor. Tenant shall pay Landlord all expenses incurred in connection with Landlord's disposition of such property, including the cost of repairing any damage to any improvements or the Premises caused by such removal. Tenant's obligation to observe and perform the foregoing requirements shall survive the expiration or earlier termination this Lease.

3. **Rent; Additional Rent; Security Deposit.**

(a) Tenant shall pay Landlord \$391 on the Effective Date of this Lease and each month thereafter during the first year of the Term (the "**Rent**"). If the Tenant chooses they make pay the full amount for the coming year on the Effective Date and subsequent anniversaries. Rent shall increase annually as follows:

1 st anniversary (2020):	\$5,863 annually / \$489 per month
2 nd anniversary (2021):	\$7,035 annually / \$586 per month
3 rd anniversary (2022):	\$8,208 annually / \$684 per month
4 th anniversary (2023):	\$9,380 annually / \$782 per month

(b) Any Rent that is paid late shall accrue interest at a rate of 1.5% of such unpaid Rent per month. Rent shall be prorated for any partial month.

(c) Rent, any additional rent and any other amounts due Landlord under this Lease shall be paid at Landlord's address specified herein for notices, without prior demand and without any abatement, deduction or setoff.

(d) To secure the faithful performance by Tenant of all of Tenant's covenants, conditions, and agreements in this Lease to be observed and performed, Tenant shall deposit with Landlord a security deposit (the "**Security Deposit**") within one (1) year of execution of the Lease. Tenant's security deposit shall be of \$500.00. The Security Deposit may also be used in the event of termination of the Lease by re-entry, eviction, or otherwise. The parties agree that the Security Deposit or any portion thereof, may be applied to any Event of Default (as defined below) that may exist, and/or payment of subsequent damages and costs incurred by Landlord, without prejudice to any other remedy or remedies that Landlord may have on account thereof. If Tenant shall perform all of its respective covenants and agreements in the Lease, the Security Deposit, or the portion thereof not previously applied pursuant to the provisions of the Lease, together with a statement, shall be returned to Tenant without interest, no later than sixty (60) days after the expiration of the Term, or any renewal or extension thereof (or such earlier time if required by applicable law), provided Tenant has vacated the Premises and surrendered possession thereof to Landlord.

(e) Tenant acknowledges that the lease rate proposed is substantially below market value for leasing of office space in Crested Butte at the time of the Effective Date. Below market lease rates are being offered in support of the community benefit provided by Tenant as a local non-profit. The following is provided for comparison on possible annual lease rates for this space:

\$5.00 per sq. ft.	\$23,450
\$7.50 per sq. ft.	\$35,175
\$10.00 per sq. ft.	\$46,900

4. **Landlord's Access.** Landlord, its agents, employees and contractors may, at their sole risk, enter the Premises at any time in response to an emergency, and at other reasonable time upon reasonable prior notice to Tenant, without limitation, (a) inspect the Premises, (b) determine whether Tenant is complying with its obligations under this Lease, (c) supply any other service that Landlord is required to provide, (d) post notices of non-responsibility or similar notices, or (e) make repairs which this Lease requires Landlord or Tenant to make. All work of Landlord shall be performed as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible, at all times taking into account the nature and extent of such work. Landlord shall at all times have a key with which to unlock all of the doors to the Premises (excluding Tenant's vaults, safes and similar areas designed in writing by Tenant in advance).

5. **No Alterations.** Without limiting Tenant's obligations to maintain, repair, restore and replace the Premises and any portion thereof, Tenant shall not make any

alterations, additions, repairs, restorations or improvements to the Premises without Landlord's prior written consent.

6. **Compliance with Laws.**

(a) Tenant shall not use or occupy, or permit any portion of the Premises to be used or occupied in violation of any law, ordinance, order, rule, regulation, certificate of occupancy or other governmental requirement.

(b) Tenant and the Premises shall remain in compliance with all applicable laws, ordinances and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment, including those statutes, laws, regulations and ordinances, all as amended and modified from time to time..

7. **No Unsightliness.** Tenant covenants and agrees that no unsightliness shall be permitted on the Premises. Without limiting the generality of the foregoing, no vehicles, machinery, equipment, tools, refuse, scrap, debris, garbage, trash, bulk materials, used vehicle parts or waste shall be kept, stored or allowed to accumulate on the Premises at any time. The Tenant shall have the right to tow vehicles from the Premises and place signage on the Premises to enforce the above provisions.

8. **Insurance.**

(a) At its sole expense, Tenant shall obtain and keep in force during the Term commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000.00) 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 against any and all liability of Landlord and Tenant, including coverage for contractual liability, broad form property damage, and non-owned automobile liability, with respect to the Premises or arising out of the maintenance, use or occupancy of the Premises. The insurance shall be noncontributing with any insurance that may be carried by Landlord and shall contain a provision that Landlord, although named as an insured, shall nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, and employees, or the property of such persons.

(b) Upon receipt of written notification from the Town, at Tenant's sole expense, Tenant shall obtain and keep in force, during the Term, "all-risk" coverage naming Landlord and Tenant as their interests may appear and other parties that Landlord or Tenant may designate as additional insureds in the customary form for buildings and improvements of similar character, on all buildings and improvements now or hereinafter located on the Premises. Such coverage shall include, without limitation, the historic replacement value of the Premises building structure. The amount of the insurance shall be designated by Landlord no more frequently than once every twelve (12) months, shall

be set forth on an “agreed amount endorsement” to the policy of insurance and shall not be less than the value of the buildings and improvements.

(c) All insurance required in this Section and all renewals of it 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 approved by Landlord. All insurance policies shall be subject to approval by Landlord and any lender as to form and substance, said approval not to be unreasonably withheld or delayed; shall expressly provide that the policies shall not be canceled or altered without thirty (30) days’ prior written notice to Landlord and any lender, and to Landlord in the case of general liability insurance; and shall, to the extent obtainable without additional premium expense, provide that no act or omission of Tenant which 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. Tenant may satisfy its obligation under this Section by appropriate endorsements of its blanket insurance policies.

(d) All policies of liability insurance that Tenant is obligated to maintain according to this Lease (other than any policy of workmen’s compensation insurance) shall name Landlord and such other persons or firms as Landlord specifies from time to time as additional insureds provided such other persons have an insurable interest and does not result in any additional premium expenses. Original or copies of original policies (together with copies of the endorsements naming Landlord, and any others specified by Landlord, as additional insureds) and evidence of the payment of all premiums of such policies shall be made available to Landlord prior to Tenant’s occupancy of the Premises and from time to time at least thirty (30) days’ prior to the expiration of the term of each policy. All public liability, property damage liability, and casualty policies maintained by Tenant shall be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry. No insurance required to be maintained by Tenant by this Section shall be subject to any deductible in excess of \$20,000.00 without Landlord’s prior written consent.

