

*Crested Butte is a small mountain town with a big community that strives toward a balanced and sustainable lifestyle while enjoying and protecting the soul of the Valley.*

### **Town Council Values**

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

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

## **AGENDA**

### **Town of Crested Butte**

### **Regular Town Council Meeting**

### **Planning Commission Meeting**

### **Monday, May 18, 2020**

#### **Meeting Information to Connect Remotely.**

**Please use the address below to join the webinar:**

**<https://us02web.zoom.us/j/89251306878>**

**Or Telephone:**

**US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833 or +1 301 715 8592  
or +1 312 626 6799 or +1 929 205 6099**

**Webinar ID: 892 5130 6878**

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

#### **6:00 REGULAR COUNCIL MEETING CALLED TO ORDER BY MAYOR OR MAYOR PRO-TEM**

#### **6:02 APPROVAL OF AGENDA**

#### **6:04 CONSENT AGENDA**

- 1) May 4, 2020 Regular Town Council Meeting Minutes.
- 2) Approval of Sixth Street Station Ditch Temporary Liner Agreement.
- 3) Approval of Letter Supporting Forgiveness of Paycheck Protection Program Loans for Small Businesses.
- 4) Appointment of Representatives to the Gunnison/Hinsdale Combine Emergency Telephone Service Authority Boards.
- 5) Approval of Letter Requesting Financial Support for Western Colorado University  
*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.*

#### **6:06 PROCLAMATION HONORING ASHLEY UPCHURCH, OUTGOING EXECUTIVE DIRECTOR OF THE CRESTED BUTTE/MT. CRESTED BUTTE CHAMBER OF COMMERCE AND VISITOR CENTER**

#### **6:15 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.*

#### **6:25 STAFF UPDATES**

#### **6:35 PUBLIC HEARING**

- 1) Ordinance No. 8, Series 2020 - An Ordinance of the Crested Butte Town Council Amending Chapter 16, Article 4 to Include Division 12-R1F Residential District.
- 2) Slate River Annexation Combined Public Hearing.
  - a) Ordinance No. 9, Series 2020 - An Ordinance of the Town of Crested Butte Town Council Annexing Slate River Major Subdivision.
  - b) Ordinance No. 10, Series 2020 - An Ordinance of the Town of Crested Butte Town Council Establishing the Zoning Designations for the Slate River Annexation; and Amending the Town of Crested Butte's Official Zoning District Map for the Purpose of Including the Slate River Annexation.
  - c) Ordinance No. 13, Series 2020 - An Ordinance of the Crested Butte Town Council Approving a Subdivision Improvements Agreement with Cypress LP for Tracts 1 – 6 of the Slate River Subdivision and Other Improvements within the Slate River Annexation.
  - d) (Council Convenes as Planning Commission) Approval of Slate River Subdivision Final Plan.

**7:35** 3) Ordinance No. 14, Series 2020 - An Ordinance of the Crested Butte Town Council Approving the Lease of the Chamber of Commerce Visitors Center Located at 601 Elk Avenue to the Crested Butte / Mt. Crested Butte Chamber of Commerce.

**7:45** 4) Ordinance No. 15, Series 2020 - An Ordinance of the Crested Butte Town Council Authorizing the Partial Release of the Town's Option to Repurchase Townhouse Units Constructed on Block 79, Lots 4, 10, and 11 and Block 78, Lot 6, in the Paradise Park Subdivision, Town of Crested Butte, Gunnison County, State of Colorado.

#### **7:55 OLD BUSINESS**

1) Updated Financial Forecast and Discussion.

**8:10** 2) Update on Potential Summer Expansion of Business Footprints Along Elk Avenue to Encourage Social Distancing and Commerce.

**8:35 LEGAL MATTERS**

**8:40 COUNCIL REPORTS AND COMMITTEE UPDATES**

**8:55 OTHER BUSINESS TO COME BEFORE THE COUNCIL**

**9:10 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE**

- Monday, June 1, 2020 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, June 15, 2020 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, July 6, 2020 - 6:00PM Work Session - 7:00PM Regular Council

**9:15 ADJOURNMENT**

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Monday, May 4, 2020**

Mayor Schmidt called the meeting to order at 5:31PM.

Council Members Present: Will Dujardin, Candice Bradley, Chris Haver, Mallika Magner, Laura Mitchell, and Mona Merrill

Staff Present: Town Attorneys Barbara Green and John Sullivan and Town Manager Dara MacDonald

Chief Marshal Mike Reily, Public Works Director Shea Earley, Finance Director Rob Zillioux, Town Clerk Lynelle Stanford, Community Development Director Troy Russ, and Parks and Recreation Director Janna Hansen (for part of the meeting)

Everyone connected and participated in the meeting via Zoom, and MacDonald and Stanford were present in Council Chambers.

**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).

Mitchell moved and Haver 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 5:33PM. The Council returned to open meeting at 6:01PM. Mayor Schmidt made the required announcement upon returning to open meeting. Mayor Schmidt began the work session at 6:05PM, and the regular meeting resumed at 6:35PM.

Schmidt laid out the ground rules including an explanation of the chat and hand raise functions. He briefly outlined the agenda. Schmidt took a roll call of Council members.

**APPROVAL OF AGENDA**

Mitchell moved and Haver seconded a motion to approve the agenda as presented. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

**CONSENT AGENDA**

- 1) April 20, 2020 Regular Town Council Meeting Minutes.
- 2) April 27, 2020 Special Town Council Meeting Minutes.

### **3) North Village Comment Letter.**

### **4) Crested Butte Farmers Market Special Event Application Closing the 100 Block of Elk Avenue on Sundays Beginning May 31<sup>st</sup> through September 6<sup>th</sup> and September 13<sup>th</sup> through October 11<sup>th</sup>, 2020.**

Dujardin suggested a brief discussion on the North Village Comment Letter. The letter was removed from the Consent Agenda (#3) and added to the end of New Business.

Magner moved and Dujardin seconded a motion to approve the Consent Agenda with the movement of the North Village Comment Letter to New Business. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

### **INTRODUCTION OF COMMUNITY DEVELOPMENT DIRECTOR TROY RUSS**

MacDonald introduced Troy Russ, who was on Zoom. Russ was excited to be a part of the meeting and the Town of Crested Butte. He reviewed his background, personal and professional. MacDonald described Russ’s focus, as he would be transitioning, in response to Dujardin.

### **PUBLIC COMMENT**

None

### **STAFF UPDATES**

- Schmidt referred to the Manager’s Report.
- MacDonald asked for questions, and Schmidt asked whether Russ would be in charge of affordable housing.
- Schmidt thought there were quite a few broken water lines. Earley explained the reasoning.
- Schmidt asked Reily about people’s cooperation regarding social distancing and wearing masks on Elk Avenue.
- Haver thanked Jeff Little for his service.
- Schmidt confirmed both that the Pirate Park was not open and the idea behind the organization of Town Clean-up.
- Haver brought up the Thursday Farmers Market. The organizer proposed to use the Zero Block of Elk Avenue. Schmidt preferred to keep the market in Crank’s Plaza. Mitchell knew people in the Zero Block that would not be psyched; she thought it was unfair to the Zero Block. Dujardin suggested the 3<sup>rd</sup> Street north side parking spaces be used. He acknowledged Crank’s Plaza was pretty good.

### **OLD BUSINESS**

#### **1) Updated Financial Forecast and Discussion.**

Zillioux estimated that Town would be plus or minus \$2M short on revenue. Recovery would depend on July, August, and September. RETT was very good for the first three months of the year, but Town had not received any RETT funds since April 1<sup>st</sup>. Next, Zillioux described the small business grant program as highly successful. The funds were exhausted after 2 ½ days. There were 42 total grants and 57 requests. Magner asked whether there was further demand. Zillioux anticipated 10 to 15 additional requests. MacDonald recognized Zillioux's work.

The Council discussed additional funding for grants from the Town. MacDonald asked Zillioux to specify a proposed amount. He identified Town could provide an additional \$25K for the small business grant program. Council members voiced agreement. Dujardin recommended they plan for potential need in June. Haver recused himself from the discussion (and voting) as a business owner. Schmidt read comments from chat, including comments from Kent Cowherd. The discussion became focused on potential donors and alternative fund raising ideas. Zillioux recommended asking for a public match concept. Candice Bradley recused herself, too.

Dujardin moved and Merrill seconded a motion to put \$25K more into the small business grant program and put up another \$25K for matching. A roll call vote was taken with all voting, "Yes," except Haver and Bradley had recused themselves and did not vote.

**Motion passed unanimously.**

Schmidt brought up the question on relief for STR licensees. Zillioux stated there had not been an overwhelming demand, but the idea came forward at the last meeting. Zillioux preferred to see how things would go in June and July. Haver questioned whether Town would refund for business licenses, too. MacDonald recommended revisiting regarding STR fees in a few months. The Council agreed. Dujardin preferred to discuss within a month. Zillioux would add the conversation to his financial review in June.

## **2) Discussion on Potential Summer Expansion of Business Footprints Along Elk Avenue to Encourage Social Distancing and Commerce.**

Mel Yemma reviewed the potential summer expansion of business footprints along Elk Avenue. She identified the goal of more space to spread out. The point was not to create a festival atmosphere. Yemma would present five scenarios. Considerations were expanding business opportunity/space, parking impacts, congestion, and costs. Yemma listed the five scenarios: 1) keeping the status quo; 2) Elk Avenue as a one-way with loading zones for deliveries (no parking); 3) Elk Avenue as a one-way with some ten minute parking zones near restaurants for to go pick up; 4) Third Street closure; and 5) Elk Avenue as a one way from 4<sup>th</sup> Street to 2<sup>nd</sup> Street. Yemma listed and explained pro and cons with each scenario. Yemma summarized that Staff would recommend scenario #2, Elk Avenue as a one-way with loading zones for deliveries (no parking), with the caveat that it could be taken down. If not scenario #2, then Staff recommended status quo.

Ashley UpChurch reported on the responses from the survey put out by The Chamber. 68% of respondents were in favor of closing Elk Avenue. She reviewed the questions in the survey and broke down the yes and no percentages for each one. Magner questioned who the respondents were. Russ weighed in on the closure from a planning perspective.

Haver proposed the idea of using the brick paver space. Magner did not feel parking and traffic would be big issues. She thought Town should have the courage to try something that could save the town. Merrill questioned timelines for different scenarios, including Haver's idea. Mitchell supported Haver's idea or scenario #2 or #3. Dujardin liked a combination of #5 and #3, with more parking on Elk. He was concerned their efforts could do more harm than good. Bradley liked Haver's idea, and it could be pulled back with no expenditure to Town. Merrill thought Haver's idea of something sooner rather than later was important. She liked scenario #3. Schmidt favored the use of the pavers. He agreed that the people against closing Elk were strongly against it. He would hate to hear that the Town made the situation worse. Mitchell noted it would not be set in stone, and the plan could be abandoned. Russ recapped his opinion from the planning perspective. He recognized there were strong benefits to spreading out businesses on the street. MacDonald pointed out the paver space might not be a comfortable space to dine, right next to vehicles parking.

Schmidt read comments from the public in the chat, including comments from Travis Underwood, Kathy Norgard, Laird Cagan, Cowherd, Priscila Palhava, Mike Knoll, Douglas Dodd, Bob Goettge, James Utt, and Kyleena Falzone. MacDonald read questions in chat from the Valley Housing Fund and Underwood. Falzone asked to speak. UpChurch reported on percentages of responses to The Chamber's survey. Schmidt read additional comments in chat from Palhava, Richard Machemehl, Falzone, and Erica Woodward.

Schmidt reiterated that he had a problem with closing Elk Avenue. Magner was in favor of scenario #2 or #3. MacDonald read a comment from Shelley Popke in chat.

Laird Cagan - Reported to live in Larkspur

- He was in favor of some type of closure of Elk Avenue.
- He proposed ideas for parking.
- He liked the idea of outdoor dining.

Schmidt read comments in chat from Darcie Perkins, Kim Raines, and Palhava.

Kyleena Falzone

- She was for using the pavers until she heard about the parking next to people dining.
- Closing parking would be a better option for dining.
- She suggested ideas for parking.
- Dining on Elk was needed.

Schmidt read comments from Underwood, Palhava, and Knoll.

Schmidt asked how the Council wanted to move forward. MacDonald reported on potential seating and that the Town's picnic tables would be used, responding to Haver. Town could look into rentals for additional tables. Haver returned to the idea of allowing the use of the pavers. He was hesitant to close Elk Avenue. Schmidt read comments from Elena Theros at Casa Bella, Woodward, and Sasa Watt. Schmidt was generally in agreement with Haver. Merrill liked the idea of spreading the restaurants out. Also, she wanted to meet with business owners. Schmidt read a comment from Popke. Magner said this was a way to protect the physical and economic health of the community. Magner recommended the Council make a decision.

Dujardin had a problem with the number of businesses that were opposed. It felt like they were creating more problems. He did not support any of the options unless there was a combination of scenario #5 and #3. Mitchell agreed with Dujardin that it was forced and rushed, but she still supported scenario #2 or #3. She also liked Haver's idea. Schmidt read comments from Dodd and Jim Starr. Schmidt began to summarize Council members' thoughts. Merrill was in favor of any scenario that would provide more spacing. Schmidt read more comments from chat. Bradley liked the paver idea and expanding outdoor seating for restaurants. She liked the immediate response from businesses regarding the use of the pavers. She did not know what package she preferred. Magner referred to a comment in chat from Perkins. Merrill asked about closing 3<sup>rd</sup> Street, and MacDonald voiced concern about creating a gathering point. Schmidt read more comments from chat. Haver proposed using the pavers, again, as step #1. Step #2 would be looking at a one way with storeowners calling out what would be in front of their stores. MacDonald said Staff needed direction tonight if the Council wanted Elk Avenue to be a one-way. She outlined the costs for signage. Merrill proposed starting with using the pavers and move ahead with Elk as a one-way as a tool in the toolbox if restrictions were not lifted. Haver was not big on closing Elk, but it was worth it to spend money on signs and allowing business owners a say to what was in front of them. Schmidt counted three Council members for scenario #1 (status quo), but with allowing the use of the pavers.

Haver moved and Bradley seconded a motion to approve using the pavers immediately. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Haver moved and Magner seconded a motion to make Elk a one-way and to allow businesses input on what is in front of their shops. A roll call vote was taken with all voting, "Yes," except Schmidt voted, "No." **Motion passed.**

## **NEW BUSINESS**

### **1) Ordinance No. 9, Series 2020 - An Ordinance of the Town of Crested Butte Town Council Annexing Slate River Major Subdivision.**

Schmidt read the title of the ordinance. MacDonald provided background on the annexation. The ordinance would adopt the annexation agreement. She highlighted key terms in the agreement.

Magner moved and Dujardin seconded a motion to set Ordinance No. 9, Series 2020 for public hearing on May 18<sup>th</sup>. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

**2) Ordinance No. 13, Series 2020 - An Ordinance of the Crested Butte Town Council Approving a Subdivision Improvements Agreement with Cypress LP for Tracts 1 – 6 of the Slate River Subdivision and Other Improvements within the Slate River Annexation.**

Schmidt read the title of the ordinance. MacDonald reported on main points of the ordinance. The agreement focused on the remaining improvements that would be done to develop the six lots on this side of the river.

Haver moved and Mitchell seconded a motion to set Ordinance No. 13, Series 2020 for public hearing on May 18<sup>th</sup>. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

**3) Ordinance No. 14, Series 2020 - An Ordinance of the Crested Butte Town Council Approving the Lease of the Chamber of Commerce Visitors Center Located at 601 Elk Avenue to the Crested Butte / Mt. Crested Butte Chamber of Commerce.**

MacDonald confirmed there were no substantive changes from the current lease.

There was discussion on whether Magner should recuse herself as an ex officio member of the board. Magner recused herself from the discussion and voting.

Haver moved and Dujardin seconded a motion to set Ordinance No. 14, Series 2020 for public hearing at the May 18<sup>th</sup> meeting. A roll call vote was taken with all voting, “Yes,” except for Magner, who recused herself and did not vote. **Motion passed unanimously.**

**4) Ordinance No. 15, Series 2020 - An Ordinance of the Crested Butte Town Council Authorizing the Partial Release of the Town’s Option to Repurchase Townhouse Units Constructed on Block 79, Lots 4, 10, and 11 and Block 78, Lot 6, in the Paradise Park Subdivision, Town of Crested Butte, Gunnison County, State of Colorado.**

Schmidt read the title of the ordinance. Schmidt understood the properties were ready to go. MacDonald confirmed closings were scheduled to begin the last week in May. Town had the option to purchase back the units in case of default, and the option needed to be lifted prior to closing.

Dujardin moved and Mitchell seconded a motion to set Ordinance No. 15, Series 2020 to public hearing on May 18<sup>th</sup>. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

## **5) Consideration of Town Manager's Proposed Order Requiring the Use of Masks by All Persons Interacting with People Outside of Their Household.**

Schmidt acknowledged there was an amazing amount of email, both in favor and opposition. He mentioned towns that had passed ordinances requiring masks. Specifically, the Council was considering a public order that would require people to wear masks while entering public buildings and in a public places that safe social distancing could not be maintained. He listed exceptions.

Merrill suggested they defer to Gunnison County Public Health Director Joni Reynolds and carry on directing people to the health order. Haver recommended staying in line with the County. It was highly important to create a culture of love and respect on this one and safeguard each other. Mitchell agreed with Merrill and Haver about staying in line with the County. Dujardin agreed with what had been said. They could strongly encourage wearing masks. He did not think the Council should mandate. Bradley concurred Town should stay with the County. Magner recognized that masks reduced the spread of the virus. She thought they should keep Town safe by mandating masks. Schmidt would like to go ahead and order masks for the Town to provide and make them generally available along Elk Avenue. Senator Tim Wirth had donated funds that Schmidt would like to use for purchasing masks. Schmidt summarized there was a five to two feeling from the Council of not going with mandatory masks.

Dujardin wanted further discussion on the purchase of masks. Merrill agreed with spending the money on masks. Mitchell agreed. Haver also agreed. Schmidt read comments in chat from the public from Underwood, Palhava, Cowherd, Woodward, Machemehl, UpChurch, and Sophia Komarek. MacDonald asked the Council to specify the amount to allocate to spend in order to acquire masks. Magner identified the problem was not that people did not have masks; they were uncomfortable or did not want to wear them. Schmidt did not want people to have an excuse to not wear a mask into Clark's. Mitchell voiced disagreement with Magner. Mitchell recommended the \$1K that was donated be spent on masks. Dujardin wanted to get the masks here, so people could have them. He was concerned about an enforcement issue, and he was worried about building negative sentiment. Merrill reiterated her support of sticking with the County. Haver suggested the Town match the \$1K. Merrill and Mitchell agreed. There was a question in chat on hand sanitizer. The discussion became focused on what was contained in the business kits provided by the County. MacDonald summarized that Staff had been directed to pursue the purchase of up to \$2K of masks.

Magner moved and Schmidt seconded a motion that they mandate the wearing of masks inside closed spaces and outside where six feet of social distancing cannot be maintained. A roll call vote was taken with Schmidt and Magner voting, "Yes," and Haver, Bradley, Dujardin, Merrill, and Mitchell voting, "No." **Motion failed and did not carry.**

Dujardin supported advocating to Reynolds about the wearing of masks, otherwise he agreed with sticking with the County's health order. Schmidt read comments from chat.

The discussion became focused on whether the County would be instituting a mask mandate and that the Town would be supportive of the County.

#### **6) Resolution No. 14, Series 2020 - A Resolution of the Crested Butte Town Council Amending the Town of Crested Butte's Purchasing Policy.**

Schmidt explained the idea behind the policy was to allow Town to give preference to entering into contracts with local people.

Mitchell moved and Dujardin seconded a motion to approve Resolution No. 14, Series 2020. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

#### **7) North Village Comment Letter.**

Haver thanked Staff for the comments in the letter. Dujardin agreed. Dujardin drew the Council's attention to traffic impacts, affordable housing, and climate action addressed in the letter. He wanted the sections to be clearer, more specific, and stronger. The Council agreed with changes specified by Dujardin.

Dujardin moved and Bradley seconded a motion to approve the letter with the added revisions. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

### **LEGAL MATTERS**

None

### **COUNCIL REPORTS AND COMMITTEE UPDATES**

Candice Bradley

- A lot of the industry sub groups had put together sector plans.

Chris Haver

- The information was coming out from the subgroups.
- He was in a lodging meeting today where they re-clarified what they could do starting on May 15<sup>th</sup> and then May 27<sup>th</sup> and then dates thereafter.
- TAPP had put out of state marketing on hold.
- He reported on RTA.
  - Boeing was planning to come in June for helicopter testing.
  - They were encouraging drivers and passengers to wear masks.
  - The airport requested money to help with a position.
  - The airlines were planning for next winter.
  - They were still getting a new CNG bus and were starting construction on the Almont bus stop.

Will Dujardin

- The Upper Gunnison (River Water Conservancy District) meeting was held at the same time as the Council meeting last Monday. He updated from the packet. They were preparing for a drought. Flows into the Mesa were projected to be 71% of normal.

Mallika Magner

- The Valley Housing Fund had two meetings this month. They agreed to give the Housing Authority \$60K to aid with keeping deed restrictions, with the understanding they would consider more.
- The Chamber has been working hard on coordinating with local businesses in their re-opening efforts and on keeping communications going between the County and the businesses.

Laura Mitchell

- Attended the RTA meeting.

Mona Merrill

- STOR had a meeting that was mainly a presentation about changing the Forest Service sites from dispersed to designated camping spots.

Jim Schmidt

- He had been attending the 8:30 and 2:30 Zoom meetings and was keeping up with what was happening at the County.
- He attended Senator Bennett's town halls.
- Other CAST towns were experiencing similar issues.
- They would have mayor/managers on Thursday. Dujardin offered to serve as back up for attending mayor/managers.

### **OTHER BUSINESS TO COME BEFORE THE COUNCIL**

Haver asked the Council if they would want Staff to look into a giant order of hand sanitizer to help businesses as they opened. Mitchell suggested hand-washing stations that could be placed around Town. MacDonald affirmed hand-washing stations were on the radar and part of the plan. She would look into pricing and availability.

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

- Monday, May 18, 2020 - 6:00PM Regular Council then Planning Commission
- Monday, June 1, 2020 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, June 15, 2020 - 6:00PM Work Session - 7:00PM Regular Council

Dujardin was in favor of setting a meeting for next Monday. Magner would not be able to attend. No meeting was scheduled.

Schmidt expressed condolences to Dan Escalante's family.

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 10:40PM.

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James A. Schmidt, Mayor

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Lynelle Stanford, Town Clerk (SEAL)



## Staff Report

May 18, 2020

**To:** Mayor and Town Council

**Prepared By:** Shea D Earley, Director of Public Works

**Thru:** Dara MacDonald, Town Manager

**Subject:** **Approval of an Agreement with Sixth Street Station to Install a Temporary Liner in the McCormick Ditch**

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### **Summary:**

Sixth Street Station has brought forth a request to install a temporary liner in the McCormick Ditch within the open channel portion of ditch that crosses Sixth Street Stations Property (Block 12, Lots 1-5). In response to this request, Town Staff directed the Town's water attorney to draft a McCormick Ditch Temporary Liner Agreement.

### **Background:**

The Town owns a majority share of the water rights that flow through McCormick Ditch. Over the last 10 years, there have been several construction projects designed to protect this water right, including the installation of the underground infrastructure from 6<sup>th</sup> to 7<sup>th</sup> street, as well as, the underground infrastructure installed as part of the ongoing construction at the Kapushion Project. The segment of ditch crossing 6<sup>th</sup> Street Station's property is one of the last sections of open channel ditch.

### **Discussion:**

The proposed Sixth Street Station Ditch Temporary Liner Agreement would allow Sixth Street Station to install a temporary liner in the ditch for up to a two year period, ending November 30<sup>th</sup>, 2021. At the end of the two year period, Sixth Street Station would be required to remove the liner. All cost associated with the install and removal of the liner would be assumed by Sixth Street Station. Sixth Street Station will also be required to provide a deposit to the Town, reflecting the costs of materials and construction. If Sixth Street Station defaults on their obligations to remove the liner by the end date specified in the agreement, the Town has the right to utilize the deposit to remove the liner. The Town also reserves the right to review and approve any design and construction material as part of the liner installation.

### **Financial Impact:**

There is minimal financial implications to the Town.

**Recommendation:**

Town Staff recommends to approve the agreement subject to any minor modifications as may be approved by the Public Works Director and Town Attorney.

**Proposed Motion:**

I move to approve the Sixth Street Station Ditch Temporary Liner Agreement as part of the consent agenda.

**Attachments:**

Sixth Street Station Ditch Temporary Liner Agreement  
Exhibit B – SGM Liner Plan 5.14.20

## Sixth Street Station Ditch Temporary Liner Agreement

THIS AGREEMENT (this “**Agreement**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”) by and between the **TOWN OF CRESTED BUTTE**, a Colorado home rule municipality (the “Town”) and **SHEEP MOUNTAIN PARTNERS, LLC**, a Colorado limited liability company (“Sheep Mountain”) (collectively “**Ditch Holders**”); and **SIXTH STREET STATION, LLC**, a Colorado limited liability company (“**Owner**”).

**WITNESSETH:**

WHEREAS, Owner is the fee title owner of the real property (the “**Property**”) described in **Exhibit A** and located at Lots 1-5 and 28-32, Block 1, and Lots 1-5 and 28-32, Block 12, in Crested Butte, CO (Gunnison County Parcel Nos. 325503101001, 325503101009, and 325503106007).

WHEREAS, Owner wishes to temporarily line the McCormick Ditch for two irrigation seasons with 45 mil EPDM (ethylene propylene diene monomer) material or substantially similar synthetic rubber installed in the segment of currently open McCormick Ditch that crosses the Property (the “**Liner Work**”) at Owner’s sole expense, in strict accordance with Ditch Holders approved plans.

WHEREAS, the McCormick Ditch, located in Gunnison County, Colorado, is adjudicated to divert and carry the following water rights out of Coal Creek:

<b>Priority</b>	<b>Case No.</b>	<b>Appropriation Date</b>	<b>Adjudication Date</b>	<b>Amount (cfs)</b>
164	CA 1325	6/1/1903	9/14/1906	2.25
533	CA 5590	6/1/1903	1/27/1961	6.75
558	CA 5590	4/1/1952	1/27/1961	1.0
				<i>TOTAL = 10.0</i>

(the “**McCormick Ditch Water Rights**”)

WHEREAS, the Ditch Holders own all McCormick Ditch Water Rights, structures, easements, and physical appurtenances. Specifically, the Town owns 6.11 c.f.s., or approximately 61%, of the water decreed to be carried in the Ditch, and Sheep Mountain owns 3.89 c.f.s., or approximately 39%, of the water decreed to be carried in the Ditch;

WHEREAS, the Ditch Holders are willing to grant permission for the Liner Work in accordance with this Agreement; and

WHEREAS, the Ditch Holders desire to protect their respective property interests in the McCormick Ditch from any and all injury and/or increased operational, maintenance, repair and replacement expenses that may result from the Liner Work.

NOW THEREFORE, in consideration of the preambles, covenants, conditions and agreements set forth in this Agreement, the parties agree as follows:

## AGREEMENT

1. Preamble.

The parties recognize the McCormick Ditch water rights, structures, easements, and physical appurtenances as valuable property rights that must be protected from any and all harm that may result from the Liner Work. The parties further recognize that this Agreement establishes contract duties, rights, and remedies to protect the Ditch Holders' respective property interests in the McCormick Ditch. The Owner acknowledges and agrees that the Liner Work must be capable of handling and transporting up to 10 c.f.s. of water flow, the decreed capacity of the McCormick Ditch, through the entirety of the length of the Ditch crossing the Property.

2. Approval of, and Changes to, the Liner Work.

Each Ditch Holder has approved the plans and specs to install the Liner Work attached as **Exhibit B**. These agreed-upon plans are incorporated into and form a material basis of this Agreement. The Ditch Holders reserve the right to review and approve, disapprove, or approve with conditions, any material changes or other updates to the Liner Work plans prior to commencement of any installation work by the Owner relating to the changes. The Ditch Holders will not unreasonably withhold their approval of any changes or other updates, and will provide the Owner with their approval or reasons for denial in writing as soon as reasonably possible or within five (5) business days of receipt of Owner's written proposal and request to make changes. The Ditch Holders reserve the right to require restoration, alteration, and/or remedial efforts as conditions of their approval. In the event that the Ditch Holders require assistance from an engineer and/or attorney to review any changes or other updates to the Liner Work plans, the Owner will pay the costs of such services. All approved changes or other updates to the Liner Work plans will be incorporated into the meaning of Liner Work as used in, and for purposes of, this Agreement.

3. Timing and Proper Installation of the Liner Work; Removal; Bonding.

Time is of the essence. The Owner must complete installation of, and make operational, all Liner Work on or before May 25, 2020. The Ditch Holders agree to not turn on the McCormick Ditch water until such time, or until such time the Liner Work is completed and operational, whichever is sooner. Owner must accomplish all Liner Work, at Owner's sole cost and expense, in a workmanlike manner and in strict conformity with the plans attached as **Exhibit B** (or any changes or other updates to the plans made pursuant to paragraph 2 above). Owner must ensure that the McCormick Ditch's carrying capacity of 10 c.f.s., volume of water flow, velocity of water flow and quality of water are maintained at values consistent with the values existing prior to completion and operation of the Liner Work.

Upon installation of the Liner Work, Owner's professional engineer shall certify in writing to the Ditch Holders that construction was accomplished in a workmanlike manner and in strict conformity with the Liner Work plans. The Town may undertake a test and inspection of the completed and operational Liner Work at Owner's expense under full flow conditions. In the event of such test, the Town shall thereafter provide Owner with notice of approval of the Liner Work, or notice of any items that do not substantially comply with the approved Liner Work plans or that otherwise do not perform as intended under the terms of this Agreement. Upon receipt of any notice of failure of compliance, Owner shall undertake to fully correct the items that do not substantially comply with the approved plans or the intended performance of the Liner Work.

The Liner Work shall be entirely removed from the Ditch no later than November 30, 2021, and properly disposed of off the Property, following the end of the 2021 irrigation season, which ends October 31. The Ditch Holders will turn the Ditch off by October 31, 2021 or earlier in order to allow the removal work to occur. At such time, the Owner shall take out the liner from the McCormick Ditch and any other items related to the Liner Work; and return the Ditch to its full operating and physical condition prior to the Liner Work unless Owner and Ditch Holders have agreed to another alternative in writing prior to October 31, 2021. Thereafter, this Agreement shall be deemed automatically terminated and of no further force and effect, except for any outstanding obligations incurred or accruing prior to termination, which shall survive.

**Deposit.** Owner guarantees that the Liner Work will be timely removed per this Agreement. As security for this guarantee, Owner shall deposit with the Town the sum of \$ 2,700.00 ("Deposit") at the time of execution of this Agreement. This Deposit shall held by the Town until Owner provides proof reasonably satisfactory to the Town that the Liner Work was removed from the Ditch, and properly disposed of off the Property by November 30, 2021 in accordance with this paragraph. Upon meeting this condition the Deposit shall be promptly refunded to the Owner. If the Owner fails by November 30, 2021 to meet the condition of removal and disposal set forth herein, the Deposit shall be used by the Town to accomplish the Liner Work removal itself, and any amount of the Deposit remaining thereafter shall be returned to Owner.

Owner shall include the Ditch Holders as additional insureds on applicable property and liability insurance policies covering the Liner Work.

4. All Ditch Easement Rights Retained.

The parties understand and agree that the Ditch Holders, by virtue of this Agreement or in any other way, do *not* vacate, alter, waive, release or abandon their easement or easement rights associated with the existing historic McCormick Ditch alignment as it crosses the Property.

5. Access to Inspect the Liner Work. In addition to Ditch Holders' McCormick Ditch easement rights, Ditch Holders, their engineers and consultants are granted a right of reasonable ingress and egress across the Property, to inspect the Liner Work; or exercise their other rights

granted by this Agreement.

6. Operation, Maintenance, Repair, and Replacement (“OMRR”). Owner shall be solely responsible for the OMMR of the Liner Work prior to, during, and after completion of the Liner Work; and the Ditch Holders shall have no obligations or liability for the same. In the event Owner fails to perform the OMRR of the Liner Work such that it does not safely operate or perform as intended, then the Town shall notify Owner in writing, which notice shall specify with particularity the nature of Owner’s failure to perform such OMRR. In the event Owner, after said notice, does not remedy the failure to perform such OMRR within forty eight (48) hours after its receipt of the notice, then the Town may proceed to cure said failure. The costs of any such OMRR performed by the Town shall be reimbursed to the Town. The Town shall be permitted to use such equipment and vehicles, including heavy equipment and machinery, that are reasonable and customary to exercise its curative OMRR rights under this section. Town shall have no responsibility or liability for any damage or destruction to any items or improvements, including the Liner Work items, if such damage or destruction is the proximate result of the Town’s reasonable exercise of its curative OMRR rights under this section.

Owner agrees that it shall reimburse the Town within sixty (60) days after Owner receives an itemized statement from the Town for any expenses the Town incurs to perform the above-referenced OMRR. Reimbursements made to the Town after sixty (60) days will include an additional payment of interest accrued on the unpaid amount at the annual percentage rate of 18% (1.5% per month), or as allowed by law, whichever is less.

7. Reimbursement of Costs as Partial Consideration. As partial consideration for this Agreement and the consent to the Liner Work, the Owner shall reimburse the Ditch Holders for all fees and costs incurred in connection with this matter, including, but not limited to, fees and costs related to the review of the proposed Liner Work and drafting and negotiation of this Agreement. The Owner shall have the continuing responsibility to timely pay all such additional fees and costs incurred by Ditch Holders in connection with this Agreement, including but not limited to legal, engineering, inspection and testing fees and costs. Ditch Holders shall document and provide to Owner copies of all applicable bills, invoices, statements, etc. for which Ditch Holders seek reimbursement under this paragraph. *This reimbursement paragraph is separate and apart from any other cost recovery agreements between the parties and any fees and costs under this paragraph do not count against any caps or limits contained in other cost recovery agreements.*

Fees and costs incurred hereunder shall be paid upon execution of this Agreement. Thereafter, any additional fees and costs shall be reimbursed by the Owner to the Ditch Holders within thirty (30) days. Reimbursements still owing to the Ditch Holders after thirty (30) days shall include interest on any outstanding balance at eighteen percent (18 %) per annum or one and one half percent (1.5 %) per month.

8. Indemnification. Owner shall indemnify and hold harmless the Ditch Holders from any and all liability, including court costs and attorneys’ fees, resulting or arising from Owner’s

construction or OMRR of the Liner Work. Owner shall further indemnify and hold harmless the Ditch Holders from any and all liability resulting from flooding, erosion, sedimentation, blockage, failure to deliver water in historic amounts, or other malfunction of the Liner Work. This indemnification is construed broadly and covers all fees, costs, judgments, and damages incurred by any Ditch Holder as a result of the causes identified in this paragraph, regardless of whether or not such fees, costs, judgments, or damages stem from an action that is filed or threatened. The Ditch Holders shall promptly notify the Owner in writing of the filing of any action, claim, or lawsuit for which any Ditch Holder seeks indemnification pursuant to this paragraph. The notice shall include a statement describing the liability and related events for which the Ditch Holder seeks indemnification.

9. Attorney Fees. In the event that one or more of the parties to this Agreement deems it necessary to take legal action to enforce or defend any part of this Agreement, the prevailing party may recover its reasonably incurred attorneys' fees and costs, including "fees on fees."