(e) Landlord and Tenant waive all rights to recover against each other, or against the officers, elected officials, directors, shareholders, members, partners, joint venturers, employees, agents, customers, invitees, or business visitors of each of theirs, 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. Tenant shall cause its insurer to issue an appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Premises and any personal property located on the same. Tenant shall cause all other occupants of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver in this Section and to obtain such waiver of subrogation rights endorsements.

9. **Indemnification; Tenant Waiver and Release.**

(a) Tenant shall indemnify Landlord, its elected officials, officers, employees, agents, contractor, attorneys, insurers and insurance pools (collectively, the “**Landlord Parties**”; as applicable, each an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), losses, liabilities, judgments, and expenses (including attorneys’ fees and court costs) incurred in connection with or arising from: (i) the use or occupancy of the Premises by Tenant or any person or entity claiming under Tenant, the employees, agents, contractors, guests, invitees or visitors of Tenant or any person or entity (each, a “**Tenant Related Person**”); (ii) any activity, work, or thing done or permitted or suffered by a Tenant Related Person in or about the Premises; (iii) any acts, omissions, or negligence of any Tenant Related Person; (iv) any breach, violation, or nonperformance by any Tenant Related Person of any term, covenant, or provision of this Lease or any law, ordinance or governmental requirement of any kind; or (v) except for loss of use of all or any portion of the Premises or Tenant’s property located within the Premises that is proximately caused by or results proximately from the gross negligence of Landlord, any injury or damage to the person, property or business of a Tenant Related Person entering upon the Premises under the express or implied invitation of Tenant. If any action or proceeding is brought against an Indemnitee by reason of any claim solely arising out of subparagraphs (i) through (v) above, upon notice from Landlord, Tenant shall defend the claim at Tenant’s expense with counsel reasonably satisfactory to Landlord.

(b) Tenant waives and releases all claims against Indemnitees with respect to any loss, injury, death, or damage (including consequential damages) to persons, property, or Tenant’s business occasioned by, without limitation, theft; act of God; public enemy; injunction; riot; strike; insurrection; war; court order; requisition; order of governmental body or authority; fire; explosion; falling objects; steam, water, rain or snow; leak or flow of water (including water from the elevator system), rain or snow from the Premises or into the Premises or from the roof, street, subsurface, or from any other place, or by dampness, or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the building; or from construction, repair, or alteration of the Premises or from any acts or omissions of any visitor of the Premises; or from any cause beyond Landlord’s control.

10. **Default Provisions.**

(a) If Tenant fails to perform any of its obligations under this Lease, then Landlord, after ten (10) days’ written notice to Tenant (or, in case of any emergency, upon notice or without notice as may be reasonable under the circumstances) and without waiving any of its rights under this Lease, may (but shall not be required to) pay the amount or perform the obligation. All amounts so paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any obligations (together with interest at the prime rate from the date of Landlord’s payment of the amount or incurring of each cost or expense until the date of full repayment by Tenant) shall be payable by Tenant to Landlord on demand and as additional rent. In the proof of

any damages that Landlord may claim against Tenant arising out of Tenant's failure to maintain insurance that is required by terms of this Lease, Landlord shall not be limited to the amount of the unpaid insurance premium but shall also be entitled to recover as damages for the breach the amount of any uninsured loss (to the extent of any deficiency in the insurance required by the provisions of this Lease), damages, costs and expenses of suit, including attorneys' fees, arising out of damage to, or destruction of, the Premises occurring during any period for which Tenant has failed to provide the insurance.

(b) The following occurrences are "**Events of Default**": (i) Tenant defaults in the due and punctual payment of rent or any other amount due under this Lease, and the default continues for five (5) days after notice from Landlord; (ii) Tenant defaults in the performance of any other obligation under this Lease that is not cured after ten (10) days' written notice to Tenant (or, in case of any emergency, upon notice or without notice as may be reasonable under the circumstances); or (iii) Tenant vacates or abandons the Premises.

(c) If any one or more Events of Default occurs, then Landlord may, at its election, give Tenant written notice of its intention to terminate this Lease on the date of the notice or on any later date specified in the notice, and, on the date specified in the notice, Tenant's right to possession of the Premises shall cease and this Lease shall be terminated. In addition, landlord shall have all other rights available at law and in equity, including, without limitation, recovery of actual damages, costs and expenses, including reasonable attorneys' fees. All remedies may be cumulatively and concurrently applied and enforced.

12. **Assignment.** Tenant may not assign this Lease, or sublet the Premises, in whole or in part, without Landlord's prior written consent.

13. **Notices.** All notices, demands, and requests required to be given by either party to the other shall be in writing, and with a copy given to counsel for each such party as provided below. All notices, demands, and requests shall be delivered personally or sent by electronic mail (e-mail), nationally recognized overnight courier, certified or registered mail, return receipt requested, postage prepaid, or via facsimile, addressed to the parties at the addresses set forth below or at such other addresses as the parties may designate in writing delivered pursuant to the provisions hereof. Any notice when given as provided herein shall be deemed to have been delivered on the day of delivery if delivered personally, on the first business day following the confirmation of sending of an e-mail when sent by electronic mail, on the first business day following deposit with the courier service when delivered by overnight courier, three business (3) days subsequent to the date that said notice was deposited with the United States Postal Service, or on the first business day following the date of confirmation of receipt when delivered by facsimile.

To Landlord:	Town of Crested Butte P.O. Box 39 507 Maroon Avenue
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Crested Butte, CO 81224
Facsimile: (970) 349-6626
Attn: Finance Director

To Tenant: Stepping Stones Children's Center
P.O. Box 611
Crested Butte, CO 81224
Attn: Executive Director

14. **No Waiver.** No waiver of any condition or agreement in this Lease by either Landlord or Tenant shall imply or constitute a further waiver by such party of the same or any other condition or agreement.

15. **Attorneys' Fees.** In case a dispute between the parties shall arise in connection with this Lease, the prevailing party shall be entitled to recover and shall be awarded (in addition to other relief granted) all reasonable attorneys' fees and costs in connection with such dispute from the non-prevailing party.

16. **Severability.** If any sentence, paragraph or article of this Lease is held to be illegal or invalid, this shall not affect in any manner those other portions of the Lease not illegal or invalid and this Lease shall continue in full force and effect as to those remaining provisions.

17. **Successors and Assigns.** The conditions and provisions hereof shall inure to the benefit of, and shall be binding upon, Landlord, Tenant and their respective personal representatives, successors and permitted assigns.

18. **Immigration Compliance.** Tenant certifies that it has complied, and during the term of this Lease will continue to comply, with the Immigration Reform and Control Act of 1986. The signature of Tenant on this Lease: (1) certifies that Tenant is not a natural person unlawfully present in the United States; and (2) also certifies the statements below if this is a public contract for services as defined in Colo. Rev. Stat. § 8-17.5-101, et seq., and Tenant utilizes subcontractors or employees in Tenant's business. Tenant shall not:

(a) knowingly employ or contract with an illegal alien to perform work under this Lease; or

(b) enter into a contract with a subcontractor that fails to certify to Tenant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Lease.