10. Notice. All notices required under this Agreement shall be in writing, and shall be hand-delivered or sent by regular mail to the addresses of the parties listed in this paragraph. All hand-delivered notices are considered effective upon delivery. All notices sent by mail are considered delivered 72 hours after deposit in the U.S. mail if inscribed with the proper address. Any party may give notice of a change in its address pursuant to the terms of this paragraph.

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

*with copy to:* Town of Crested Butte  
Attn: Town Water Attorney  
Scott Miller, Esq.  
Patrick, Miller & Noto, P.C.  
0197 Prospector Road, Ste. 2104A  
Aspen, Colorado 81611

Sheep Mountain: Sheep Mountain Partners, LLC  
900 69<sup>th</sup> Street  
Boulder, CO 80303-3104

*with copy to:* Mark Hamilton, Esq.  
Holland & Hart, LLP  
600 E. Main Street, Ste. 104  
Aspen, CO 81611

Owner: Sixth Street Property, LLC

P.O. Box 1552  
Telluride, CO 81435

*with copy to:*

Marcus Lock, Esq.  
Law of the Rockies  
525 N. Main Street  
Gunnison, CO 81230

11. Binding Agreement. This Agreement inures to the benefit of, and is binding upon, the heirs, executors, administrators, successors, and assigns of all parties. The benefits and burdens of this Agreement shall run with the Property, and are binding on all parties to this Agreement and their heirs, successors, and assigns having any right, title, or interest in the Property.

12. Integration; McCormick Ditch Agreement; Conflict. The Town and Sheep Mountain (but not Owner) are parties to the McCormick Ditch Agreement, dated December 18<sup>th</sup>, 2018, recorded at Reception No. 658114, Gunnison County real property records (“McCormick Ditch Agreement”). As between the Town and Sheep Mountain, this Agreement and the McCormick Ditch Agreement shall be read together and harmonized to the greatest extent possible; however, to the extent of a conflict or inconsistency between this Agreement and the McCormick Ditch Agreement, then the McCormick Ditch Agreement is hereby amended, modified and superseded as necessary. For example, any failure of the Liner Work or breach by the Owner under this Agreement shall not be deemed a breach by the Town under the McCormick Ditch Agreement.

13. Recordation. Upon execution, Owner shall record this Agreement at the Gunnison County Clerk and Recorder’s Office.

14. Counterparts. This Agreement may be executed in counterpart copies, which taken together constitute the Agreement between the parties.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first written above.

[SIGNATURE PAGES TO FOLLOW]

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

By: \_\_\_\_\_  
James A. Schmidt, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lynelle Stanford, Town Clerk

(SEAL)

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GUNNISON        )

Subscribed and sworn to me before this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by James A. Schmidt, Mayor of the Town of Crested Butte, a Colorado home rule municipality.

Witness my hand and official seal.  
My commission expires:

\_\_\_\_\_  
Notary Public

**SHEEP MOUNTAIN PARTNERS, LLC**  
a Colorado limited liability company

By: \_\_\_\_\_  
Ryan Martens, Manager

Date: \_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GUNNISON        )

Subscribed and sworn to me before this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Ryan Martens as Manager of Sheep Mountain Partners, LLC, a Colorado limited liability company.

Witness my hand and official seal.  
My commission expires:

\_\_\_\_\_  
Notary Public

**SIXTH STREET STATION, LLC**  
A Colorado limited liability company

\_\_\_\_\_  
By: \_\_\_\_\_  
Bruce MacIntire, its Project Manager

STATE OF COLORADO            )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Bruce  
MacIntire as Project Manager of Sixth Street Property, LLC.

Witness my hand and official seal.

My Commission expires: \_\_\_\_\_.

**EXHIBIT A**  
**(Sixth Street Property Description)**

Lots 1 through 5, both inclusive, Block 1, TOWN OF CRESTED BUTTE, County of Gunnison, State of Colorado,

Lots 28 through 32, both inclusive, Block 1, TOWN OF CRESTED BUTTE, County of Gunnison, State of Colorado, and

Lots 1 through 5, both inclusive, and Lots 28 through 32, both inclusive, Block 12, TOWN OF CRESTED BUTTE, County of Gunnison, State of Colorado.

**EXHIBIT B**  
**(Liner Work Plans)**

[attach approved plans and designs here]



May 19, 2020

The Honorable Michael Bennet  
261 Russell Senate Office Building  
Washington, DC 20510

The Honorable Cory Gardner  
354 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Scott Tipton  
218 Cannon House Office Building  
Washington, D.C. 20515

The members of the Town Council of Crested Butte understand that this is a trying time for all elected officials in the State of Colorado and at the federal level. We thank you for the hard work you and your teams are doing to ensure the health, safety, and well-being of our communities.

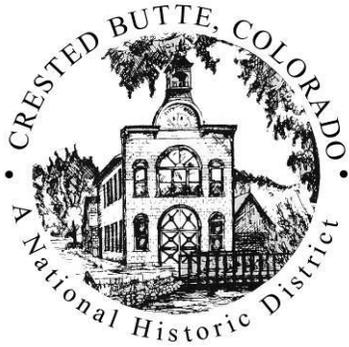
Small businesses are the only size we have here in rural Colorado and they are the lifeblood of our community. While exploring the future of the Paycheck Protection Program and federal efforts in the CARES 2.0 Act, we encourage you to consider full forgiveness for loan and grant amounts under \$500,000 - \$750,000. Forgiveness without the need for the 75%/25% split, or even any accounting of the expenditures, would be a great help to the truly small businesses. Total forgiveness for small businesses would cut down on what appears to be a bureaucratic nightmare. From our perspective, the Treasury Department and the Small Business Administration have different ideas than the Congress does about the Paycheck Protection Program.

We hear every day that small businesses are having problems figuring out the rules, which have come slowly, while larger businesses have the means to hire accountants and lawyers that can help wade through the PPP morass. We believe this extended forgiveness could significantly level the playing field for small businesses that make our communities thrive.

Thank you for your consideration, and thank you for the work you are doing every day to protect Coloradans.

Sincerely,

James A. Schmidt  
Mayor



## Staff Report

May 18, 2018

**To:** Mayor and Town Council

**From:** Dara MacDonald, Town Manager

**Subject:** Appointment of representatives to the Gunnison/Hinsdale Combine Emergency Telephone Service Authority Boards

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**Summary:** On March 2, 2020 the Crested Butte Town Council passed Resolution #5 Series 2020 to approve an Amended and Restated Intergovernmental Agreement for the Gunnison/Hinsdale Combined Emergency Telephone Service Authority (Authority) to replace the E-911 and Communications Boards. On April 17, 2020 the last signature was obtained for the Intergovernmental Agreement by the board members approving the formation of the Authority. The Town's representatives to the replaced E-911 and Communications Boards are Chief Marshal Michael Reily and Deputy Chief Marshal Joseph Dukeman. The newly formed Gunnison/Hinsdale Combine Emergency Telephone Service Authority requires a statement from the Town indicating its desire to continue with these representatives on the new Authority Board.

**Previous Council Action:** In 2018 the Town of Crested Butte approved Chief Marshal Michael Reily and Deputy Chief Marshal Joseph Dukeman as primary and alternate representatives to the E-911 and Communications Boards.

**Background:** Michael Reily and Joseph Dukeman have been effective representatives on the E-911 and Communications Boards for the Town of Crested Butte.

**Discussion:** Appointing Reily and Dukeman as the Town's representatives on the newly formed Authority Board is a logical continuation of the functions they performed with the previous boards.

**Financial Implications:** The appointment of Reily and Dukeman to the Authority Board will not convey additional financial implications.

**Recommendation:** Staff recommends appointing Chief Marshal Michael Reily and Deputy Chief Marshal Joseph Dukeman to serve as Crested Butte's primary and alternate representatives to the Gunnison/Hinsdale Combine Emergency Telephone Service Authority until such time as they are no longer employed by the Marshal's Office or, the Council makes a new appointment.

**Proposed Motion:** To approve the appointment of Chief Marshal Michael Reily and Deputy Chief Marshal Joseph Dukeman to serve as Crested Butte's primary and alternate representatives

to the Gunnison/Hinsdale Combine Emergency Telephone Service Authority until such time as they are no longer employed by the Marshal's Office or, the Council makes a new appointment.

May 19, 2020

Dear Governor Polis,

Western Colorado University (WCU) in Gunnison, CO is an indispensable resource for the Gunnison Valley and western Colorado. The COVID-19 virus made Gunnison County one of the most impacted communities in the state on a per capita basis, which decimated small businesses here. As a single entity WCU is the dominant economic driver of the whole Gunnison Valley in the amount of more than \$70m per year. Gunnison County as we know it simply could not exist without Western. But WCU is struggling. Yes, the CARES Act has been enacted, but for two key reasons, the guidelines for the funding disadvantage WCU.

Firstly, small rural schools are particularly disadvantaged because operational expenses represent a disproportionate part of the costs of running a school – economies of scale in reverse if you will. The standard inflationary increases in expenses each year for health care premiums, new regulatory accommodation, utilities costs, minimum cost of living adjustments, among others regularly outstrip the modest state appropriation afforded from the dominantly volume-based formula used to calculate them. Western is already very lean. Its administrative expenses as a percent of all operational expenses is already significantly lower than its DHE peer set. Accordingly, the standard state funding formula and any potential relief funding that is volume-based only is problematic – if it doesn't account specifically for small, rural schools.

Secondly, both the federal and state funding guidelines favor large schools with big (FTE) full-time equivalent numbers and schools with high concentrations of PELL-eligible students. But many people are unaware that the high school graduates that matriculate to college in the lowest percentages each year do not belong to a particular ethnic or economic cohort. Rather, they are rural students. But the community of Gunnison is so small that it doesn't have many college candidates – much less PELL eligible college candidates. Thus, rural institutions in small communities such as WCU desperately need some accommodation.

We hope you can help with providing schools like Western with a separate dispensation that takes into consideration their special circumstances. This would spare the entire Gunnison community from potentially devastating financial impacts.

I thank you in advance for any assistance you can provide.

Sincerely,

James A. Schmidt  
Mayor



## A Proclamation of Appreciation to Ashley UpChurch May 18, 2020

**Whereas**, North Carolina native and now self-proclaimed nomad, Ashley UpChurch came to Crested Butte knowing she would eventually move on but determined to become a valued member of our community during her time here, and;

**Whereas**, Ashley is a badass hiker and has completed more than 750 unique trail miles in the Gunnison Valley on foot, and;

**Whereas**, in addition to the incredible amount of time and dedication Ashley gave in her role as the Executive Director of the Crested Butte and Mt. Crested Butte Chamber of Commerce she also sat on the Boards of the Crested Buttes Arts Festival, the Crested Butte/Mt. Crested Butte Rotary Club and the Crested Butte Friends of the Library, and;

**Whereas**, Ashley loves Harry Potter and throughout her daily life embodies all of the determination, bravery, intelligence and integrity that Harry and his friends champion, and;

**Whereas**, during the onset of the COVID-19 pandemic and related impacts in Gunnison County, Ashley has shown incredible leadership and determination in advocating for local businesses, and;

**Whereas**, despite already having submitted her resignation months ago, Ashley has worked tirelessly over the past 2 months to provide businesses with accurate and timely information about resources available for them and has helped to organize and lead the nine industry subgroups that provided the business community with information as well as an active voice in shaping safe and strong recovery plans, and;

**Whereas**, throughout the COVID-19 crisis Ashley has demonstrated great strength as a mediator by carefully listening to all concerns and providing constructive and collaborative problem solving for diverse interests balancing public safety and business needs around re-opening the local economy, and;

**Whereas**, the Crested Butte community owes Ashley a huge “Thank You” for her hard work and leadership during the time she has been in the community, and;

**Whereas**, the Town of Crested Butte wishes to acknowledge the talented, unique, and quirky individuals that make this town the special place it is,

**Therefore**, on this 18<sup>th</sup> day of May, 2020, I, James A Schmidt, Mayor, proclaim Ashley UpChurch to be a Special Citizen of Crested Butte and thank her on behalf of the Town Council and all the citizens of Crested Butte.

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James A. Schmidt, Mayor



## Memorandum

**To:** Town Council  
**From:** Dara MacDonald, Town Manager  
**Subject:** Manager's Report  
**Date:** May 18, 2020

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### Town Manager

- 1) Reusable masks – The Town of Crested Butte has ordered 470 reusable masks, branded for this community. They should be arriving the last week of May.
- 2) Emergency Operations Center Schedule Changes – The Gunnison County EOC is shifting to a more focused schedule. The EOC will be at full operations on Mondays and Thursdays going forward with regular PIO communication scheduled to come out on those days as well. They will be utilizing this time outside of daily meetings to maintain operations and move into a long-term sustainable model as we expect the response to be ongoing for many more months. They will also continue to prepare in case there is a resurgence of the virus and be prepared to resume more intensive operations as needed.
- 3) Municipal Operations – Effective May 18<sup>th</sup> the Town is going to implement the federal Families First Coronavirus Response Act regarding compensation for employees who miss work due to COVID-19 related causes covered under the Act. We are functionally close to pre-COVID operations for most departments even with a number of employees teleworking. The recreation staff are in the process of standing up a day camp for the summer for dependents of employees age 5-12 to provide an opportunity should other programming not be available.

### Public Works -

- 1) Streets Division
  - a. Staff is continuing to sweep streets and paint curbs.
  - b. Staff will also begin to grade alleys and ROWs
  - c. Over the past two weeks staff have been assisting the Parks Department in raking fields.
- 2) Water and Wastewater Division -
  - a. Water Division
    - i. Hydrant Flushing has been completed.
    - ii. Staff will be testing backflow assemblies for Parks and Rec
    - iii. The Town is in the process of finalizing the Technical Memo for Optimal Corrosion Control Treatment Recommendation. Staff hopes to have that in the next couple weeks.
    - iv. Staff performed their semiannual sampling for lead and copper. Results were below the Lead Action Level Exceedance.

- b. Wastewater Division
  - i. Continue to camera (inspect) the sanitary sewer system.
- 3) Facilities Division –
  - a. Staff is finishing up the renovation of the kitchen at Town Hall.
  - b. Bathroom amenities remain limited: Tommy V, Marshal/Kbut, and Transit Center are currently open. As more of a demand/need for bathrooms arise, staff will begin to open other public restrooms.
- 4) Kapushion Project - Construction has started up. The contractor will begin by finishing the underground infrastructure beneath the roadways. Once the underground infrastructure is complete, the contractor will focus on construction of the roadways.

### Marshals

- 1) The Intergovernmental Agreement for the Gunnison/Hinsdale Combined Emergency Telephone Service Authority (Authority) to replace the E-911 and Communications Boards has been signed by all members. This will allow Gunnison Dispatch to operate as an enterprise fund under an 8 member board who will hire an Executive Director to lead Dispatch. We believe this is the right direction at this time.
- 2) CBCS will graduate their 2020 Senior class on May 30 from 10:00am-12:00pm. A socially distant graduation will be held in the CBCS parking lot where participants will be protected in their vehicles. The proceedings will be broadcast on KBUT radio for all to hear and celebrate with the graduates and their families. A parade for/with the graduates will wind its way through Crested Butte and the particular details are being worked out.

### Parks & Rec

- 1) Park amenities are largely open with the following exceptions:
  - a. Playgrounds and pavilions are closed with expected opening aligning with Phase III
  - b. Rainbow Field is closed to allow for much needed repairs and maintenance
- 2) Janna and Joey will be participating in a newly formed COVID sector plan for youth programming through the Ice Lab. This group will develop a reopening plan to submit to the County in order to move forward with youth programming in the coming weeks/months.
- 3) The summer dumpster for the 4-Way has been delivered. The ADA accessible porta potty that is placed behind the museum will be delivered on May 20<sup>th</sup> and will remain for the duration of the summer.

### Community Development

- 1) Elk Avenue summer operation - Community Outreach “Chalk Day” is May 20<sup>th</sup>
- 2) Clark’s Expansion. We expect plans (90-sheets) to be submitted in the next two weeks. We will be enlisting Colorado Code to provide plan review assistance.
- 3) BOZAR’s virtual meetings are going well.
- 4) Electronics Recycling: Save the dates for electronics recycling on Friday, May 29<sup>th</sup> from 1-4pm and Saturday, May 30<sup>th</sup> from 10am-1pm. Please refer to the attached flyer for details and pricing.

- 5) Energy Audit Update: Staff is anticipating the draft of the investment grade audit of our facilities by mid-May. We will spend the rest of May reviewing the draft and we will present the findings and recommendations for moving forward to the Council in June. The Colorado Energy Office will also review the draft report.
- 6) **Reminder:** Spring is here and so is tree trimming and cutting season. Crested Butte is a “Tree City USA” and we want to remind Council and Town residents about the tree preservation ordinance. The ordinance requires a permit for the removal of a tree that has a trunk diameter of two inches (2”) or more when measured at four feet six inches (4’-6”) from ground level. For more information, please read Crested Butte Town Code Sec. 16-15-10 et. seq. "Landscaping", or reach out to staff to answer any questions.

#### Town Clerk

- 1) The organizer of CB Street Vault has confirmed they will not hold their event in 2020. Other event cancelations are expected to be forthcoming. The event organizer for ARTumn (September 26 – 27) would still like to proceed, so the special event application will be on the next agenda.
- 2) Municipal Court continues to be held on the same schedule as planned via conference call.

#### Finance

- 1) Annual financial audit kicked off week of May 11<sup>th</sup>. On-site work dates are tbd.
- 2) Updated and strengthened workplace safety guidelines rolled out to all staff on May 13<sup>th</sup>.
- 3) Town Hall reception has a new greeter dog named Mochi. She is looking forward to meeting everyone.

#### Intergovernmental

The City of Gunnison will be hosting the next meeting of the elected officials.

#### Upcoming Meetings or Events

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



# CRESTED BUTTE 2020

# ELECTRONICS RECYCLING

**FRI, MAY 29 (1PM - 4PM)**

**SAT, MAY 30 (10AM - 1PM)**

**CORNER OF 5TH AND GOTHIC**

## E-CYCLE PRICING

### FREE

CELL PHONES

LAPTOPS

CORDS/CABLES

CPU'S

SPEAKERS

MICE & KEYBOARDS

### FOR A FEE

COMPUTER MONITORS.....\$12

DESKTOP PRINTERS/COPIERS.....\$5

FLAT SCREEN AND CRT'S (MEASURED DIAGONALLY)

UP TO 27" .....\$2 PER INCH

TUBE AND PROJECTION TV'S OVER 27" ....\$3 PER INCH

ALL OTHER ELECTRONICS.....\$3

**DRIVE-UP OR WALK-UP DROP OFFS ONLY (PLEASE WEAR A MASK)**

**CASH OR CHECK ONLY**

**NO ITEMS WITH REFRIGERATION WILL BE ACCEPTED**

# REDUCE. REUSE. RECYCLE.





## Staff Report

May 18, 2020

**To:** Mayor and Town Council

**From:** Dara MacDonald, Town Manager

**Subject:** Ordinance No. 8, Series 2020, An ordinance of the Crested Butte Town Council Amending Chapter 16, Article 4 to Include Division 12-R1F Residential District

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**Summary:** To consider and potentially adopt the proposed text amendment to Chapter 16, Article 4 Residential Districts of the Municipal Code to add the R1F Residential District.

**Previous Council Action:** The Town Council reviewed the text amendment on April 6, 2020 and set the public hearing for May 18<sup>th</sup>.

**Background:** A basis for this Code amendment was identified by the Town of Crested Butte and Cypress, LLC during preparation of the Pre-Annexation Agreements. In the Second Amendment to the Pre-Annexation Agreement, recorded as Reception No. 656557 on 10/10/2018, Section 6.4.1.1. reads: *“The Applicant Retained Lands (T1-T6) shall be subdivided into no less than six (6) lots. The Applicant Retained Lands are unique and located next to wetlands. As such, the subdivision of the Applicant Retained Lands into six (6) usable lots cannot be done within one of the Town’s existing zone districts. Applicant and the Town desire to allow for the subdivision of the Applicant Retained Lands in a manner that minimizes the impact on the wetlands and maximizes the area and dimensions of the building envelopes on the six (6) lots, as well as the design flexibility of the lot lay-outs, while maintaining FAR limits consistent with the existing RID zoning district within Town. Accordingly, the Town will use its best efforts to create a new residential zoning district for the Applicant Retained Lands to achieve the goals set forth in this section.”* The proposed, new R1F Residential District standards are contained in the attached Ordinance.

**BOZAR Recommendation:**

At a regular meeting on March 26, 2019, the Board of Zoning and Architectural Review (BOZAR) reviewed and discussed the proposed amendment to Chapter 16, Article 4 of the Code. Board members were generally supportive of the proposal citing that it provides necessary standards for the development of single-family residences. BOZAR voted to recommend approval of this amendment to Town Council. No written or oral public comments were presented at the meeting.

**Discussion:** In accordance with Code Section 16-23-30 Application (a) Any application for an amendment of this Chapter shall contain the following information; the Code requirements are shown below in *italics*, followed by Town staff’s response:

(1) *“A legal description of any land to be rezoned, together with a diagram drawn to scale showing the boundaries of the area requested to be rezoned.”*

Response: This application is requesting a text amendment to Chapter 16, Article 4 Residential Districts of the Code to create a new R1F Residential zone district (*see attached Ordinance*). Following annexation of the Slate River Subdivision to the Town, the 1.46-acre parcel known as the Applicant Retained Land will be zoned R1F Residential (*see Ordinance 10-2020*). A legal description of the land to be zoned R1F Residential and the proposed map amendment to the Town Zoning Map will be included as part of the zoning process for the Applicant Retained Lands.

(2) *“A statement of the present zoning and the requested new zoning.”*

Response: The Applicant Retained Lands will be zoned R1F Residential once annexed to the Town as part of the Slate River Subdivision. The area known as the Applicant Retained Lands is currently located within unincorporated Gunnison County with no specific zoning designation.

(3) *“A statement of justification for such action, including facts concerning any change of conditions, an error in the original zoning or the unusual or peculiar suitability of a lot to a certain use.”*

Response: This text amendment to the Code creates a new R1F Residential Zone that allows consideration of certain site-specific issues and that allows residential development to conform within the neighborhood context.

(4) *“A description of the land and uses thereof within two hundred (200) feet of the boundary lines of the proposed area of change in all directions; and*

Response: The lands to the north and to the east of the Applicant Retained Land are to remain within unincorporated Gunnison County. The adjoining lands to the north are undeveloped and being used as natural open space; and the parcel on the east side of the Slate River has been subdivided into single-family lots for residential use. To the south are “remnant” lands (TP8 and TP9) that will be annexed and zoned P-Public for use as open space adjacent to Pyramid Avenue. The Public Works facility is located further to the south and east of Eighth Street within Town limits; a potential public and/or community facility (TP2) south of Pyramid Avenue west of Eighth Street is to be annexed and zoned P-Public.

There are two parcels located west of the Applicant Retained Land to be annexed and zoned P-Public. The adjoining parcel (TP7) to the west will be maintained as a wetland area and open space; and the parcel (TP1) further to the west is proposed as a potential site on which to relocate the fire station and emergency services facility.

(5) *“A statement as to the effect that the new zoning or changes would have on adjacent areas or uses.”*

Response: The creation of the R1F Residential zoning district is consistent with terms of the Pre-Annexation Agreements. Zoning the Applicant Retained Lands as R1F will allow development of six (6) single-family homes that would be compatible with the existing and/or future land uses on the adjacent parcels.

(b) *“Any application to create or amend the zoning of a parcel of land containing more than fifty thousand (50,000) square feet of land shall be subject to the requirements set forth in Chapter 17 of*

*this Code and reviewed for approval as a subdivision under said regulations.*

Response: This text amendment to the Code is a component of the Annexation and Slate River Subdivision application that includes a total of 14.1 acres.

**Climate Impact:** There are no climate impacts related to adoption of this text amendment.

**Financial Impact:** There is no financial impact from the adoption of this text amendment.

**Legal Review:** The proposed text amendment has been reviewed by the Town Attorney.

**Proposed Motion:** Am Council member should make a motion, “to approve Ordinance No. 08, Series 2020” followed by a second and roll call vote.

**ORDINANCE NO. 8,**

**SERIES 2020**

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL  
AMENDING CHAPTER 16, ARTICLE 4 TO INCLUDE  
DIVISION 12-R1F RESIDENTIAL DISTRICT.**

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

**WHEREAS**, the Town has the authority to enact and enforce land use regulations pursuant to Article XX of the Colorado Constitution, as implemented through the Town of Crested Butte Charter and Code; and Title 31, Article 23, and Title 20, Article 29, C.R.S.; and

**WHEREAS**, the Town Municipal Code (the “Code”) in Chapter 16, Article 4 currently has zoning provisions for residential districts; and

**WHEREAS**, the Town seeks to create new zoning regulations for low-density residential development along with customary accessory uses for subdivided lots within this district and that provide a transition between the Town and the larger residential lots outside of Town; and

**WHEREAS**, the Town Council referred the staff’s request for proposing the R1F Residential District text amendment to the Board of Zoning and Architectural Review (“BOZAR”); and

**WHEREAS**, BOZAR reviewed the proposed text amendment to Chapter 16, Article 4, Division 12 as part of the Slate River Major Subdivision Sketch Plan review on March 26, 2019 and voted to recommend approval of the text amendment to Town Council; and

**WHEREAS**, the Town Council considered BOZAR’s recommendation and reviewed the proposed regulations pertaining to low-density single-family residential development along with customary accessory uses for annexed land that has been subdivided; and

**WHEREAS**, the Town Council hereby finds that it is in the best interests of the Town to adopt the proposed text amendment to the Code.

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

**Section 1: Chapter 16, Article 4 Residential Districts.** Chapter 16, Article 4 Residential Districts is hereby amended to include Division 12-R1F Residential District.

**Section 2: Chapter 16, Article 4, Division 12-R1F Residential District.** Division 12-R1F Residential District of the Code is to hereby read as follows:

## **Chapter 16, Article 4, Division 12 "R1F" Residential District**

### **Sec. 16-4-1000. - Intent of district.**

The purpose for which this District is created is to provide areas for low-density residential development along with customary accessory uses. The lots in this District provide a transition between the Town and the still larger residential lots outside of Town. Accessory uses naturally and normally incidental to, and exclusively devoted to such primary residential uses are included as conditional uses. It is intended that no more than two (2) units, designed or used for dwelling by a family, shall be allowed on a site.

### **Sec. 16-4-1010. - Permitted uses.**

The following uses shall be permitted in the "R1F" District:

- (1) One-family dwelling units.
- (2) Accessory buildings, incidental nonresidential uses, not heated or plumbed.
- (3) Home occupations.
- (4) Attached garages.
- (5) Detached garages as accessory buildings to the principal permitted uses.

### **Sec. 16-4-1020. - Conditional uses.**

The following uses shall be permitted as conditional uses in the "R1F" District:

- (1) Accessory dwellings in conjunction with a one-family dwelling unit.
- (2) Two-family dwelling units.
- (3) Parking areas.
- (4) Accessory buildings, incidental nonresidential uses, heated and/or plumbed.

### **Sec. 16-4-1030. - Lot measurements.**

The following shall be lot measurements for property located in the "R1F" District:

- (1) Minimum lot area: five thousand (5,000) square feet.
- (2) Maximum lot area: eleven thousand four hundred (11,400) square feet.
- (3) Minimum frontage: fifty (50) feet.
- (4) Minimum front yard:
  - a. Public street: twenty (20) feet.
  - b. Private access road: ten (10) feet.
- (5) Minimum side yard: At least seven and one-half (7½) feet, and up to eleven and one-half (11½) feet, dependent upon snow storage and snow shed guidelines.
- (6) Minimum rear yard:
  - a. Principal building: ten (10) feet.

- b. Accessory building: five (5) feet.
- c. Wetland setback: seven and one-half (7'-6") feet.

**Sec. 16-4-1040. - Floor areas.**

The following shall regulate measurements for floor areas located in the "R1F" District:

- (1) Minimum floor area: four hundred (400) square feet for each residential unit.
- (2) Maximum floor area:
  - a. Accessory building, including an accessory dwelling, if any: one thousand (1,000) square feet or two-thirds (2/3) of the floor area of the principal building, whichever is smaller.
  - b. Accessory dwelling: one thousand (1,000) square feet of floor area or two-thirds (2/3) of the floor area of the principal building, whichever is smaller.
- (3) Maximum floor area ratio:
  - a. The principal building shall not exceed two thousand eight hundred (2,800) square feet.
  - b. All buildings shall not be larger than three thousand eight hundred (3,800) square feet in the aggregate.

**Sec. 16-4-1050. - Building measurements.**

The following shall regulate measurements for buildings located in the "R1F" District:

- (1) Maximum building height:
  - a. Principal building: thirty (30) feet.
  - b. Accessory building: twenty (20) feet or the height of the principal building, whichever is less.
  - c. Accessory dwelling: twenty-four (24) feet or the height of the principal building, whichever is less.
- (2) Maximum building width: thirty-five (35) feet.

**Sec. 16-4-1060. - Additional provisions.**

- (a) Primary and accessory residential buildings shall be oriented on a north-south or east-west axis.
- (b) Open space required: fifty percent (50%) of the lot area shall be open, unencumbered and free of any building or structure.
- (c) Minimum exterior wall height shall be seven (7) feet.
- (d) Minimum vertical distance from eave line of roof to the finished grade level shall be six (6) feet.
- (e) Slope of roof shall be a minimum of 4:12.

**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 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 6<sup>th</sup>  
DAY OF APRIL, 2020.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING  
IN PUBLIC HEARING THIS 18<sup>th</sup> DAY OF MAY, 2020.**

**TOWN OF CRESTED BUTTE**

\_\_\_\_\_  
James A. Schmidt, Mayor

**ATTEST:**

\_\_\_\_\_  
Lynelle Stanford, Town Clerk

[SEAL]



## Staff Report

May 18, 2020

**To:** Mayor and Town Council  
**From:** Dara MacDonald  
**Subject:** Slate River Annexation Combined Public Hearing

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### Summary:

This combined public hearing is a culmination of many years of consideration of the Slate River Annexation. The hearing includes annexation of the area, zoning the area to be annexed and approval of the annexation agreement. Council members will then convene as the Planning Commission to approve the Subdivision of the annexed area, to be known as the Slate River Subdivision.

### Previous Council Action:

The Town received an annexation petition and prepared an application for annexation. Resolution 4, Series 2019 found the annexation petition in substantial compliance and set the first of a series of annexation public hearings for April 15, 2019. The public hearings were continued multiple times over the next year as various agreements were completed. With Resolution No. 11, Series 2020, approved on April 6, 2020, the Town Council did find that the Slate River Subdivision is eligible for annexation under the Municipal Annexation Act and the Town Code.

April 6, 2020 – Council approved or took action on the following items related to this annexation:

- Approved **Resolution No. 11, Series 2020** – Finding that the Slate River Subdivision is Eligible for Annexation
- Set **Ordinance No. 8, Series 2020** for public hearing on May 18<sup>th</sup> – An ordinance amending Chapter 16, Article 4 to include Division 12 – R1F Residential District
- Set **Ordinance No. 10, Series** for public hearing on May 18<sup>th</sup> – An ordinance establishing zoning for the areas within the Slate River Annexation

May 4, 2020 – Council took action on the following items related to this annexation:

- Set **Ordinance No. 9, Series 2020** for public hearing on May 18<sup>th</sup> – An ordinance annexing the Slate River Subdivision
- Set **Ordinance No. 13, Series 2020** for public hearing on May 18<sup>th</sup> – An ordinance approving the Subdivision Improvements Agreement for Tracts 1-6 of the Slate River Subdivision

**Background:**

The Slate River Development application started with an annexation petition request to the Town in the fall of 2014 by Cypress Equities (Developer). After a year of negotiations, the proponents withdrew their application for annexation with the Town. At this time, the County was approached by the Developer about the possibility of a major subdivision in the County.

In 2016, negotiations with the Town about extending sewer service to the development resulted in the Town and the Developer executing the first of three agreements: a pre-annexation agreement, an amended pre-annexation agreement and a second amendment to the pre-annexation agreement. The Pre-Annexation Agreement, Reception #638399, created a hybrid development project in which a portion of the development would occur in the unincorporated area of the County (Aperture Subdivision), followed by the annexation of the remaining property into the Town (West Remainder Parcel, aka Slate River Subdivision). The Slate River would serve as the dividing line between the Town and unincorporated development. In exchange for sewer service, the Developer agreed to convey nine parcels to the Town on the western portion of the development to serve as public uses, affordable housing, passive park space, and open space. These parcels will be platted and annexed under the Town's Municipal Code regulations.

An amendment to the Pre-Annexation Agreement was negotiated after the Developer went before the County Planning Commission and Board of County Commissioners (BOCC). Concerns about the Developer's plans for water supply resulted in an additional request for Town water. At this time, the Amendment to the Pre-Annexation Agreement, Reception #643828, was agreed upon to extend water service to the development in the County in exchange for senior water rights in the McCormick Ditch among other conditions. These two recorded agreements will be referenced as "Pre-Annexation Agreements" for the remainder of the memo.

The Pre-Annexation Agreements, were bound to the County's approval of the Aperture Major Subdivision of 23 residential lots on the eastern portion of the site. The County approved the Aperture Major Subdivision which set in motion the need for the execution of several agreements and the Town's annexation process, and voluntary clean up (VCUP) of the former landfill area approved by CDPHE pursuant to the Colorado Voluntary Clean-up Program.

After approval of the County's Aperture Major Subdivision, the Town and the Developer executed the Second Amendment to the Pre-Annexation Agreement, Reception #656557 to clarify additional provisions that were necessary for the VCUP, construction of landscaping and fencing on Town property, and the construction of utilities.

The Town Attorney and staff have been working with the Developer over the past several months to finalize the various agreements related to the annexation and subdivision improvements. This has involved review of all previous agreements into a new Annexation Agreement that incorporates the critical elements of the previous pre-annexation agreements as amended as well as the agreements concerning water and sewer service to the Aperture Subdivision. In addition, we have a Boater Access Agreement and Subdivision Improvements Agreement that we can recommend the Council approve at this time.

**Discussion:**

Annexation Agreement:

The Pre-Annexation agreements and associate agreements that have previously been executed will remain in full effect, except where the Annexation Agreement being approved as part of Ordinance No. 9 supersedes or replaces them. Examples of where there are differences include

- The specific reference to covenants and subdivision improvements agreements for the newly created Tracts 1-6
- Clarification that the Town may apply for a Voluntary Clean-up Plan to develop affordable housing on Town Parcel 5, which shall not interfere with the existing No Action Determination on the already cleaned up areas
- The Town will own the boat ramp subject to certain covenants agreed to by both parties and the Boater Access Easement Agreement that addresses floating use of the river over property retained by the Developer
- Reimbursement to the Developer for a share of infrastructure costs should an adjacent property connect to the water & sewer mains in the next 25 years
- Clarification of fencing and signage allowances and responsibility for installation or associated costs

Boater Access: Originally the Developer was going to retain the lots now shown as TP6(a) and 6(b) along the Slate River. Over the course of many conversations it became clear that it would function better in the long run if the Town had ownership of these parcels rather than the Developer and subsequent homeowners associations. TP6(a) will be designated as open space to protect the riparian corridor. TP6(b) will be utilized for public access to the Slate River.