Tenant has confirmed the employment eligibility of all employees and subcontractors who are newly hired for employment to perform work under this Lease through participation in either the e-verify program or the department program (as defined in Colo. Rev. Stat. § 8-17.5-101, et seq.). Tenant may not use either the e-verify program or

the department program procedures to undertake pre-employment screening of job applicants while this Lease is being performed. If Tenant obtains actual knowledge that a subcontractor performing work under this Lease knowingly employs or contracts with an illegal alien, Tenant shall:

(i) notify the subcontractor and the Landlord within three (3) days that Tenant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(ii) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to sub-subparagraph (a) of this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Tenant 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.

Tenant shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to state law. Tenant acknowledges that in the event Tenant violates any of the provisions of the foregoing the Town may terminate this Lease for breach of contract. No notice need be given of said termination. If this Lease is so terminated, Tenant shall be liable for actual and consequential damages to the Landlord.

19. **Obligation to Report.** Tenant shall report any material damage to the Premises or disturbances therein or thereon to Landlord as soon as it becomes aware of any such damages or disturbances.

20. **Miscellaneous Provisions.**

(a) Each party represents and warrants that it has obtained any and all approvals necessary to enter into and perform the obligations contained in this Lease, if any.

(b) This Lease shall be construed and enforced in accordance with the laws of the State of Colorado.

(c) This Lease is entered into at Crested Butte, Colorado, and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Lease will be in the District Court of Gunnison County, Colorado.

(d) This Lease may be executed in multiple counterparts each of which shall constitute an original, and both of which when taken together shall constitute one and the same document. The parties hereby agree to accept facsimile or electronic copies of signatures as original signatures

(e) An recordation of this Lease or any record thereof, or the recordation of any encumbrance against the Premises and/or the Improvements by any person, including, without limitation, any mortgagee of Tenant, except Landlord and any mortgagee of Landlord, shall be void *ab initio* and a default under this Lease.

(f) This Lease constitutes the entire and exclusive agreement between the parties relating to the specific matters covered herein. Any other agreements between the parties, whether written or oral are hereby merged herein and of no further force and effect.

(g) Unless otherwise provided in the Lease, the Lease may be amended, modified, or terminated only by a written instrument executed by Landlord and Tenant.

[Remainder of Page Intentionally Left Blank;
Signature Page(s) to Follow]

IN WITNESS WHEREOF, Landlord and Tenant have executed Lease by their duly authorized officials effective as of the Effective Date first written above.

LANDLORD:

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Dara MacDonald, Town Manager

ATTEST:

_____ [Seal]
Lynelle Stanford, Town Clerk

TENANT:

Stepping Stones Children’s Center
Colorado Non-Profit Corporation

By: _____
Name: _____
Title: _____



To: Mayor Schmidt and Town Council

From: Michael Yerman, Community Development Director

Thru: Dara MacDonald, Town Manager

Subject: **Ordinance 3, Series 2019- IRC requirements for sprinkler systems in Townhomes**

Date: January 22, 2019

Background:

The Town Council previously passed a local text amendment to exempt 2 unit Townhomes (or Duplexes) from sprinkler requirements. The International Residential Code allows local jurisdictions to pass local text amendments. A Townhome is considered a standalone single-family home that sits on its own lot that shares a 2-hour fire rated wall with a neighboring property. The two hour wall must extend from the foundation through ceiling. Ordinance 3, Series 2019 would extend the sprinkler exemption from duplexes units to also include Triplexes units.

Recommendation:

A Council member make a motion followed by a second to set Ordinance 3, Series 2019 amending Code Section 18-2-30 (6) concerning fire suppression requirements for townhomes under the International Residential Code to a public hearing on February 4, 2019.

ORDINANCE NO. 3

SERIES 2019

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL
AMENDING THE TOWN CODE TO AMEND CRESTED BUTTE
MUNICIPAL CODE SECTION 18-2-30 (6) CONCERNING FIRE
SUPPRESSION REQUIREMENTS FOR TOWNHOMES UNDER THE
INTERNATIONAL RESIDENTIAL CODE.**

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

WHEREAS, C.R.S. 31-15-103 authorizes the Town to adopt ordinances necessary to provide for the health, safety and welfare of the Town; and

WHEREAS, the adoption of uniform codes of construction is necessary to ensure safe and sound construction of buildings; and

WHEREAS, the Town of Crested Butte adopted the 2015 Series of the International Residential Code with Ordinance 19, Series 2016 along with certain amendments; and

WHEREAS, the construction of safe and sound buildings is an important charge of the Town Council; and

WHEREAS, the Town Council has determined that the below amendment to the International Residential Code suggested by the Town staff promotes the desired goals of the Town Council to achieve standardized, safe construction, and accordingly, are in the best interest of the environment, health, safety and general welfare of the residents and visitors of the Town.

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

Section 1. Amending Chapter 18, Article 2, Section 30 (6) – International Residential Code Section 313.1. The following Section in Chapter 18, Article 2 is amended as follows:

IRC Section 313.1 (Townhouse automatic fire sprinkler systems) shall be amended to add the following. "... in townhouses of more than three units".

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS _____ DAY OF _____,
2019.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING THIS _____ DAY OF _____, 2019.

TOWN OF CRESTED BUTTE

By: _____

James A. Schmidt, Mayor

ATTEST:

BY: _____

Lynelle Stanford, Town Clerk



Memorandum

To: Town Council
From: Dara MacDonald, Town Manager
Subject: Ideas for Improving Meeting Efficiency
Date: January 22, 2019

Even though long meetings are too often accepted as the norm, we need to acknowledge that drawn-out meetings are bad public policy for several reasons, mainly (but not limited to):

- People can lose the focus and attention needed to make good decisions on important issues
- Meetings that regularly run longer than expected are a deterrent to keeping residents involved and serving on the council

- Laura Stoneburner

Members of the Town Council have expressed concerns recently about the conduct of Council meetings. Specifically, the concerns have been around length of the meetings. The following are some tips for efficient meetings as well as possible ways the Council may wish to restructure in an effort to more efficiently conduct meetings while still being effective.

1. Be prepared, pay attention to comments and discussion, and be respectful of the comments of others.
2. Stay on topic
 - Focus on the matter at hand. If ancillary issues or ideas arise schedule those for a future discussion.
3. Continue an item if it becomes evident that additional information or study is warranted. Provide staff with specific direction on what additional info to bring back for the next meeting.
 - Sometimes consideration of a topic may lead to additional questions that staff did not anticipate or prepare for. That's ok, but rather than continuing to discuss and spin wheels without complete information, consider continuing the discussion to a future meeting and direct staff to prepare for the new topics that have come to light.