Use of the boat ramp will be subject to the following restrictions imposed by the Developer in the Quitclaim Deed of Conveyance for the property, attached to the Annexation Agreement as Exhibit A:

- No commercial use, camping, hunting, horses, amplified noise, fishing or dogs
- Only non-motorized boat/watercraft use
- Picnicking, sunbathing, reading, resting, relaxing and like activities are permitted
- Open sunrise to sunset
- No vehicles – parking on the street
- Town is responsible for maintenance similar to how we maintain like properties

The Boater Access Easement Agreement addressing floaters on the Slate River is incorporated as Exhibit B to the Annexation Agreement. Use by floaters is subject to the following limitations:

- No commercial use of the easement (which includes the entire Slate River through the property)
- We will work together on signage consistent with other river access/use signage
- Boaters shall not stop, touch the bed of the river or the banks
- Only non-motorized boat/watercraft use
- Use of the easement is not allowed when water is too low to float through without getting stuck
- No amplified noise, fishing or dogs
- Open sunrise to sunset
- Either party can enforce the terms of the easement, but neither is obligated to do so

#### Roads and Road Maintenance:

Pyramid Ave is the newly constructed street connecting Gothic Road to 8<sup>th</sup> Street and on to the Aperture Subdivision. Pyramid Road will be a public street between Gothic Road and the bridge over the Slate River. The bridge and everything east of the river will be a private street with no maintenance responsibilities to the Town. The Town does have public utilities under Pyramid and the various agreements allow access for the Town to maintain that infrastructure. Further, the Town is not responsible for snow plowing on Pyramid Ave east of the 8<sup>th</sup> Street intersection.

Road B is the yet to be constructed street that will serve the six applicant retained lots on the west side of the Slate River. This street is to be constructed in a manner that does not meet some municipal standards such as width. The Developer has agreed that they, and eventually the homeowners, will be responsible for construction and maintenance of this private road and the alley (“Road Improvements”). Like Pyramid Ave on the east side of the Slate, this private road will have public utility mains underneath and thus provisions have been made for maintenance access for the Town. The Road Improvements are described on Exhibit A to the Subdivision Improvements Agreement to be authorized pursuant to Ordinance 13-2020, discussed below.

The Developer wishes to keep the public from accessing these private roads in the future. The annexation agreement provides that no gate or fence across Pyramid at the boundary between the Town and unincorporated area. However, the Developer has expressed that it is their intention that only the lot owners could use the roads for driving, parking, walking, bike riding, etc.

#### Zone District Designations:

The proposed Slate River Major Subdivision contains a total area of 14.16 acres or 616,663 square feet. It is to be annexed and subdivided into nine (9) Town Parcels and one (1) Tract that contains six (6) single-family lots.

At a regular meeting on March 26, 2019, the Board of Zoning and Architectural Review (BOZAR) reviewed and discussed the proposed zoning for the various Town Parcels and Applicant Retained Tract. Board members were generally supportive of the proposed zoning districts and potential land uses within the Slate River Major Subdivision. BOZAR voted to recommend approval of these zoning map amendments to Town Council. No written or oral public comments were presented at the meeting.

The proposed zoning allows for development that includes a balance of public buildings, public open space, environmental areas and recreation, affordable housing units and single-family residences that are compatible with the existing and/or future land uses, scale and character of the adjacent neighborhood and area. The proposed zoning is primarily Public (P and P/OS) that allows public uses such as a fire station/emergency services (TP1); public facilities such as a library, museum, health clinic and/or education/learning (TP2); a public works yard, snow storage, sledding hill and/or open space (TP4); and public parks, boat launch, open space and/or environmental areas (TP6A-B, TP 7, TP8 and TP9). The R4 District (TP3 and TP5) allows for duplex, tri-plex and multi-family deed-restricted residential units; and the R1F District (Applicant Retained Lands) permits the development of six (6) single-family homes.

Subdivision Improvements Agreement:

The purpose of a Subdivision Improvements Agreement (“SIA”) is to clearly articulate roles and responsibilities of the Town and the Developer around improvements necessary to prepare land for lot sales and vertical construction. Most of the improvements associated with the Aperture Subdivision and Slate River Annexation have already been completed or are nearing completion and were addressed under a previous Development Improvements Agreement. This SIA only addresses the remaining improvements needed to prepare Tracts 1-6 of the Slate River Subdivision which the Developer is retaining on the west side of the Slate River.

These improvements include installation of Road B which will serve Tracts 1-6 and associated utilities. The SIA requires that the Developer provide the financial security, or Performance Guaranty, prior to commencing work or by July 1, 2021. The amount of the guaranty is calculated at \$435,893.75, or 125% of the estimated cost of the improvements. As described above, the SIA will be authorized pursuant to Ordinance 13-2020.

**Financial Impact:** As part of this annexation the Town has agreed to pay the Developer \$350,000 as compensation for the clean-up of Tract 3 intended to be developed for affordable housing. These funds have been allocated already through the 2020 budget process from the Capital Fund.

**Legal Review:** The Town Attorney has been heavily involved in the development of all documents.

**Recommendation:** The Town Council should open the combined public hearing for Ordinances No. 9, 10 and 13 and take public comment. Following public comment, the public testimony portion of the combined public hearing should be closed and Council should then approve Ordinances 9, 10 and 13. The approval of the actual final plat for the Slate River Subdivision will be accomplished by Council convening as planning commission. This process is addressed in another staff report.

**Proposed Motion:**

- 1) A Council member should make a motion, “to approve Ordinance No. 9, Series 2020” followed by a second and roll call vote.
- 2) A Council member should make a motion, “to approve Ordinance No. 10, Series 2020” followed by a second and roll call vote.
- 3) A Council member should make a motion, “to approve Ordinance No. 13, Series 2020” followed by a second and roll call vote.

**ORDINANCE NO. 9**

**SERIES 2020**

**AN ORDINANCE ANNEXING PROPERTY KNOWN AS THE SLATE RIVER  
SUBDIVISION TO THE TOWN OF CRESTED BUTTE, COLORADO.**

**WHEREAS**, the Town of Crested Butte, Colorado ("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**, Cypress Foothills, LP ("Annexor") submitted a Petition for Annexation dated February 26, 2019, requesting that the Town annex the Slate River Subdivision; and

**WHEREAS**, on March 4, 2019 the Town Council found the Petition for Annexation to be in substantial compliance with § 31-12-107(1), C.R.S. and § 31-12-105, C.R.S.; and

**WHEREAS**, an Annexation Hearing on the Slate River Annexation was opened on April 15, 2019, continued to September 3, 2019, continued to December 16, 2019, continued April 6, 2020, and continued to May 18, 2020; and

**WHEREAS**, on April 6, 2020 after taking testimony the Town Council adopted Resolution No 11 Series 2020, finding that the Slate River Subdivision is eligible for annexation pursuant to the statutory criteria for annexation in C.R.S. §§ 31-12-104 and 105 and the criteria in Sec. 15-1-80 of the Crested Butte Municipal Code; and

**WHEREAS**, the Town Council finds that an election pursuant to §§ C.R.S. 31-12-107(2) or 31-12-112(1) is not required; and

**WHEREAS**, the Town Council finds that it is in the best interest of the Town to annex the Slate River Subdivision into the Town of Crested Butte.

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

**Section 1.** **Annexation.** The Slate River Subdivision, described as follows and shown on the annexation map attached hereto as Exhibit A, is hereby annexed to and made part of the Town of Crested Butte:

A portion of a parcel of land known as Tract Q of Book 516 Page 474, Parcel 13 of Book 552 Page 63, Parcel 1 of Warranty Deed recorded at Reception No. 570819, Parcel 1 of Quitclaim Deed recorded at Reception No.570822, Parcel 1 of the Correction Warranty Deed recorded at Reception No.584439, Parcel 1 of the Special Warranty Deed recorded at Reception No.612899, and the Correction Deed recorded at Reception No.618498 all located in the SW 1/4 of Section 35, Township

13 South, Range 86 W of the Sixth PM, Gunnison County, Colorado being more particularly described as follows:

Beginning at a point on the westerly boundary of Trampe Parcel described in Book 516 Page 494 also being on the easterly right of way line of County Road 317 (Gothic Road) as recorded at Reception No. 00119 and being on the south line of the SW1/4 of said Section 35 from which the southwest Corner of said Section 35 bears N89°43'49"W a distance of 130.05 feet; thence S89°43'49"E a distance of 17.52 feet to a point on the westerly line of the Dyer Subdivision as recorded at Reception No.497990; thence along the westerly, northerly and easterly lines of said Dyer Subdivision the following six (6) courses:

- 1) N00°01'42"W a distance of 15.19 feet,
- 2) N89°58'18"E a distance of 495.36 feet,
- 3) N00°01'42"W a distance of 226.55 feet,
- 4) N61°00'00"E a distance of 620.66 feet,
- 5) S79°30'09"E a distance of 381.57 feet,
- 6) N61°00'00"E approximately 31.96 feet to the high water line of the Slate River; thence more or less along the wetland boundary on the southerly bank of the Slate River the following six (6) courses:

- 1) N66°34'01"W a distance of 53.68 feet,
- 2) N42°06'22"W a distance of 87.35 feet,
- 3) N52°37'46"W a distance of 40.69 feet,
- 4) N39°16'35"W a distance of 115.15 feet,
- 5) N32°48'09"W a distance of 178.03 feet,
- 6) N20°36'39"W a distance of 77.30' to a point on the northerly line of the Trampe Partition Parcel 13 and the southerly line of Spann Parcel 22 as described in Court Decree Amended Order of Partition as recorded in Book 552 at Page 63; thence along the northerly line of said Parcel 13 N90°00'00"W a distance of 547.26 feet to a point on the easterly right of way line of County Road 317 (Gothic Road); thence along said easterly right of way line as described in deeds recorded at Reception No.474960 and 474961 the following five (5) courses:

- 1) S46°12'21"W a distance of 116.48 feet,
- 2) S35°50'27"W a distance of 185.49 feet,
- 3) S35°50'28"W a distance of 88.19 feet,
- 4) S40°05'13"W a distance of 207.37 feet,
- 5) S39°55'42"W a distance of 238.91 feet; thence continuing along the easterly line of said right of way and westerly line of said Trampe Partition Parcel 13, 155.77 feet along the arc of a non-tangent curve to the left having a radius of 441.28 feet, a central angle of 20°13'30" and a long chord which bears S16°19'42"W a distance of 154.96 feet to a point which is common to the southwest corner of a parcel of land described in Book 518 at Page 403; thence S00°00'04"W continuing along the easterly right of way of said

County Road 317 as recorded at Reception No.00119 and in accordance with Court Decree (Judgment) recorded in Book 516 at Page 494, a distance of 117.72 feet to the Point of Beginning.

Said Parcel as described above contains 14.157 acres, more or less.

All bearings shown hereon are relative to a bearing of N89°43'49"W between a GLO brass cap dated 1939 found at the southwest corner of Section 35 and a 3 ¼ inch aluminum cap stamped 18480 and dated 1995 found at the south quarter corner of Section 35.

Also known as West Remainder Parcel, Aperture, according to the Plat thereof, recorded as Reception No. 648057 in the Gunnison County Clerk and Recorder's office.

**Section 2. Annexation Agreement.**

- 2.1 The Annexor and Town have agreed that the annexation of the Slate River Subdivision is subject to the conditions, covenants, and agreements set forth in the Annexation Agreement attached hereto as Exhibit B and incorporated herein by reference.
- 2.2 The Mayor is hereby authorized to execute the Annexation Agreement.

**Section 3. Associated Agreements.** Annexor and the Town have entered into associated agreements pertaining to the Slate River Subdivision described on Exhibit C, Associated Agreements Between the Town of Crested Butte and Cypress Foothills, LP and Other Documents Related Thereto.

**Section 4. Annexation Effective Date.** The annexation of the Slate River Subdivision shall be complete and effective upon the effective date of this Ordinance and compliance with the filing requirements in C.R.S. § 31-12-113.

**Section 5. Effective Date of this Ordinance.** This Ordinance shall take effect thirty (30) days after publication.

**INTRODUCED AND FIRST READ BEFORE THE TOWN COUNCIL THIS \_\_\_\_ DAY OF MAY, 2020**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND HEARING THIS \_\_\_\_\_ DAY OF MAY, 2020**

TOWN OF CRESTED BUTTE, COLORADO

By \_\_\_\_\_  
James A. Schmidt, Mayor

ATTEST:

\_\_\_\_\_  
Lynelle Stanford, Town Clerk

Slate River Annexation Ordinance- **Exhibit A**

**ANNEXATION MAP**

# ANNEXATION MAP

WEST REMAINDER PARCEL, APERTURE SUBDIVISION,  
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 13 SOUTH,  
RANGE 86 WEST OF THE 6TH P.M.,  
COUNTY OF GUNNISON, STATE OF COLORADO

SHEET 1 OF 1

TOTAL AREA = 616,663 SQ FT, OR 14.16 ACRES, MORE OR LESS

## Parcel Description

A PARCEL OF LAND, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 13 SOUTH, RANGE 86 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GUNNISON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 35 TO BEAR SOUTH 88°44'53" EAST, A DISTANCE OF 2650.61 FEET BETWEEN A FOUND GLO BRASS CAP ON IRON PIPE BENT OVER TOWARDS SOUTH WITH SPIKE NAIL ON NORTH SIDE AT THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 13 SOUTH, RANGE 86 WEST OF THE 6TH PRINCIPAL MERIDIAN, AND A FOUND PIPE WITH 3 1/4" ALUMINUM CAP "PLS 18480" AT THE SOUTH QUARTER CORNER OF SECTION 25, TOWNSHIP 13 SOUTH, RANGE 86 WEST OF THE 6TH PRINCIPAL MERIDIAN WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SAID SOUTHWEST CORNER OF SECTION 35, THENCE ALONG THE SAID SOUTH LINE OF SECTION 35, SOUTH 88°44'53" EAST, A DISTANCE OF 130.17 FEET TO THE SOUTHWEST CORNER OF APERTURE AND TO THE POINT OF BEGINNING;

THENCE NORTH 00°58'59" EAST, A DISTANCE OF 117.71 FEET; THENCE 155.76 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 441.26 FEET, AND AN INTERIOR ANGLE OF 20°13'31", SUBTENDED BY A CHORD BEARING NORTH 17°18'37" EAST, A DISTANCE OF 154.96 FEET; THENCE NORTH 40°54'37" EAST, A DISTANCE OF 238.91 FEET; THENCE NORTH 41°04'08" EAST, A DISTANCE OF 207.37 FEET; THENCE NORTH 36°49'23" EAST, A DISTANCE OF 88.19 FEET; THENCE NORTH 36°49'22" EAST, A DISTANCE OF 185.49 FEET; THENCE NORTH 47°11'16" EAST, A DISTANCE OF 116.48 FEET; THENCE SOUTH 89°01'05" EAST, A DISTANCE OF 547.25 FEET; THENCE SOUTH 19°37'46" EAST, A DISTANCE OF 77.29 FEET; THENCE SOUTH 31°49'16" EAST, A DISTANCE OF 178.03 FEET; THENCE SOUTH 38°17'42" EAST, A DISTANCE OF 69.67 FEET; THENCE SOUTH 38°17'42" EAST, A DISTANCE OF 45.48 FEET; THENCE SOUTH 51°38'53" EAST, A DISTANCE OF 17.47 FEET; THENCE SOUTH 51°38'53" EAST, A DISTANCE OF 23.23 FEET; THENCE SOUTH 41°07'29" EAST, A DISTANCE OF 87.35 FEET; THENCE SOUTH 65°35'08" EAST, A DISTANCE OF 53.68 FEET TO A NORTHEASTERLY CORNER OF TRACT 1, DYER SUBDIVISION; THENCE ALONG THE NORTHERLY LINE OF SAID TRACT 1 SOUTH 61°58'55" WEST, A DISTANCE OF 31.96 FEET; THENCE NORTH 78°31'14" WEST, A DISTANCE OF 381.57 FEET; THENCE SOUTH 61°58'55" WEST, A DISTANCE OF 620.66 FEET; THENCE ALONG THE WEST LINE OF TRACT 1, DYER SUBDIVISION SOUTH 00°57'13" WEST, A DISTANCE OF 226.55 FEET; THENCE DEPARTING SAID WEST LINE NORTH 89°02'47" WEST, A DISTANCE OF 495.36 FEET; THENCE SOUTH 00°57'12" WEST, A DISTANCE OF 15.18 FEET; THENCE NORTH 88°44'53" WEST, A DISTANCE OF 17.52 FEET TO THE POINT OF BEGINNING;

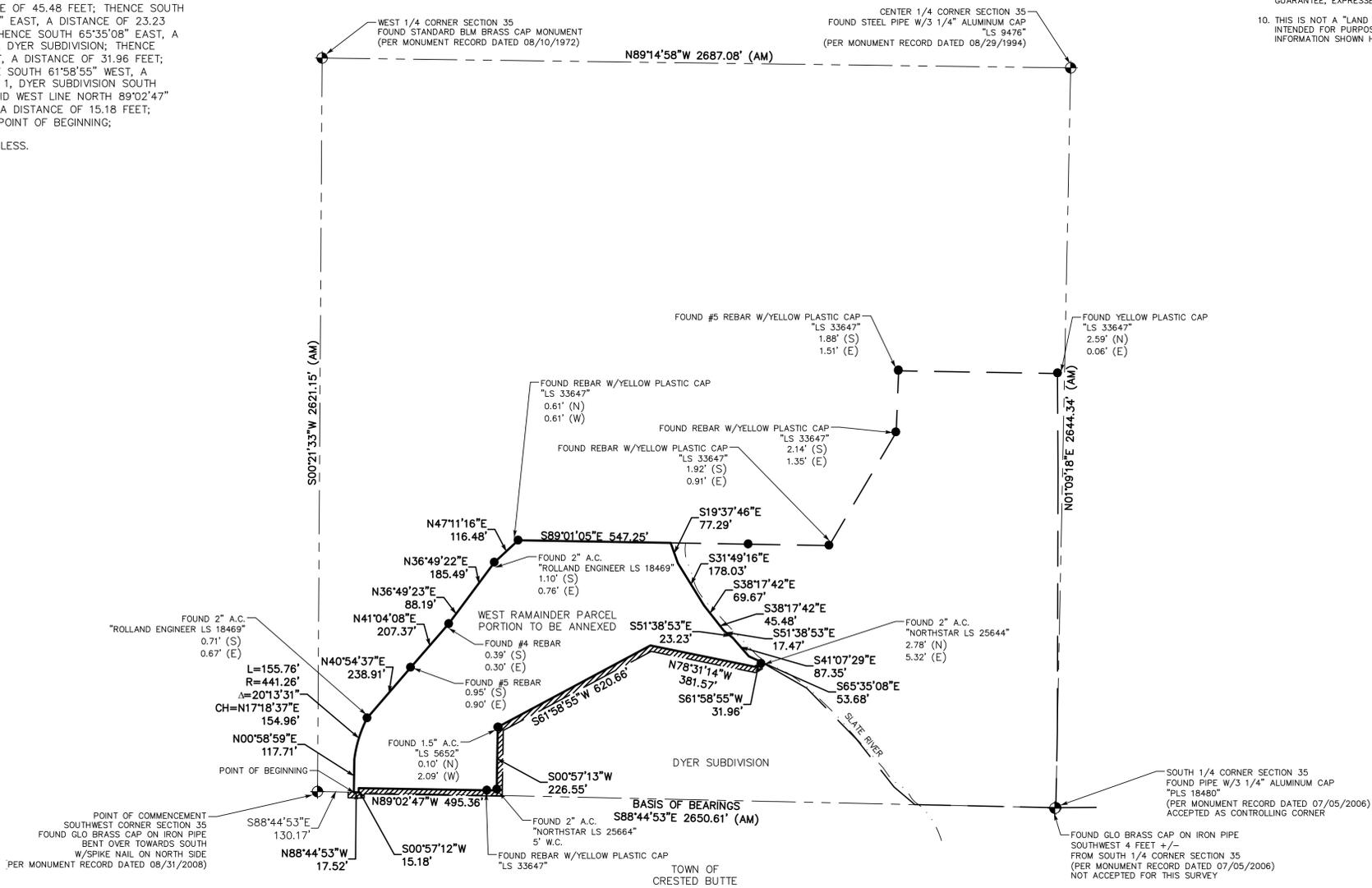
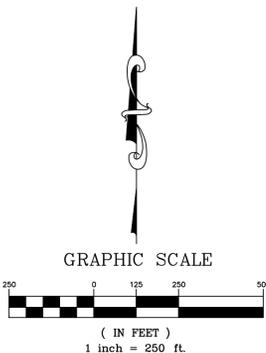
SAID PARCEL CONTAINING 616,663 SQ.FT. OR 14.16 ACRES, MORE OR LESS.

## Boundary Closure Report

COURSE: N00°58'59"E LENGTH: 117.71'  
LENGTH: 155.76' RADIUS: 441.26'  
DELTA: 020°13'31"  
CHORD: 154.96' COURSE: N17°18'37"E  
COURSE: N40°54'37"E LENGTH: 238.91'  
COURSE: N41°04'08"E LENGTH: 207.37'  
COURSE: N36°49'23"E LENGTH: 88.19'  
COURSE: N36°49'22"E LENGTH: 185.49'  
COURSE: N47°11'16"E LENGTH: 116.48'  
COURSE: S89°01'05"E LENGTH: 547.25'  
COURSE: S19°37'46"E LENGTH: 77.29'  
COURSE: S31°49'16"E LENGTH: 178.03'  
COURSE: S38°17'42"E LENGTH: 69.67'  
COURSE: S38°17'42"E LENGTH: 45.48'  
COURSE: S51°38'53"E LENGTH: 17.47'  
COURSE: S51°38'53"E LENGTH: 23.23'  
COURSE: S41°07'29"E LENGTH: 87.35'  
COURSE: S65°35'08"E LENGTH: 53.68'  
COURSE: S61°58'55"W LENGTH: 31.96'  
COURSE: N78°31'14"W LENGTH: 381.57'  
COURSE: S61°58'55"W LENGTH: 620.66'  
COURSE: S00°57'13"W LENGTH: 226.55'  
COURSE: N89°02'47"W LENGTH: 495.36'  
COURSE: S00°57'12"W LENGTH: 15.18'  
COURSE: N88°44'53"W LENGTH: 17.52'

PERIMETER: 3998.2' AREA: 616663 SQ. FT.  
ERROR CLOSURE: 0.01 COURSE: N53°55'05"E  
ERROR NORTH: 0.004 EAST: 0.006

PRECISION 1: 399736



## Contiguity

TOTAL PERIMETER.....3998.2'  
1/6TH PERIMETER.....666.4'  
PERIMETER CONTIGUOUS TO TOWN LIMITS.....1788.8'

## Legend

- FOUND ALIQUOT MONUMENT AS DESCRIBED
- FOUND MONUMENT AS DESCRIBED
- AS MEASURED AT TIME OF SURVEY
- CURRENT LIMITS OF THE TOWN OF CRESTED BUTTE
- NEW LIMITS OF THE TOWN OF CRESTED BUTTE

## Notes

- THIS ANNEXATION MAP WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND DOES NOT CONSTITUTE A TITLE SEARCH BY FLATIRONS, INC. TO DETERMINE TITLE OR EASEMENTS OF RECORD. THIS MAP DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND-USE REGULATIONS; AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
- ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS MAP WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- THE PURPOSE OF THIS MAP IS TO GRAPHICALLY PORTRAY THE RELATIONSHIP OF THE LAND PROPOSED FOR ANNEXATION TO THE CURRENT TOWN OF CRESTED BUTTE LIMITS.
- THIS SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF SURVEYOR.
- BASIS OF BEARINGS: GPS DERIVED BEARING OF S88°44'53"E ALONG THE SOUTH LINE OF SECTION 35, BETWEEN A FOUND GLO BRASS CAP ON IRON PIPE BENT TOWARDS THE SOUTH WITH A SPIKE NAIL ON NORTH SIDE AND A FOUND PIPE WITH A 3 1/4" ALUMINUM CAP STAMPED "LS 18480". AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508.
- THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
- DATES OF FIELD WORK: 12/09/2017-12/12/2017 (J. HANNAHOE)
- THE WORD "CERTIFY" AS SHOWN AND USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THIS SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED.
- THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY THE CLIENT.

ANNEXATION MAP	DATE
REVISION	DATE
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10

**Flatirons, Inc.**  
Surveying, Engineering & Geomatics  
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BOULDER, CO 80501 UNIT E  
LONGMONT, CO 80501  
PH: (303) 776-1733 PH: (303) 443-7001 DENVER, CO 80205  
FAX: (303) 776-4355 PH: (303) 443-9830 PH: (303) 936-6997

**Surveyor's Certificate**  
I, JOHN B. GUYTON, A DULY REGISTERED LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC. THAT THIS ANNEXATION MAP OF THE ABOVE DESCRIBED LAND WAS PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE ON APRIL 25, 2017 AND THAT AT LEAST 1/6TH OF THE TOTAL PERIMETER OF THAT LAND TO BE ANNEXED IS CONTIGUOUS TO THE EXISTING TOWN OF CRESTED BUTTE LIMITS.

JOHN B. GUYTON COLORADO P.L.S. #16406  
CHAIRMAN & CEO, FLATIRONS, INC.

JOB NUMBER: 17-70,453
DATE: 05-14-2020
DRAWN BY: M. PERSE/M. MUNKHOLD
CHECKED BY: BOL
SHEET 1 OF 1

Slate River Annexation Ordinance- **Exhibit B**

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

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

**ANNEXATION AGREEMENT**

THIS Annexation Agreement (this "Agreement") is made and entered into this \_\_\_\_\_ 2020 (the "Effective Date"), by and between the Town of Crested Butte, Colorado (the "Town"), a Colorado home rule municipality and Cypress Foothills, LP ("Annexor"), a Texas limited partnership.

**RECITALS**

**WHEREAS**, Annexor previously platted certain property located in Gunnison County, Colorado (the "County") as the "Aperture Subdivision," and shown on the plat recorded in the Office of the Gunnison County Clerk and Recorder on August 1, 2017, at reception number 648057 pursuant to and in accordance with Board of County Commissioners of Gunnison County Resolution No. 17-25, which resolution is recorded at reception number 648056 in the Office of the Gunnison County Clerk and Recorder (the "County Approvals"); and

**WHEREAS**, the Aperture Subdivision consists of an "East Parcel" containing residential lots and common areas, which will remain in the County, and a West Parcel, which will be annexed to the Town. The "West Parcel" or "Annexation Parcel" is legally described in Ordinance No. 9, Series 2020, recorded on \_\_\_\_\_, 2020 at reception number \_\_\_\_\_ in Office of the Gunnison County Clerk and Recorder (the "Annexation Ordinance"), and shown on the Final Plat of the Slate River Subdivision to be recorded in the Office of the Gunnison County Clerk and Recorder, (the "Plat"). As shown on the Plat, the West Parcel includes the "Applicant Retained Lands" and "Town Parcel 1," "Town Parcel 2," "Town Parcel 3," "Town Parcel 4," "Town Parcel 5," "Town Parcel 6(a)," "Town Parcel 6(b)," "Town Parcel 7," "Town Parcel 8," and "Town Parcel 9," (each a "Town Parcel"; together collectively, the "Town Parcels"); and

**WHEREAS**, Annexor filed a petition with the Town dated February 26, 2019 to annex the West Parcel to the Town, and the Town accepted the petition as being in compliance with the Municipal Annexation Act and Crested Butte Municipal Code; and

**WHEREAS**, Cypress has implemented a voluntary cleanup plan ("VCUP") for certain parcels on the West Parcel and received a No Action Determination dated July 8, 2019 ("NAD") from the Colorado Department of Public Health ("CDPHE") which imposed Environmental

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

Covenants recorded in the real property records of the Office of the Gunnison County Clerk and Recorder at Reception Nos. 660859, 660860, and 660861, respectively; and

**WHEREAS**, the parties have executed the Pre-Annexation agreement recorded in the real property records of the Office of the Clerk and Recorder of the County at Reception No. 638399, the Amended Pre-Annexation Agreement recorded in the real property records of the Office of the Clerk and Recorder of the County at Reception No. 643828, and the Second Amendment to the Pre-Annexation Agreement recorded in the real property records of the Office of the Gunnison County Clerk and Recorder at Reception No. 656557 (collectively the "Pre-Annexation Agreements"); and

**WHEREAS**, the Pre-Annexation Agreements contain multiple provisions concerning the West Parcel, but also the East Parcel, access to it, its use, Town water and sewer service thereto, and other infrastructure supporting the same; and

**WHEREAS**, the parties desire to keep the Pre-Annexation Agreements in full force and effect, but to supersede and replace the Pre-Annexation Agreements to the extent the subject matter set forth herein is duplicative of the subject matter contained in the Pre-Annexation Agreements and to otherwise supplement and clarify the Pre-Annexation Agreements with this Agreement, especially as such Pre-Annexation Agreements pertain to the West Parcel; and

**WHEREAS**, the parties have entered into other agreements pertaining to the West Parcel, the Aperture Subdivision, and the East Parcel, which are set forth on Exhibit C to the Annexation Ordinance (the "Associated Agreements"); and

**WHEREAS**, the Town Council approved Resolution 11 Series 2020 finding that annexation of the West Parcel to the Town satisfies the criteria for annexation into the Town; such Resolution contemplates execution of this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Annexor agree as follows:

**A. GENERAL PROVISIONS**

**1. Relationship to Prior Pre-Annexation Agreements.** The intent of this Agreement is to supersede and replace the Pre-Annexation Agreements to the extent the subject matter set forth herein addresses the subject matter contained in the Pre-Annexation Agreements and to otherwise supplement and clarify the Pre-Annexation Agreements.

**1.1** If there are relevant, applicable, and ongoing subject matters addressed in the Pre-Annexation Agreements that are not addressed by the subject matter set forth in this Agreement, the Pre-Annexation Agreements shall still control with respect to any such matters.

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

**1.2** This Agreement does not terminate any rights and obligations of the Town or transferees of any title or interest in the East Parcel under the Pre-Annexation Agreements that were in effect at the time of transfer by Annexor of any title or interest in the East Parcel to such transferees, and the Town and such transferees shall continue to be bound and benefited by the Pre-Annexation Agreements to this extent.

**1.3** In the event of any conflict between any terms in this Agreement and the Pre-Annexation Agreements, this Agreement shall control. Except for the Associated Agreements and those provisions of the Pre-Annexation Agreements that continue in effect under subsections A.1.1 and A.1.2 above, this Agreement represents all of the terms and conditions that will be imposed on the Annexor as a condition of annexation of the Annexation Parcel.

**2. Covenant Running with the Land.** The provisions of this Agreement shall constitute covenants or servitudes that shall touch, attach to and run with title to the Annexation Property. The burdens and benefits of this Agreement shall bind and inure to the benefit of all estates and interests in the Annexation Property and all successors in interest of the parties to this Agreement, except as may be otherwise expressly provided in this Agreement.

**3. Annexation Laws.** The annexation of the Annexation Property shall be in accordance with the Colorado Municipal Annexation Act of 1965 (as amended, the “Act”), the Municipal Code and all applicable laws. Annexor agrees that it will not withdraw the annexation petition.

**4. Annexation Effective.** The Town shall not record this Agreement, or record or file the Annexation Ordinance, and the annexation map until sixty (60) days after the passage of the Ordinance on the second reading by the Town Council.

**B. ANNEXATION PARCEL AND BOATER ACCESS EASEMENT AGREEMENT**

**1. Annexation Parcel Terms and Conditions.**

**1.1 Applicant Retained Land.** Annexor shall retain the Applicant Retained Lands, which shall be divided into six residential lots as shown on the Final Plan. Road B shall serve the Applicant Retained Lands and shall be private. Snow removal and maintenance of Road B shall be the responsibility of the Annexor. Annexor shall dedicate the easements shown on the Plat for the water and sewer infrastructure to be located on the Applicant Retained Lands. The six residential lots located on the Applicant Retained Lands are subject to the Declaration of Protective Covenants for the Slate River Subdivision to be recorded in the Office of the Gunnison County Clerk and Recorder. The Town and Annexor will enter into a Subdivision Improvements Agreement to be recorded in the Office of the Gunnison County Clerk and Recorder concerning the construction of the infrastructure necessary to serve the residential lots located on the Applicant Retained Lands.

**1.2 Quit Claim Deed of Conveyance.** Concurrent with the final annexation of the Annexation Parcel, Annexor shall convey the Town Parcels by quitclaim deed, substantially in the form attached hereto as **Exhibit A** (“Quit Claim Deed of Conveyance”).

**1.3 Compliance with Environmental Covenants and No Action Determination; Enforcement.** In addition to all restrictive covenants and obligations required by the Deed of Conveyance, the Town shall abide by the Environmental Covenants and refrain from any uses of the Town Parcels that may disturb the cap constructed as part of the VCUP cleanup, except as provided in subsection B.1.4 of this Agreement. The Town shall also abide by any other controls and conditions contained in the No Action Determination dated July 8, 2019. Annexor shall have the right to enforce, through injunctive relief, the terms of this Agreement, the Environmental Covenants, and the controls and conditions contained in the July 8, 2019 No Action Determination. Except as provided in subsection B.1.4 of this Agreement, the Town must obtain Annexor’s written consent to any amendment or modification to the terms of this Agreement, the Environmental Covenants, or the controls and conditions contained in the July 8, 2019 No Action Determination (“NAD”).

**1.4 Town Parcel 5 Voluntary Clean-up Plan.** If the Town desires to use Town Parcel 5 for affordable housing, the Town may apply to CDPHE for approval of another Voluntary Cleanup Plan to develop Affordable Housing on Town Parcel 5 which Voluntary Cleanup Plan shall not cause any interference with the NAD as it relates to the other Town Parcels.

**1.5 Release and Covenant Not to Sue.** The Town hereby releases Annexor, its partners, affiliates, lenders, agents, employees, and all predecessor owners of the Town Parcels (the “Released Parties”) in connection with the transfer of the Town Parcels to the Town, including all portions of the Old Town Landfill located on Town Parcel 2, Town Parcel 3, Town Parcel 4, and Town Parcel 5. This release of the Released Parties includes a release of all claims whatsoever, and the Town covenants not to sue any of the Released Parties with respect to any site conditions or any responsibilities or liabilities, including without limitations any environmental liabilities related to the Town Parcels. The Town shall record against Town Parcel 2, Town Parcel 3, Town Parcel 4, and Town Parcel 5, a notice, confirmation and a release and covenant not to sue the Released Parties, which shall be a condition of any transfer to any future purchaser of any portion of Town Parcel 2, Town Parcel 3, Town Parcel 4, or Town Parcel 5, and to which any future purchaser of any portion of such Town Parcels must agree.

**1.6 Compensation for Town Parcel 3.** Upon conveyance, Town shall transfer to Annexor funds in the amount of \$350,000.00.

**1.7 Representations and Warranties.** Annexor represents and warrants that it has provided to the Town all record and off record information within its possession regarding the Town Parcels, including, without limitation, any and all environmental reports, tests and studies thereof.

**2.0 Boater Access Easement Agreement.** Annexor and the Town shall enter into a “Boater Access Easement Agreement” substantially in the form set forth in **Exhibit B**,

concurrently with the annexation and conveyance of the Town Parcels, memorializing the terms and conditions for boater use of the Slate River as it flows through the East Parcel.

**C. OTHER TERMS AND CONDITIONS**

**1.0 Modification of County Approvals.** Annexor shall not seek to revise or otherwise modify the County Approvals without prior written approval of the Town.

**2.0 River Trail.** Annexor shall complete installation of the River Trail and landscape improvements pursuant to the Development Improvements Agreement recorded on August 31, 2017, at reception number 648730, Landscape Maintenance, License, and Easement Agreement recorded November 9, 2018 at reception number 657206, and the First Amendment thereto, recorded \_\_\_\_\_, 2020, at reception number \_\_\_\_\_.