4. Focused staff presentations
 - Staff should assume Council and the public have read the relevant information in the packet. Staff presentations can then focus specifically on the question at hand without having to provide a lengthy background presentation. Council can always ask for additional detail or elaboration.
5. Change work session to different day/time so regular meetings can begin earlier 5:30 or 6:00.
 - This could be a solution to combat burn-out on regular meeting nights. If the Council wanted to meet on a different evening or a weekday morning for work sessions, it should shorten the length of the overall meetings every other Monday evening and get everyone out earlier.
 - Rearranging the schedule in this manner must be carefully considered to ensure that it works for every member of the Council with specific attention to paid to other work or family commitments that members may have.
6. Mayor/Chair – The following tips are taken from the Institute for Local Government handout “Understanding the Role of the Chair” from October 2011 (attached)
 - A key element of the success of any meeting is the approach and skills of the meeting chair.
 - For the chair to play the role of referee effectively, the chair needs the group’s trust and respect. To earn this trust and respect, the chair needs to conduct the meeting fairly. This means applying the group’s agreed upon standards in an impartial manner. If one’s colleagues’ understand that the chair’s goal is to be an impartial facilitator to help the group achieve consensus, the group will be more inclined to act in ways that support the chair’s efforts and achieve the meeting’s goals. To achieve both the perception and the reality of impartiality, it can be helpful for the chair to hold off expressing his or her views on a matter and not engage in debate.
7. Use work sessions effectively to que up discussions prior to decision making.
 - As topics of importance are developing in the community or as Town staff is working on a project that will eventually come before Council, work sessions should be utilized to update the Council on progress and allow for the discussion of potential issues. This will help both staff and the Council be prepared when the time comes for formal discussion or decision at a meeting.
8. Limit time for each public comment.
 - Crested Butte has an inclination to err on the side of being more permissive in allowing public comment than not. This is a fine philosophy, however, in respect for everyone’s time public comments should be limited to the pre-determined times for everyone. This should be applied equitably and once comment has been closed the Council should typically not allow further comment from the public.

9. Contact staff with clarifying questions prior to the meeting.
 - Please feel free to contact staff prior to a meeting to ask any clarifying questions that may not have been clear in the staff report or materials provided in the packet. This will help individual members of the Council be more prepared and will also alert staff if there was something that was unclear that should be covered in the staff presentation.

10. Utilize the Consent agenda
 - For more routine business the staff will utilize the Consent Agenda to the extent that is reasonable. These types of items may include event applications for street closures or liquor permits, letters of support or comment, simple agreements, contracts for projects that do not exceed budgeted amounts, etc. A member of Council may always ask that any individual item be removed from the Consent agenda to ask questions or discuss.

The attached article “Strategies for Creating a More Collaborative, Effective Council” provided to Western City by the Institute for Local Government provides a nice overview of the importance of balancing efficient meetings with the need for solid public engagement.



September 1, 2011 | [Features](#)

Strategies for Creating a More Collaborative, Effective Council

This article is a service of the Institute for Local Government (ILG), whose mission is to promote good government at the local level. Learn more about ILG's Public Engagement and Collaborative Governance Program at www.ca-ilg.org/engagement.

Running local government successfully is hard work. City officials know that it requires serious commitment, time and knowledge on the part of local officials and staff as well as community members. Local policy-making is also a collaborative activity. The current economic and political challenges facing California exert tremendous pressure on mayors and council

members to work together collaboratively and effectively. Issues that affect the future well-being of their cities also spur local officials to have conversations and collaborate with members of the public about the kind of community they envision for themselves and their children.

The need for collaboration — between individual council members, among councils as a whole and between local officials and the community — prompted the League to ask the Institute for Local Government (ILG) to conduct an Advanced Leadership Workshop on this topic during the League’s Legislative Action Days in May 2011.

Nearly 40 mayors and council members participated in this interactive, highly rated session titled “Creating More Collaborative Councils: Strategies for Effective Communication, Meeting Management and Public Engagement.” The workshop explored key issues related to the work of elected local officials and provided participants with the skills and strategies to more effectively:

- Communicate and problem-solve with colleagues;
- Maintain collaborative relationships with fellow council members;
- Preside over and participate in city council meetings;
- Interact with and respond to members of the public; and
- Design effective and inclusive processes for engaging the public.

This article presents some of the workshop’s highlights.

COMMUNICATION AND PROBLEM-SOLVING

On any given day, we all may do a better or worse job in effectively communicating information with others in our work, civic and family lives. The quality of communication with others can present a challenge for local elected officials, who work largely in the public sphere and must deal with multiple audiences, limited time and a broad range of content. The issue of communicating with council colleagues is no exception.

Proponents of effective communication suggest a few simple rules to help us keep our speaking and listening skills well honed, thus supporting our goals and relationships.

Be attentive. Whether with an individual colleague or in council chambers before a packed house, paying attention to the speaker, the subject at hand and (as appropriate) the interpersonal dynamics involved will make you a more effective communicator and help you to be perceived as a respectful, effective colleague and public servant.

Ask clarifying questions. This shows a desire to better understand the speaker and demonstrates both attentiveness and an interest in learning more. Typically this is a better communication choice than a quick emotional retort or an immediate explanation of your own views. Asking clarifying questions helps increase the likelihood of a more productive conversation or exchange.

Let people know you are listening. Two very simple ways to do this include paraphrasing and using a perception check. Paraphrasing is repeating the essence of the speaker's remark, thus conveying that you've heard the substantive content of what he or she has said; for example, "So you're saying that you believe this would kill all the fish in the stream — is that right?" A perception check involves acknowledging the emotional content of a speaker's comment; for example, "I can hear that you're very worried about the safety of neighborhood residents if we remove that stoplight," or "I want you to know that I hear how angry you are about this and how important the issue is to you." Both paraphrasing and a perception check can be important communication tools for council members. Neither suggests you are necessarily agreeing with the speaker or expressing your own opinion on the issue at hand.

Distinctions Between Values, Interests and Positions

Your conversations with other individual council members or residents often concern topics that they (and perhaps you) feel very strongly about. It may seem there is no way to even begin to have a useful discussion about such topics. However, understanding the distinction between a value, an interest and a position can be helpful when tackling this type of situation. Consider these examples:

- “Children are our community’s most important resource.” This is a *value*;
- “I want a park and open space where our children can play.” This is an *interest*; and
- “I want a park and skateboarding area at the corner of Palm and Main with the city contributing all the funds.” This is a *position*.

Listen for and ask about values and interests that underlie speakers’ expressed positions. People can more readily understand each other’s values and interests than they can accept different positions. Typically there are more ways to satisfy interests than to bridge conflicting positions. A conversation about values or interests can often reduce or clarify differences.

The following basic principles of collaborative problem-solving (or “principled negotiation”), developed by Roger Fisher and William Ury and presented in their book *Getting to Yes*, also offer helpful guidelines for working through a knotty issue with a colleague or guiding group discussions.

Separate the people from the problem. It’s not unusual for emotions to cloud problem-solving when people feel strongly about an issue. However, it is far more effective to attack the problem together, not each other. It’s also a much better way to preserve an important working relationship.

Focus on interests, not positions. Taking a hard negotiating position can obscure what is really wanted. A conversation about interests, which tend to be broader than positions, creates more opportunities for coming up with an idea that appeals to all participants. Discussing interests rather than focusing on positions means that there’s a lot more to talk about and improves the chances of success.

Invent options for mutual gain. In the typical back and forth of “making your case” there is often little opportunity to jointly think about and creatively invent new ideas that may be in the interests of both (or all) negotiators. However, this type of creative thinking probably won’t occur unless it’s given a time and a place to happen, and making time for this step is especially important when addressing polarized local issues.

Insist on using objective criteria. This is perhaps the hardest problem-solving guideline to follow — but perhaps the most important — in what is often a challenging political environment. Working to creatively solve a problem or reach an accord can be advanced if the participants can agree on some sort of common standard or a result that they think makes sense.

CIVILITY AND COUNCIL MEMBER BEHAVIOR

Much media attention has focused lately on the question of civility in public discourse, and many city councils are grappling with the challenge of how to ensure civility among council members in their own deliberations.

Highlighting the current interest in this topic, the New Jersey State League of Municipalities recently published an article titled “The Need for Civility in Local Government Dialogue” (www.njslom.org/need_for_civility.html). The article presents author John C. Gillespie’s 10 commandments of public civility, which include these admonishments:

- Thou shalt not allow legitimate critique of policy and practice to become a personal attack aimed at the person who devised the policy or implements the practice;
- Thou shalt not rudely interrupt a colleague midsentence nor “speak over” a colleague while he or she is speaking;
- Thou shalt not pretend something is much more important than it really is simply to score points with an audience; and
- Thou shalt always recognize that your colleagues were also elected, just as you were, and deserve the same level of respect for having run and won.

Gillespie’s 10 commandments serve as useful guidelines for councils striving to improve the tone of discussions. Another helpful resource, the Institute for Local Government’s *Promoting Civility at Public Meetings: Concepts and Practices* (www.ca-ilg.org/civility), examines civility in conceptual and ethical terms and offers practical strategies for achieving greater civility in public discourse.

A growing number of cities are creating handbooks that help council members (and the public) better understand city government and council members' roles and responsibilities. In addition, cities are adopting ground rules for council meetings that extend beyond procedural rules and address expectations and guidelines for council member conduct. One example of such rules comes from the City of Davis:

Council members should actively pay attention while others are talking. Council members should be aware that side conversations, note writing and nonverbal expressions made by council members can be distracting to the meeting. Be aware that other council members, staff and the public in attendance can hear and see these actions.

The City of Hayward's *Council Member Handbook* includes the following:

Council members shall accord the utmost courtesy to each other, to city employees and to the public appearing before the council and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

Other sections of Hayward's handbook address sanctions for violating the various rules of procedure.

BEYOND ROBERT'S RULES OF ORDER

Whether you serve on a board, council, commission or other governing body, it is helpful to understand how to conduct public meetings. To simplify the rules of parliamentary procedure for those who participate in public meetings, Judge David Rosenberg created a video titled "Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century." Prior to becoming a Yolo County Superior Court judge, Rosenberg served as mayor and council member for the City of Davis and as a Yolo County supervisor. (The video is based on a two-part article written by Rosenberg and originally published in *Western City* magazine in 2003. A newly revised pocket guide of Rosenberg's Rules will be available later this year.)

As part of the Institute for Local Government's service to local officials, the video and accompanying downloadable documents are available at www.ca-ilg.org/rosenbergrules. Test your knowledge of parliamentary procedure rules of order by taking the quiz (below).

EFFECTIVE PUBLIC ENGAGEMENT

The ability to effectively involve the public in decision-making is an essential skill for local officials. Many local agencies are facing serious challenges on issues ranging from budgeting and fiscal policy to climate change and public safety. Public engagement comprises a broad range of methods to inform members of the public about decisions that affect them and to invite their participation in the process. Such methods include but are not limited to public information and outreach efforts, public consultation and public deliberation (for more information, visit www.ca-ilg.org/PEbasics).

Successful public engagement can help local agencies manage challenges by contributing to the following outcomes:

- **Better identification of the public's values, ideas and recommendations.** Well-executed public engagement can provide more nuanced views about an issue from a broader spectrum of residents than a simple "yes" or "no" election.
- **Residents who are more fully informed about issues and local agencies.** Public engagement presents opportunities for residents to better understand the issues and challenges impacting their community, grapple with practical problems and real trade-offs, and see local agency challenges as their own.
- **Improved local agency decision-making and actions with better results.** Members of the public provide rich sources of information regarding their community history and needs. This information can inform local agency decision-making and potentially produce superior results.
- **Enhanced community buy-in and support.** Involving members of the community in a meaningful way can build a sense of ownership and greater support for the local agency decision. It can also reduce contentiousness.

- **Faster project implementation with less need to revisit issues again.** Mutually agreed-upon decisions are less likely to continually reappear as issues of concern both for local agencies and community members.
- **More trust — in each other and in local government.** Open dialogue, shared interests and mutual problem-solving can bring disparate groups of people together, potentially resulting in increased trust in the others' ability to solve problems and make good decisions.
- **Increased community participation and leadership development.** Positive experiences with public engagement can lead to better informed residents who are more likely to participate in other community activities and have the confidence and skills to become future local government leaders.

ADDITIONAL RESOURCES

For additional resources, visit:

www.ca-ilg.org/engagement

www.ca-ilg.org/civility

Rosenberg's Parliamentary Procedure Quiz

Circle the correct response for each item. Answers appear at the end of this page.

1. You are a city council member. At a council meeting, you can't hear the discussion due to noise made by the heating system. You should raise your hand and, when recognized, say, "Point of order — I can't hear what's being discussed."

True

False

2. A vote on hotly contested Agenda Item 5 has passed by a vote of 3 to 2. You were one of the two council members who voted against the item. Later in the meeting you ask for reconsideration of Agenda Item 5, because you have thought of something you believe will

convince one of the majority votes to change his or her mind. The mayor rules you “Out of order” and refuses to allow a vote on reconsideration. The mayor’s ruling is:

Correct

Incorrect

3. It’s 11:00 p.m. by the time the city council reaches Agenda Item 25. The mayor asks for a show of hands to indicate how many members of the public wish to speak on the item, and 32 people raise their hands. The mayor announces that she will limit each speaker to two minutes each. Can the mayor properly do so?

Yes

No

4. Joe makes a motion to hold a council retreat in May, and Mary seconds the motion. Sally then moves an amendment to have the retreat in June, and Fred seconds the motion. Esteban then moves a substitute motion to have no retreat this year, and Fred seconds the motion. The mayor announces that discussion will begin on the motion to amend. Is this the correct ruling?