**3.0 Connection of Adjacent Parcels to Water or Sewer.** On the written the request of the Town, Annexor shall permit and shall not unreasonably condition or delay an adjacent property owner’s request to connect to the Town’s water or sewer system through the East Parcel and the Applicant Retained Lands; provided that any such connection shall not result in an increase in cost or expense to Annexor, such costs and expenses shall be borne exclusively by such adjacent property owner benefiting from such connection, for a period of twenty-five (25) years from the execution of this Agreement, such adjacent property owner shall be responsible for a proportionate share of all costs Annexor incurred in extending the Town’s water and sewer system to the East Parcel or the Applicant Retained Lands, as applicable, with additional terms, conditions, setbacks, and easements as appropriate for such future connections to be negotiated between Annexor and such third parties. Such terms and conditions shall include compliance with all applicable Town requirements, including, without limitation, §13-1-280 of the Code and the Town Specifications, as amended and modified from time to time. For purposes of this subsection C.3.0, a “proportionate share of all costs Annexor incurred in extending the Town’s water and sewer system to the East Parcel or the Applicant Retained Lands” shall mean the percentage of such costs determined by using a ratio, the numerator of which is the number of units being developed by the adjacent property owner, and the denominator of which is the number of units being developed by the adjacent property owner plus the number of units on the property through which the water and sewer connection is being made, either the East Parcel (23 units) or the Applicant Retained Lands (6 units), as applicable.

**4.0 Road and Infrastructure Maintenance and Snow Plowing.** All road and utility infrastructure maintenance and snow plowing on the East Parcel shall be the sole responsibility of Annexor at its cost and expense. Annexor agrees not to erect a gate or fence across Pyramid Avenue at the boundary between the West Parcel and the East Parcel; however, all roads and other property on the East Parcel, including the bridge over Pyramid Avenue, and its abutments, are private. On the West Parcel, Pyramid Avenue shall be public, and in addition, the Town hereby conveys a right of way along Pyramid Avenue through the West Parcel for the benefit of all property owners on the East Parcel. Road B shall be private and its construction and maintenance and the costs thereof shall be the sole responsibility of Annexor, its successors, or assigns. Annexor, its successors or assigns shall be responsible for the maintenance of water and wastewater infrastructure at its sole cost and expense, only until the completion, acceptance, and

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

dedication of such infrastructure. Thereafter, the Town shall be responsible for the maintenance of the water and wastewater infrastructure. Annexor its successor or assigns shall be responsible for snow removal along all roads and alleys on the West Parcel East of the intersection of 8<sup>th</sup> Street and Pyramid Avenue.

**5.0 Odor Control and Bus Barn Lighting.** Annexor reserves the right, in its sole discretion, and at its sole expense, to require that the Town install odor controls on the wastewater treatment plant, as contemplated by the Public Works Facility Master Plan prepared by JVA, Incorporated, or as otherwise agreed to by the parties. Such odor control mitigation work shall be performed by the Town and/or its contractors. Subject to the prior approval of the Town Manager, Cypress may modify the light fixture on the side of the bus barn to minimize spill over onto Applicant Retained Lands.

**6.0 Signage, Fencing, Landscape Buffering.** Temporary marketing signs currently located on Town Parcel 2 are allowed to remain in their current condition and configuration for three (3) years after the effective date of the Annexation. Cypress shall have the right to repair and maintain these signs during this time period. Directions to the Aperture Subdivision shall be included on Town way finding signs at the corner of Gothic Road and Pyramid Avenue. Cypress or the Aperture Homeowners Association, Inc., a Colorado nonprofit corporation (“Aperture HOA”) shall have the right to install fencing and signage between Town Parcel 6(b) and Town Parcel 6(a) preventing public access to Town Parcel 6(a). The signage will indicate that the property behind the sign (Town Parcel 6(a)) contains “wetlands” or “sensitive habitat” and that there is “no public access.” Cypress or the Aperture HOA shall also have the right to install fencing and signage on Town Parcel 6(b) directly below the north side of the Pyramid Avenue Bridge across the Slate River that precludes public access underneath the bridge. Accompanying signage will indicate that there is “no public access” underneath the bridge. Finally, Cypress or the Aperture HOA shall have the right to install fencing or signage on Town Parcel 9 and Town property adjacent thereto that limits public access on Town Parcel 9 and the adjacent Town property to the River Trail itself, and which effectively precludes public access to the Slate River from Town Parcel 9 and the adjacent Town property. The fencing authorized by this subsection C.5.0 shall be similar to the wildlife friendly fencing along the Rec Path used to separate the Rec Path from adjacent private property. Such signage will indicate that the property behind the signs contains “wetlands” or “sensitive habitat” and that there is “no public access” to the Slate River at that location. The Town and Annexor shall cooperate with respect to the placement of Annexor's signage at any other agreed upon locations on the West parcels. Annexor or the Aperture HOA shall have the right to erect and maintain a permanent “entry feature” sign on the bridge, or immediately adjacent to the bridge in accordance with any applicable Gunnison County requirements. The Town shall cooperate with Applicant to ensure appropriate buffering between development of the East Parcel and Applicant Retained Lands, on the one hand, and the Town Parcels and any Town properties, on the other hand. Development of the Town Parcels shall not compete from a market perspective with Applicant’s residential development on the East Parcel and the Applicant Retained Lands. The Town shall reasonably permit the installation of buffers and other mitigation measures at Annexor’s expense on the West Parcel on adjacent Town property, or as otherwise agreed to by the parties.

**D. MISCELLANEOUS**

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

**1.0 Costs and Expenses.** Each party shall be responsible for its own costs, fees, and expenses in preparing and entering into this Agreement and with respect to the annexation process in general, including but not limited to its implementation and the construction of the infrastructure and improvements on the Town Parcels and the Applicant Retained Lands subject to the Subdivision Improvement Agreement for the Slate River Subdivision.

**2.0 Compliance with Law.** When fulfilling its obligations under this Agreement, Annexor shall comply with all relevant laws, ordinances and regulations in effect as of the Effective Date. In addition, Annexor shall be subject to all laws, ordinances and regulations of general applicability that become effective after the Effective Date.

**3.0 Preservation of Governmental Powers.** Nothing in this Agreement constitutes a limitation on or waiver of the Town's legislative powers; its review, approval, or permit authority; or a predetermination of any action taken hereafter by the Town.

**4.0 TABOR; Colorado Constitution, Article X, Section 20.** Notwithstanding any other provision 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 Town 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 Town 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 Town and other applicable law. (d) Nothing contained in this Agreement shall constitute a pledge of the full faith and credit of the general tax revenues, funds or moneys of the Town except the amount appropriated for the purpose of making payments hereunder during the current fiscal year. (e) The Town’s obligation to pay \$350,000 to Annexor in exchange for the conveyance of Town Parcel 3 is subject to annual renewal and such obligation to pay shall be terminated upon the occurrence of an event of non-appropriation and, in such event, (i) The Town shall not be obligated to pay \$350,000 for the conveyance of Town Parcel 3, and (ii) Annexor shall not be obligated to convey Town Parcel 3.

**5.0 Court Action.** In the event that the annexation of the Annexation Parcel or any portion thereof is voided by final action of any court, such action not being associated with a referendum or initiative action, the Town and Annexor shall cooperate to cure the legal defect which resulted in disconnection of the Annexation Property. All provisions of the Agreement, together with the duties and obligations of each party, shall be suspended pending the outcome of the challenge. Annexor shall reapply for annexation as and when the Annexation Property becomes eligible for annexation.

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

**6.0 Severability.** If any part, term, or provision of this Agreement is held to be illegal by the courts or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provisions held to be invalid.

**7.0 Modification.** This Agreement shall not be amended or modified, except by subsequent written agreement of the parties approved by an ordinance of the Town Council.

**8.0 Notices.** Any notice or other information required by this Agreement to be sent to a party shall be sent by facsimile, e-mail, overnight courier or certified mail to the following:

Cypress Foothills, LP  
Attention: Cameron Aderhold  
8144 Walnut Hill Lane, Suite 1200  
Dallas, Texas 75231  
Facsimile: 214-283-1600  
[cameron.aderhold@cypressequities.com](mailto:cameron.aderhold@cypressequities.com)

with a copy to:

Cypress Foothills, LP  
Attention: Brian Parro  
814 Walnut Hill Lane, Suite 1200  
Dallas, Texas 75231  
Facsimile: 214-283-1600  
[brian.parro@cypressequities.com](mailto:brian.parro@cypressequities.com)

with a copy to:

Law of the Rockies  
Attention: Marcus J. Lock  
525 North Main Street  
Gunnison, Colorado 81230  
Facsimile: 970-641-1943  
[mlock@lawoftherockies.com](mailto:mlock@lawoftherockies.com)

Town of Crested Butte  
Attention: Dara MacDonald  
507 Maroon Avenue  
P.O. Box 39  
Crested Butte, Colorado 81224  
Facsimile: 970-349-6626  
[dmacdonald@crestedbutte-co.gov](mailto:dmacdonald@crestedbutte-co.gov)

with a copy to:

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

Town Attorney  
Sullivan Green Seavy LLC  
Barbara J. B. Green or John Sullivan  
3223 Arapahoe Ave., Suite 300  
Boulder, Colorado 80303  
barbara@sullivangreenseavy.com or john@sullivangreenseavy.com

Notice shall be effective when actually received by the party intended to be notified.

**9.0 Governing Law; Venue.** This Agreement and all rights conferred and obligations imposed hereunder shall be interpreted and construed in accordance with the laws and internal judicial decisions of the State of Colorado. The sole venue in any dispute shall be the District Court for Gunnison County, State of Colorado.

**10.0 Recording; Agreement Runs with the Town Parcels and the Applicant Retained Lands; Binding on Successors and Assigns.** Upon execution, Annexor shall record this Agreement in the Office of the Gunnison County Clerk and Recorder. The benefits and burdens of this Agreement shall run with the Applicant Retained Lands and the West Parcel and shall be binding on the parties' successors and assigns. For purposes of clarity, references to "Annexor" herein shall apply to Annexor, its successors or assigns, as applicable. In the event Annexor no longer owns any real property interest within the West Parcel, this agreement shall, at that point, be exclusively between the Town and Annexor's successors or assigns, as applicable, and the Town shall no longer have any recourse against Annexor.

**11.0 Waiver of Defects.** In executing this Agreement, the parties waive all objections they may have over defects, if any, in the form of this Agreement, the formalities for execution, or concerning the power of the Town to impose the conditions on Annexor as set forth herein, or over the procedure, substance or form of the resolutions adopting this Agreement.

**12.0 Cooperation; Other Documentation; Instruments.** The parties shall reasonably cooperate with each other in order to effect the transactions contemplated in this Agreement. The parties shall give, enter into, execute, and approve such additional agreements, corporate approvals and instruments as are necessary and appropriate to effect such transactions.

**13.0 Enforcement.** The parties, their assigns or successors in interest, in whole or in part, to this Agreement recognize and agree that the damages flowing from any violation of this Agreement are irreparable, and there may be no adequate remedy at law for such violations. Accordingly, in addition to any other rights that may be available to them in law or equity, each party has the right to specifically enforce this Agreement against the other party, their assigns or successors in interest, in whole or in part, by seeking injunctive relief in the District Court in and for Gunnison County, Colorado. All remedies are cumulative and may be applied concurrently.

**14.0 Attorneys' Fees; Costs.** Should this Agreement become the subject of a dispute between the Town and Applicant, the substantially prevailing party shall be entitled to reasonable attorneys' fees, costs, and expenses incurred in such dispute.

Slate River Annexation Ordinance – **Exhibit B**  
Annexation Agreement

**15.0 No Third Party Beneficiary.** The parties intend no third party beneficiaries to this Agreement, and none shall be permitted hereunder.

**16.0 Electronic Reproductions; Counterparts.** For purposes of enforcement of terms of this Agreement, electronic reproductions of this Agreement shall be deemed to be originals. This Agreement may be executed in multiple counterparts, each of which, when taken together shall constitute one and the same instrument.

WHEREFORE, the parties hereto have executed and entered into this Agreement by their duly authorized officers on the date first written above.

TOWN OF CRESTED BUTTE, COLORADO

By: \_\_\_\_\_  
James A. Schmidt, Mayor

ATTEST:

\_\_\_\_\_  
Lynelle Stanford, Town Clerk

(SEAL)

CYPRESS FOOTHILLS, LP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Annexation Agreement – **Exhibit A**

**FORM OF QUITCLAIM DEED OF CONVEYANCE OF TOWN PARCELS**

Cypress Foothills, LP, a Texas limited partnership, for good and valuable consideration of \$10.00, in hand paid, hereby sells and quitclaims to Town of Crested Butte, Colorado, a Colorado home rule municipality, whose address is Post Office Box 39, Crested Butte, CO 81224, the following real property in the County of Gunnison and State of Colorado, to wit:

Town Parcels 1 through 9 (collectively, the “Town Parcels”) as shown on the Final Plat of the Slate River Subdivision, recorded on \_\_\_\_\_, 2020, at reception number \_\_\_\_\_, in the office of the Gunnison County Clerk and Recorder (the “Plat”);

EXCEPTING, however, from Town Parcel 6(b) and Town Parcel 9 any portion of the Pyramid Avenue bridge and improvements related thereto, including but not limited to the bridge abutment, located on said property, and further RESERVING unto Grantor, its successors, and assigns, a perpetual easement for access to such improvements and for the operation, modification, and maintenance of the same; and

RESERVING further unto Grantor, its successors, and assigns, a perpetual easement across Town Parcel 6(a) to store snow and for access to the Pyramid Avenue bridge and improvements related thereto, including but not limited to the bridge abutment, located on Town Parcel 6(b), for the purpose of operating, modifying, or maintaining such bridge and improvements; and

RESERVING further unto Grantor, for itself, and on behalf of the Aperture Homeowners Association, Inc., a Colorado nonprofit corporation (“Aperture HOA”), the right to install fencing and signage between Town Parcel 6(b) and Town Parcel 6(a) preventing public access to Town Parcel 6(a). The signage will indicate that the property behind the sign (Town Parcel 6(a)) contains “wetlands” or “sensitive habitat” and that there is “no public access.” Cypress or the Aperture HOA shall also have the right to install fencing and signage on Town Parcel 6(b) directly below the north side of the Pyramid Avenue Bridge across the Slate River that precludes public access underneath the bridge. Accompanying signage will indicate that there is “no public access” underneath the bridge. Such fencing shall be similar to fencing along the Rec Path used to separate the Rec Path from adjacent private property; and

SUBJECT TO the deed restrictions and covenants as are set forth in **Exhibit A-1**, which is attached hereto and incorporated herein, with all appurtenances, as is, where is, without any warranties or representations as to the

Annexation Agreement– **Exhibit A**  
Form of Quitclaim Deed of Conveyance for Town Parcels

physical or environmental conditions thereof or any other matter related thereto whatsoever and, specifically, but without limitation, subject to those items identified on **Exhibit B-1**, which is attached hereto and incorporated herein.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CYPRESS FOOTHILLS, LP,  
a Texas limited partnership

By: CYPRESS FOOTHILLS, GP, LLC,  
a Delaware limited liability company, its  
General Partner

By: \_\_\_\_\_  
Brian Parro, its Vice President

STATE OF TEXAS                    )  
  )ss.  
COUNTY OF DALLAS    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Brian Parro, as Vice President of Cypress Foothills GP, LLC, which is the General Partner of Cypress Foothills, LP.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Quitclaim Deed of Conveyance - **Exhibit A-1**

**COVENANTS AND RESRICTIONS**

SUBJECT TO the following deed restrictions and covenants for the benefit of Grantor and all subsequent owners of any lots or parcels shown on the Plat other than the Town Parcels:

Capitalized terms and phrases not otherwise defined herein shall have the meaning ascribed to them in Plat.