Yes

No

5. On a highly controversial agenda item in a meeting attended by many members of the public, the audience becomes engaged in the discussion and members of the audience applaud in support or hiss in opposition following the remarks of the first speaker who addresses the city council. The mayor states that no vocal expressions of support or opposition will be tolerated at the meeting and asks the public not to applaud or hiss after speakers conclude their remarks. May the mayor do so?

Yes

No

6. A member of the city council continually interrupts other council members while they are speaking on agenda items. The mayor refuses to stop the offending council member from interrupting. As a member of the city council, you have the right to make a motion to challenge the mayor’s ruling and have your motion voted on by the council.

True

False

7. After a very long discussion and debate on a motion you made to approve a street repair schedule, which was duly seconded, you want to move ahead with voting on the item, so you say, "I call for the question." The mayor responds, "OK, let's proceed with the vote on the pending motion to approve the proposed street repair schedule." Did the mayor handle your call for the question properly?

Yes

No

8. If the maker of a pending motion accepts a proposed change and incorporates the change into her motion, and the person who seconded the motion also accepts the change, this is called a "friendly amendment."

True

False

9. Sam moves and receives a second on a motion to create a seven-member Police Oversight Commission. Mariko moves and receives a second on a motion to make the commission 15 members. Helen moves and receives a second on a motion to create an ombudsman position in lieu of the commission. The mayor schedules discussion and a vote on the third motion (Helen's), which passes. The mayor should then schedule discussion and a vote on the second motion (Mariko's motion).

True

False

10. In the middle of a meeting the mayor recognizes Maria, a council member, who moves to adjourn the meeting. Frank seconds her motion. The mayor calls for discussion prior to the vote. Maria raises a point of order and says that the motion should be voted on immediately. Who is correct?

The mayor

Maria

Answers to Quiz

1-False. 2-Correct. 3-Yes. 4-No. 5-Yes. 6-True. 7-Yes. 8-True. 9-False. 10-Maria.

*This article appears in the [September 2011](#) issue of *Western City**

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**Meeting Great
Expectations:
Dealing With Emotional
Audiences**

Understanding the Role of Chair

www.ca-ilg.org/ChairMeeting

October 2011

Meetings are central to the local agency decision-making process. Through public meetings, elected and appointed officials come together to receive public input, discuss, deliberate and decide issues on behalf of the public. Such decisions typically require support of a majority of the decision-making body.

All members of the decision-making body usually have the same voting power. The meeting chair, however, plays a special role in helping the group reach wise decisions. The following tip sheet offers suggestions for performing that role well.

Goal of Meeting Discussions

The usual goal of any discussion at a public agency meeting is for decision-makers to:

- Receive and share information, so everyone can make informed choices.
- Share thoughts and perspectives on what decision best serves the public's interests and other community values.
- Reach a decision on what the best option is.

Another goal is for the group to reach decisions in a way that builds and maintains relationships as well as promotes trust in both decision-makers and the decision-making process.

Everyone's Role

All participants in the decision-making process are responsible for working towards achieving these meeting goals. Moreover, everyone has a shared stake in having an opportunity to be heard and being treated fairly. Thus, all officials have an interest in supporting the chair's efforts to conduct the meeting effectively and fairly.

Related Resources from the Institute

- Dealing with Emotional Audiences, available at www.ca-ilg.org/EmotionalAudiences.
- Codes of Conduct for Elected Boards, available at www.ca-ilg.org/CodesOfConduct.
- ILG's Meeting Resource Center, available at www.ca-ilg.org/meeting-resource-center.

The Chair's Role

The chair's role includes:

- Helping the group determine whether it has all the information necessary and available to make a decision.
- Where there are multiple points of view on what the best decision might be, encouraging decision-makers to share those views.
- Actively listening to determine potential points of agreement and testing those points for actual agreement.
- Managing any conflicts that may arise during the discussions.
- Keeping the discussion on topic.
- Ensuring that clear decisions are made.
- Sticking to the agenda.
- Getting through the agenda items in a timely manner.

As a result, the role of the chair can be understood as:

- A team captain who leads by example and helps the group function as a team;
- A coach who encourages participants to perform at their best, including as it relates to principles of fair play and sportsmanship; and
- A referee who has authority to stop the action and apply the rules of play.¹

For the chair to play the role of referee effectively, the chair needs the group's trust and respect. To earn this trust and respect, the chair needs to conduct the meeting fairly. This means applying the group's agreed upon standards in an impartial manner. If one's colleagues understand that the chair's goal is to be an impartial facilitator to help the group achieve consensus, the group will be more inclined to act in ways that support the chair's efforts and achieve the meeting's goals.

To achieve both the perception and the reality of impartiality, it can be helpful for the chair to hold off expressing his or her views on a matter and not engage in debate.

Strategies for Success

At the Beginning of the Meeting

- **Welcome and Introductions.** It can be helpful for the public (particularly first-timers) to know who is sitting at the dais, what opportunities there will be to provide input, and how they can understand what is going on (for example, if translation equipment/service is available, where people can pick up the equipment). This can communicate decision-makers' earnest desire to both receive public input and have the public understand what is going on.
- **Agenda Overview.** A brief statement of the major sections of the agenda can remind both decision-makers and the public of the scope of what needs to be accomplished during the meeting.
- **Aspirational Statement on Decorum.** If the body has adopted a guidelines and goals for civility, a brief reminder to that effect can help set the tone for both decision-makers' interactions and encouragement for other meeting participants' conduct.

As the Body Moves to New Agenda Sections/Items

- **Agenda Sections.** Different agenda sections are sometimes subject to different procedures. For example, a consent agenda usually is a group of items that are routine and non-controversial and are taken up as a group.

Conversely, other items are taken up one by one. Sometimes certain items are subject to special procedures (for example, public hearings). It can be helpful for the chair to briefly note these differences, as a reminder to new decision-makers and first time attenders at the meeting.

Example: Chair: "Now we are at the public hearing portion of the agenda. To be respectful of the rights and interests of all involved, there will be three stages to our consideration of each item:

1. *Facts and Evidence:*
 - a. *First staff will summarize their analysis of the issue before us.*
 - b. *Then, the applicant will be given a chance to explain, based on facts and evidence, how the applicant has met standards necessary for us to approve the application.*
 - c. *Next the public will be given an opportunity to offer their thoughts and evidence on the merits of the application. This can include any suggestions or questions that the public thinks we should ask of the applicant.*
 - d. *We will then ask any questions of the applicant.*
2. *Law and Analysis:*
 - a. *After listening and considering both the applicant's and the public's information, it becomes our turn to discuss among ourselves what we have learned based on what has been presented.*

b. *Once it appears that a consensus is developing, we may ask questions of staff on what kinds of findings need to be made to explain our decision based on the information we have received.*

3. *Decision:*

a. *The chair will entertain a motion to make a decision and adopt findings consistent with that decision.*

b. *If the motion receives a second, we'll vote to see if a majority of us can agree."*

- **Being Clear on the Issue to Be Resolved.** In addition to calling the agenda item, it can be helpful to identify the issue to be resolved.

Chair: "The issue before us is whether the application to engage in X enterprise meets the standards in our zoning code for such activities."

This reminds staff, decision-makers, the applicant and the public the standard which needs to be focused on. In addition, for complex or divisive items, sometimes participants can lose sight of the issue to be decided. A helpful role the chair can play in getting the discussion to a point of resolution is to remind participants of the issue to be resolved (or ask staff to state the issue to be resolved).

- **Note about Technical Language.** Public agency decisions sometimes involve special terminology, jargon and acronyms. This can lead to confusion and misunderstanding, which in turn, can take the discussion in unproductive directions. Another important role of the chair is to make sure the conversation occurs at a level that everyone can understand. The chair can ask speakers to define unfamiliar terms and explain unfamiliar concepts.

When Consensus Is Not Immediately Forthcoming

If the conversation does not seem to be coalescing into a consensus or even a majority position, one technique for non-time sensitive matters is to refer the matter back to staff for further work. Staff will then have time to craft a decision that endeavors to take into account as many of the concerns expressed as possible.

Fostering Discussion and Decision

- **Opening Up the Issue for Discussion.** Having stated the issue and heard staff and the public's information on it, ask for decision-makers' thoughts. To enable the chair to be a fair guider of the discussion, the chair will typically refrain from offering their thoughts at the beginning.
- **Who Speaks When and to Whom.** At this point in the meeting, the discussion is among decision-makers and therefore decision-makers should be speaking to each other in an effort to come to a decision, not the public.

An important role of the chair is to make sure only one person speaks at a time, so both the public and decision-makers can understand and follow the discussion. A typical approach is for each decision-maker to offer their thoughts and then listen to other decision-makers' thoughts in turn.

If it appears multiple people want to talk at once, the chair has the option of asking people to raise their hands to be recognized before speaking. The chair can keep a list of who has asked to be heard, to call on each person to speak in sequence. Everyone who wants to speak should know that they are on the list and their turn is coming.

- **Keeping Discussion Participation Balanced.** Some bodies have a norm that each person will take a turn in asking all their questions and sharing their thoughts. Others find that such a restriction interferes with dialogue and the deliberative process. If a person seems to be repeating him or herself or otherwise dominating the discussion to the exclusion of others, one approach is for the chair to acknowledge that the individual's perspective has been heard.

Example: *Chair* "We have heard that Supervisor Nasirian feels strongly that fixing our roads is an urgent priority. What are others' thoughts?" or "Is there anyone who hasn't spoken yet who would like to share their thoughts?"

The chair can also give preference to those who haven't spoken.

Example: *Chair* "I see your hand up Council Member Cooke and we'll get to you in a moment; I am going to recognize Council Member Suarez first since she hasn't yet spoken."

- **Avoiding Interrupting One Another.** When people are passionate or otherwise convinced of the correctness of their position or information, they will sometimes jump in to respond to what a colleague is saying. A chair's role is to intervene to protect the person's ability to finish their thought. (*"Let's let Director Feliciano finish his thought; you'll have an opportunity to share your perspectives."*)
- **Dealing with Conflict.** Differing perspectives is inherent in a group decision-making process and healthy. However, if the discussion gets particularly heated among two or more decision-makers, a helpful device is to have people address their remarks to the chair. Another is to summarize the points of disagreement and then move the discussion away from those who are in conflict by asking others how they see the issue. If the conversation turns personal, the chair can ask the group to keep the discussion focused on the problem at hand, not underlying motivations or personalities. If these techniques are unsuccessful, calling a recess can be helpful to enable people to step away from the conflict and reflect on how to move the discussion forward. *See also Dealing with Emotional Audiences.*

Staff Can Be A Resource

Depending on the nature of the topic under discussion, agency staff and legal counsel can sometimes assist the chair in listening for consensus or clarifying misunderstandings that are impeding the effort to reach consensus.

Where staff sits can determine how helpful they can be in this role. Being able to signal or make eye contact with the chair is one issue. Many agencies have key staff (attorney and chief administrative official) sit at the dais with the body.

- **Actively Listening for Signs of Consensus.** The chair's role is to listen for points of agreement and possible consensus and then test the chair's sense of where people are leaning. Tools the chair has to help the group get to a decision point include:
 - *"It sounds like Supervisor Rodriguez and Supervisor Ifill are both concerned about the impact of the proposed use, even with the proposed conditions on the permit, on surrounding neighbors. Am I understanding your concerns? Would either of you like to move that the application be denied"?*
 - *Thank you Council Member Chen for sharing that view; would you like to make a motion to that effect?"*
 - *"It sounds that there are two views on the board: [state the two views]. Which strikes people as having more advantages for our community?"*
 - *"What's the group's pleasure? The question before us is [restate the issue before the group]."*
- **Motion and Second.** Once a motion is made, the chair asks for a second. A second to the motion indicates that at least one other person agrees with the maker of the motion.
 - If no one seconds the motion, the chair can note that the motion is appearing to die for lack of a second. The chair can ask if someone else wants to make a different motion.
 - If the group seems ambivalent, the chair can ask if someone wants to second the motion for purposes of discussion. Through that discussion, an approach at least a majority can agree on may emerge, in which case the chair may want to ask whether there's a friendly amendment to the original motion or a substitute motion.
- **Vote.** It's helpful for the chair to re-state the motion on which the group is voting.

At the End of the Meeting

- **End on an Upbeat Note.** If at all possible, end the meeting on a positive note and thank everyone for their contributions to the meeting and their participation.
- **Explain Next Steps.** Note that the actions taken at the meeting are being recorded through meeting minutes, which will be reviewed at the next meeting. Note when the next meeting will be.

If at First You Don't Succeed

People can take awhile to get used to the norms associated with group decision-making. If an approach doesn't work perfectly the first time, don't give up. Think about what worked and what didn't and consider whether persistence might help get the group to a better place.

About the Institute for Local Government

This resource is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties.

For more information and to access the Institute's resources on local government 101, visit www.ca-ilg.org/local-government-101. If you would like to access this resource directly, go to www.ca-ilg.org/ChairMeeting.

The Institute welcomes feedback on this resource:

- *Email:* info@ca-ilg.org Subject: *Understanding the Role of Chair*
- *Mail:* 1400 K Street, Suite 205 ▪ Sacramento, CA ▪ 95814

References and Resources

Note: Sections in the California Code are accessible at <http://leginfo.legislature.ca.gov/>. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52. A source for case law information is www.findlaw.com/cacases/ (requires registration). (kj)

¹ See Vermont Institute for Government, *Born to Chair: An Introduction to the Science and Art of Chairing a Board Meeting* (1998), available at www.sec.state.vt.us/municipal/pubs/chair.pdf and <http://crs.uvm.edu/citizens/chair.pdf>.

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**Agenda
Design Review Committee
Monday
January 14, 2018**

- 3:00 Consideration of the application of **Town of Crested Butte in conjunction with Bywater LLC** to construct a triplex to be located at 822/824/826 Gothic Avenue, Block 76, Lot 2 in the R2A zone. (Barney/Wisian)
- Architectural approval is required.
- A conditional use permit for a three-family dwelling in the R2A zone is required.
- 4:00 Consideration of the application of **Town of Crested Butte in conjunction with Bywater LLC** to construct a duplex and one cold accessory building to be located at 802/804 Gothic Avenue, Block 76, Lot 6 in the R2A zone. (Barney/Wisian)
- Architectural approval is required.
- 4:45 Consideration of the application of **Michael N. Graber and Martha A. Graves** to site a multi-family residence (four-plex) to be located at 729/731 Gothic Avenue, Block 58, Lots 31-32 in the R4 zone.
- Architectural approval is required.
- A conditional use permit for a multi-family residence (four-plex) in the R4 zone is required.

The above times are only tentative. The meeting may move more quickly or slowly than scheduled

AGENDA

Call to Order

Roll Call

Approval of the January 2, 2019 Regular Town Council Meeting Minutes

Reports

- Town Manager's Report
- Department Head Reports
 - Community Development
 - Finance
 - Police Department
 - Public Works
- Town Council Reports
- Mountain High Music Festival – 2018 Admissions Tax Report – Sheryl Steinmeyer

CORRESPONDENCE

OLD BUSINESS-

Discussion and Possible Consideration of Ordinance No. 9, Series 2018 – An Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado, Amending Chapter 21, Section 21-895 of the Town Code of the Town of Mt. Crested Butte, Colorado (Amending Parking Design Standards) – Second Reading – Leah Desposato

Discussion and Possible Consideration of Letter to the Gunnison County Planning Commission Allowing Gatesco to Enter into Preliminary Plan – Carlos Velado

NEW BUSINESS –

Discussion and Possible of a Letter of Support for the Sustainability Tourism and Recreation (STOR) Committee's Grant Application for a Stewardship Impact Grant with GOCO – Joe Fitzpatrick

OTHER BUSINESS –

PUBLIC COMMENT – *Citizens may make comments on items not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments are limited to five minutes.*

ADJOURN

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 349-6632 at least 48 hours in advance. Public comment on these agenda items is encouraged.

GUNNISON COUNCIL AGENDA
MEETING IS HEAD AT CITY HALL, 201 W. VIRGINIA AVENUE
GUNNISON, CO, IN THE 2ND FLOOR COUNCIL CHAMBERS
Approximate meeting time: 3 hours

MONDAY,
JANUARY 14, 2019 **DISCUSSION/WORK SESSION** **2:00 P.M.**

No formal council action will take place at this meeting.

I. Presiding Officer Call Regular Session to Order

II. Work Session Items:

A. Review Strategic Plan and Priorities

Background: On October 10, 2017, City Council passed Resolution No. 14, Series 2017, approving the adoption of the City of Gunnison Strategic Plan. 14 months after its adoption staff would like to review the Strategic Plan and discuss Council's priorities for 2019.

B. Miscellaneous Projects and Topics

Background: Primary topics to be discussed are 1) City irrigation ditches and water and 2) recycling and waste management. There is no memo for this agenda item.

C. Board and Committee Appointments

Background: City Council members serve on a variety of boards and committees throughout the region. These boards and committees often require additional time commitments and work responsibilities. Council needs to assess and discuss the number of boards and committees each Councilor is participating on to ensure that their time and resources are being used in the most productive and effective ways.

D. Migration to a November Election Cycle and Work Session Schedule

Background: With the passage of Ballot Questions 2A and 2B, staff wanted to share a schedule of important dates pertaining to the up-coming election cycle with Council for their consideration. 2019 will be an active year for Council and staff with multiple priorities on the table; therefore, staff wanted to discuss a workable schedule for as needed Work Sessions.

E. Combined Meeting of Elected Officials

Background: The City of Gunnison City Council will be hosting a combined meeting of Valley elected officials and managers to discuss some of the area's pressing issues. No formal action will be taken at this meeting. The agenda will be determined based on the items submitted by all four communities.

III. Other Updates

IV. Meeting Adjournment

The City Council meeting agenda is subject to change. The City Manager and City Attorney reports may include administrative items not listed. Regular meetings and special session meetings are recorded and action can be taken. Minutes are posted at city hall and on the city website at: www.gunnisonco.gov Discussion or work sessions may be recorded, however minutes are not

produced. For further information, contact the City Clerk's office at 970.641.8140. **TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL NEEDS ARE REQUESTED TO CONTACT THE CITY CLERK 24 HOURS BEFORE ALL MEETINGS AT 970.641.8140 SO THAT WE MAY ASSIST YOU.**

**GUNNISON COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING & WORK SESSION**

177

DATE: Tuesday, January 15, 2019

Page 1 of 1

PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

GUNNISON COUNTY BOARD OF COMMISSIONERS SPECIAL MEETING:

- 8:30 • Call to Order
- 8:30 • Minutes Approval:
 - 1. 12/18/18 Regular Meeting
 - 2. 12/21/18 Special Meeting
- 8:30 • Weidler Boundary Line Adjustment; 3361 County Road 46
- 8:35 • Grant Application; Gunnison County Substance Abuse Prevention Project; Prevention & Recovery; \$200,000
- 8:40 • Contract Amendment; CO Department of Public Health & Environment & Gunnison County; Immunization Program
- 8:45 • Grant Application; Historic Preservation Commission & History Colorado; \$135,000 (ADDITION)
- 8:50 • Possible Executive Session Pursuant to C.R.S. 24-6-402 (4) (b) Conference with the County Attorney, Deputy County Attorney and Gunnison County Sheriff to receive legal advice; and C.R.S. 24-6-402 (4) (e) (I) determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators; and C.R.S. 24-6-402 (4) Personnel Matters (REVISION)
- Adjourn

GUNNISON COUNTY BOARD OF COMMISSIONERS WORK SESSION:

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> no later than 6:00 pm on the Friday prior to the meeting.

February 4, 2019**Consent Agenda**

Letter to the USFS on Comments to the Wild and Scenic Rivers Eligibility Report.

Public Hearing

Transfer of Slogar Liquor License

New Business

MOU with School District Regarding 2019 Projects

Resolution of Substantial Compliance, Slate River Annexation

Resolution – WWTP Contract

Start at 5PM**February 19, 2019****Public Hearing**

Appeal of BOZAR Decision

Future Items

- Quarterly Financial Reports
- Year-End – Retreat Update
- Year-End – Project Update
- Heights Open Space Plat Note and Covenants
- RLA for Dillon Wall
- DOLA Update
- Year-End Report from Chamber of Commerce – February
- Mt. Express Annual Report – February
- Affordable Housing Update – February