**Town Parcel 1:**

Town Parcel 1 shall be subject to the following deed restriction:

*The uses of Town Parcel 1 shall be limited to uses allowed in the "P" zone district of the Town of Crested Butte, Colorado as of the date of this quitclaim deed, subject to the following: (i) any emergency services center to be located on the Town Parcels shall be located only on Town Parcel 1; (ii) no public utility uses shall be allowed on Town Parcel 1; (iii) parking shall only be allowed as an ancillary use to other established uses on Town Parcel 1; and (iv) no building constructed on Town Parcel 1 shall exceed 30 feet in height.*

**Town Parcel 2:**

Town Parcel 2 shall be subject to the following deed restriction and covenant:

*Town Parcel 2 shall only be used for open space recreational facilities, parks, or playfields, libraries or museums, art centers, schools, essential governmental uses (but not public works facilities), a bus stop, a public hospital or health care facility (but not an emergency services center), a private medical clinic(s) or offices, and parking and restroom facilities ancillary to the foregoing uses or the public recreational use of Town Parcel 4 permitted herein, provided however, that any such parking or restroom facilities shall only be constructed or permitted contemporaneously with the construction of the improvements of Town Parcel 2 permitted herein. The Town shall be solely responsible for obtaining any amendments to the No Action Determination issued by CDPHE on July 8, 2019 and the Environmental Covenant recorded July 3, 2019, at reception number 660859 in the Office of the Gunnison County Clerk and Recorder, as well as any other authorization required by CDPHE that is necessary to allow any of the foregoing uses. The Town shall be solely responsible for obtaining such amendment and authorization and for any required cleanup of Town Parcel 5.*

**Town Parcel 3:**

Town Parcel 3 shall be subject to the following deed restriction and covenant:

*Town Parcel 3 shall be used either for open space, parks, snow storage, or for residential uses, provided however, that if Town Parcel 3 is used for residential uses, such residential uses shall be limited to affordable housing, and no more than 10% of the total floor area of residential units may be used for ancillary uses such as home offices or home occupations within*

Quitclaim Deed of Conveyance – **Exhibit A-1**  
Covenants and Restrictions

*residences, if allowed by the underlying residential zone district. The Town shall be solely responsible for obtaining amendments to the No Action Determination issued by CDPHE on July 8, 2019 and the Environmental Covenant recorded July 3, 2019, at reception number 660860 in the Office of the Gunnison County Clerk and Recorder, as well as any other authorization required by CDPHE that is necessary to allow any of the foregoing uses. The Town shall be solely responsible for obtaining such amendment and authorization and for any required cleanup of Town Parcel 5.*

**Town Parcel 4:**

Town Parcel 4 shall be subject to the following deed restriction and covenant:

*Town Parcel 4 shall be used only for open space, parks, snow storage and/or additional, limited storage for the public works yard, provided that any additional storage for the public works yard shall be contained and limited to that portion of Town Parcel 4 shown and labeled on the Plat as the “Public Works Storage Area.” The Town shall install a 6’ chain link fence, with opaque vinyl slats substantially similar to the fence installed by the Town along the southern and western property lines of the service yard to provide screening of storage areas from Pyramid Avenue. Notwithstanding the foregoing, however, that portion of the fence running 370 feet westerly from the western boundary of the 8<sup>th</sup> street right of way shall be 6’ in height, any other portion of this fence after the first 370 feet may be 4’ or more in height at the discretion of the Town and may be a ‘lay down’ type fence that is laid down at the discretion of the Town. No other structures, except for fencing or screening may be installed on Town Parcel 4.*

**Town Parcel 5:**

Town Parcel 5 shall be subject to the following deed restriction and covenant:

*Town Parcel 5 shall only be used for open space, parks, snow storage, or for residential uses, provided however, that if Town Parcel 5 is used for residential uses, such residential uses shall be limited to affordable housing, and no more than 10% of the total floor area of residential units may be used for ancillary uses such as home offices or home occupations within residences, if allowed by the underlying residential zone district. The Town shall be solely responsible for obtaining amendments to the No Action Determination issued by CDPHE on July 8, 2019 and the Environmental Covenant recorded July 3, 2019, at reception number 660861 in the Office of the Gunnison County Clerk and Recorder, as well as any other authorization required by CDPHE that is necessary to allow any of the foregoing uses. The Town shall be solely responsible for obtaining such amendment and authorization and for any required cleanup of Town Parcel 5.*

**Town Parcel 6(a) (Undeveloped Open Space):**

Town Parcel 6(a) shall be subject to the following deed restriction:

*Town Parcel 6(a) shall only be used to store snow and otherwise only as protected open space for wildlife and maintained in its natural state in perpetuity in order to preserve wetlands and wildlife habitat located thereon. There shall be no public access to or within Town Parcel*

Quitclaim Deed of Conveyance – **Exhibit A-1**  
Covenants and Restrictions

*6(a). The Town's access to Town Parcel 6(a) shall be limited to maintenance of fencing, noxious weed mitigation, or other activities necessary to protect wildlife resources. No structures may be installed on Town Parcel 6(a) other than signage deemed necessary by the Town to ensure the preservation of high-quality wetlands and to prevent trespassing.*

**Town Parcel 6(b)**

Town Parcel 6(b) shall be subject to the following deed restriction and covenants:

*Town Parcel 6(b) shall only be used as open recreational space and to facilitate public boating access to the Slate River in accordance with and pursuant to the Boater Access Easement Agreement between Grantor and Grantee recorded on \_\_\_\_\_, at reception number \_\_\_\_\_, in the Office of the Gunnison County Clerk and Recorder. The Town shall limit development on Town Parcel 6(b) to an improved pedestrian walkway from Pyramid Road to the Slate River. Town Parcel 6(b) is also subject to the following conditions and restrictions:*

- 1. Commercial use of Town Parcel 6(b) for revenue is not permitted, including but not limited to commercial use of the access Town Parcel 6(b) provides to the Slate River.*
- 2. Boater access to the Slate River from Town Parcel 6(b) is limited to non-motorized, hand-carried watercraft such as paddle boards, kayaks, canoes, small non-commercial rafts, inner tubes, and the like.*
- 3. In addition to being used to access the Slate River, Town Parcel 6(b) may also be used for recreational purposes, other than fishing, that do not damage or consume such land and result in only light and temporary impacts such as picnicking, sunbathing, reading, resting, and relaxing.*
- 4. There shall be no camping on Town Parcel 6(b).*
- 5. There shall be no hunting on Town Parcel 6(b).*
- 6. There shall be no horses or horseback riding on Town Parcel 6(b).*
- 7. There shall be no fishing on or from Town Parcel 6(b) or from the Pyramid Avenue Bridge.*
- 8. Dogs and other domestic animals are not permitted on Town Parcel 6(b).*
- 9. Town Parcel 6(b) shall only be open and accessible to the public from sunrise to sunset.*

Quitclaim Deed of Conveyance – **Exhibit A-1**  
Covenants and Restrictions

10. *All vehicles (including but not limited to vehicles with trailers) transporting individuals using Town Parcel 6(b) shall be legally parked at all times. Motor vehicles are not permitted on Town Parcel 6(b), except in connection with the construction and maintenance of the improved pedestrian walkway from Pyramid Road to the Slate River or for emergency purposes.*
11. *No excessive noise, amplified noise, or speakers shall be permitted on Town Parcel 6(b). Those using Town Parcel 6(b) shall be quiet and respectful to the owners and users of the adjacent private property.*
12. *The Town shall maintain Town Parcel 6(b) similarly to other public areas in Town.*
13. *The Town shall exercise reasonable means to ensure that any person using Town Parcel 6(b) is provided with notice of these restrictions, including but not limited to posting a sign containing these restrictions on Town Parcel 6(b) consistent with the requirements set forth herein.*

**Town Parcel 7**

Town Parcel 7 shall be subject to the following deed restriction and covenants:

*Town Parcel 7 shall only be used as open space and maintained in its natural state in perpetuity in order to preserve wetlands and wildlife habitat located thereon, provided however that in the event the Town uses the pond wetlands for storage of irrigation water, it shall keep the pond as full as possible consistent with such use and maintain the pond in a neat and attractive condition so that it serves as an aesthetic amenity for the Town Parcels and the residential lots located on the Applicant Retained Lands. In order to maintain the pond, the Town will periodically drain and/or clean the pond in order to keep the pond from gaining unreasonable amounts of sediment. Public access within Town Parcel 7 shall be limited to use of any sidewalk or trail extensions located in the wetland setback through Town Parcel 7 as shown on the Final Plat of the Slate River Subdivision, recorded on \_\_\_\_\_, 2020, at reception number \_\_\_\_\_, in the office of the Gunnison County Clerk and Recorder.*

**Town Parcel 8:**

Town Parcel 8 shall be subject to the following deed restriction:

*Town Parcel 8 shall only be used as open space and maintained in its natural state in perpetuity, provided however that aesthetically pleasing landscaping shall be permitted.*

**Town Parcel 9:**

Town Parcel 9 shall be subject to the following deed restriction and covenants:

Quitclaim Deed of Conveyance – **Exhibit A-1**  
Covenants and Restrictions

*Town Parcel 9 shall only be used as open space. No improvements shall be constructed or maintained on Town Parcel 9 other than the existing River Trail, provided however that aesthetically pleasing landscaping shall be permitted along with wildlife friendly fencing and signage as set forth in this paragraph. The Town shall install fencing or signage on Town Parcel 9 that limits public access on Town Parcel 9 to the River Trail itself, and which effectively precludes public access to the Slate River from Town Parcel 9. Such fencing shall be similar to wildlife friendly fencing along the Rec Path used to separate the Rec Path from adjacent private property.*

The deed restrictions and covenants set forth above shall be run with the land and shall be binding upon the Town and the Town's successors in title and shall benefit Cypress Foothills, LP and any of its successors in title to any lots shown on the Plat other than the Town Parcels.

**Quitclaim Deed of Conveyance Exhibit B-1**

**(ADDITIONAL ENCUMBRANCES ON AND EXCEPTIONS TO THE TOWN  
PARCELS)**

1. RIGHT OF THE PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM AND A RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES, AS RESERVED IN UNITED STATES PATENTS RECORDED NOVEMBER 30, 1885 IN BOOK 45 AT PAGE 305 AND APRIL 15, 1886 IN BOOK 45 AT PAGE 314.
2. TERMS, CONDITIONS, RESERVATIONS AND AGREEMENTS REGARDING THE RIGHT OF THE PARTIES TO CONSTRUCT DITCHES REASONABLY NECESSARY TO CONVEY WATER AS CONTAINED IN THE FINAL PARTITION OF PROPERTY RECORDED JUNE 28, 1978 IN BOOK 516 AT PAGE 474.
3. TERMS, CONDITIONS, RESTRICTIONS AND AGREEMENTS AS CONTAINED IN WARRANTY DEED RECORDED AUGUST 16, 1978 IN BOOK 518 AT PAGE 403.
4. THE EFFECT OF INCLUSION OF SUBJECT PROPERTY IN THE CRESTED BUTTE FIRE PROTECTION DISTRICT, AS EVIDENCED BY INSTRUMENTS RECORDED JANUARY 13, 1995, IN BOOK 758 AT PAGE 689 AND RECORDED JANUARY 13, 1995 IN BOOK 758 AT PAGE 694.
5. RIGHT OF WAY EASEMENT, 20 FEET IN WIDTH, AS GRANTED TO ATMOS ENERGY IN INSTRUMENT RECORDED AUGUST 29, 2005 UNDER RECEPTION NO. 557487.
6. TERMS, CONDITIONS, RESTRICTIONS AND AGREEMENTS AS CONTAINED IN ROAD RESTRICTION AGREEMENT RECORDED JULY 12, 2006 UNDER RECEPTION NO. 566803.
7. RIGHT OF WAY EASEMENT AS GRANTED TO GUNNISON COUNTY ELECTRIC ASSOCIATION, INC. IN INSTRUMENT RECORDED APRIL 26, 2007, UNDER RECEPTION NO. 574656.
8. RIGHT OF WAY EASEMENT AS GRANTED TO BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO IN INSTRUMENT RECORDED APRIL 26, 2007, UNDER RECEPTION NO. 574657.
9. CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE ALTA/ACSM SURVEY FOOTHILLS AT CRESTED BUTTE RECORDED SEPTEMBER 19, 2014 UNDER RECEPTION NO. 628973.
10. TERMS, CONDITIONS, PROVISIONS, BURDENS, AGREEMENTS, RESTRICTIONS AND OBLIGATIONS AS SET FORTH AND GRANTED IN PRE-ANNEXATION AGREEMENT RECORDED MARCH 14, 2016 UNDER RECEPTION NO. 638399 AND IN AMENDMENT THERETO RECORDED DECEMBER 13, 2016 UNDER RECEPTION NO. 643828; AND IN THE SECOND AMENDMENT TO PRE-ANNEXATION AGREEMENT RECORDED OCTOBER 10, 2018 UNDER RECEPTION NO. 656557.
11. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, RESOLUTION NO. 2016-33 RECORDED AUGUST 17, 2016 UNDER RECEPTION NO. 641341.
12. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET

Quitclaim Deed of Conveyance – **Exhibit B-1**  
Additional Encumbrances on and Additions to the Town Parcels

FORTH IN BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY  
RESOLUTION NO. 17-25 RECORDED AUGUST 01, 2017 UNDER RECEPTION NO.  
648056.

13. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS  
AND NOTES ON THE PLAT OF APERTURE RECORDED AUGUST 01, 2017  
UNDER RECEPTION NO. 648057.
14. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, RESTRICTIONS  
BURDENS AND OBLIGATIONS AS SET FORTH IN DEVELOPMENT  
IMPROVEMENTS AGREEMENT FOR SLATE RIVER DEVELOPMENT  
RECORDED AUGUST 01, 2017 UNDER RECEPTION NO. 648058.
15. TERMS, CONDITIONS, PROVISIONS, BURDENS, OBLIGATIONS AND  
EASEMENTS AS SET FORTH AND GRANTED IN WATER AND SEWER  
EASEMENT AGREEMENT RECORDED AUGUST 31, 2017 UNDER RECEPTION  
NO. 648729.
16. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET  
FORTH IN DEVELOPMENT IMPROVEMENTS AGREEMENT FOR SLATE RIVER  
DEVELOPMENT RECORDED AUGUST 31, 2017 UNDER RECEPTION NO. 648730.
17. TERMS, CONDITIONS, PROVISIONS, BURDENS, OBLIGATIONS AND  
EASEMENTS AS SET FORTH AND GRANTED IN LANDSCAPE MAINTENANCE,  
LICENSE, AND EASEMENT AGREEMENT RECORDED NOVEMBER 09, 2018  
UNDER RECEPTION NO. 657206, AND THE FIRST AMENDMENT THERETO  
RECORDED \_\_\_\_\_, 2020, UNDER RECEPTION NO. \_\_\_\_\_.
18. TERMS, CONDITIONS, PROVISIONS, BURDENS, OBLIGATIONS AND  
EASEMENTS AS SET FORTH AND GRANTED IN EASEMENT AGREEMENT FOR  
CEMETERY WATER LINE RECORDED NOVEMBER 09, 2018 UNDER  
RECEPTION NO. 657207.
19. TERMS, CONDITIONS, PROVISIONS, RESTRICTIONS, BURDENS AND  
OBLIGATIONS AS SET FORTH IN ENVIRONMENTAL COVENANTS RECORDED  
JULY 3, 2019 UNDER RECEPTION NO. 660859, 660860, AND 660861.
20. ANY FACTS, RIGHTS, EASEMENTS, LIENS, ENCUMBRANCES, DEFECTS,  
ENCROACHMENT, ENCUMBRANCE, VIOLATION, VARIATION, ADVERSE  
CIRCUMSTANCE, INTERESTS OR CLAIMS THEREOF OR OTHER MATTERS  
NOT SHOWN BY THE PUBLIC RECORDS.
21. ANY RIGHT, TITLE AND INTEREST OF THE UNITED STATES, STATE OF  
COLORADO, OR GENERAL PUBLIC IN THE WATER OF THE SLATE RIVER  
TRAVERSING A PORTION OF THE SUBJECT PROPERTY.
22. DEED OF TRUST TO MAPLEMARK BANK RECORDED AUGUST 21, 2018  
UNDER RECEPTION NO. 655331.
23. LOAN MODIFICATION AGREEMENT RECORDED IN THE REAL PROPERTY  
RECORDS OF GUNNISON COUNTY COLORADO ON AUGUST 30, 2019 AT  
RECEPTION NUMBER 662030.
24. THE STATUTORY EXCEPTIONS SET FORTH IN C.R.S. § 38-30-113(5)(A).
25. TERMS, CONDITIONS, PROVISIONS, BURDENS, AGREEMENTS,  
RESTRICTIONS AND OBLIGATIONS AS SET FORTH IN THE ANNEXATION  
ORDINANCE RECORDED \_\_\_\_\_ IN THE REAL PROPERTY  
RECORDS OF GUNNISON COUNTY AT RECEPTION NUMBER \_\_\_\_\_.

Quitclaim Deed of Conveyance – **Exhibit B-1**  
Additional Encumbrances on and Additions to the Town Parcels

26. TERMS, CONDITIONS, PROVISIONS, BURDENS, AGREEMENTS, RESTRICTIONS AND OBLIGATIONS AS SET FORTH AND GRANTED IN ANNEXATION AGREEMENT RECORDED \_\_\_\_\_ IN THE REAL PROPERTY RECORDS OF GUNNISON COUNTY AT RECEPTION NUMBER \_\_\_\_\_.
27. BOATER ACCESS EASEMENT AGREEMENT RECORDED IN THE REAL PROPERTY RECORDS OF GUNNISON COUNTY, COLORADO \_\_\_\_\_ AT RECEPTION NUMBER \_\_\_\_\_.
28. FINAL PLAT OF THE SLATE RIVER SUBDIVISION, RECORDED ON \_\_\_\_\_, 2020, AT RECEPTION NUMBER \_\_\_\_\_, IN THE OFFICE OF THE GUNNISON COUNTY CLERK AND RECORDER.

Annexation Agreement – **Exhibit B**

**FORM OF BOATER ACCESS EASEMENT AGREEMENT**

This Boater Access Easement Agreement (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”) by and between the TOWN OF CRESTED BUTTE, COLORADO (the “Town”), a Colorado home rule municipality, on the one hand, and CYPRESS FOOTHILLS, LP (“Cypress”), a Texas limited partnership, and the Aperture Homeowners Association, Inc., a Colorado nonprofit corporation (“Aperture HOA” and together with Cypress herein “Owners”), on the other hand. The Town and Owners are sometimes referred to herein as a “Party” or collectively as the “Parties.”

**I. Recitals**

- A. Cypress subdivided certain real property located along the Slate River in Gunnison County, Colorado resulting in Plat of Aperture, recorded on August 1, 2017, at reception number 648057 in the Office of the Gunnison County Clerk and Recorder (the “Plat”).
- B. The “East Parcel” of the Plat consists of residential lots, a lot owned by the Aperture HOA, and open space. The Aperture HOA owns the Open Space areas shown on the Plat, including “Open Space 1,” which includes the Slate River corridor.
- C. Open Space 1 is referred to herein as the “Property.”
- D. The West Remainder Parcel, as shown on the Plat, has been annexed into the Town. Cypress retained ownership of the “Applicant Retained Land” and conveyed to the Town the “Town Parcels,” all as shown on the Final Plat of the Slate River Subdivision, recorded \_\_\_\_\_, 2020, at reception number \_\_\_\_\_ in the Office of the Gunnison County Clerk and Recorder. The Town Parcels include “Town Parcel 6(b).”
- E. There will be a “Boat Launch” located on Town Parcel 6(b) that will provide the exclusive access to the Easement Location as defined more specifically below. Restrictions on the uses of Town Parcel 6(b) will be contained in the instrument conveying the Boat Launch from Cypress to the Town. Accordingly, this Agreement only pertains to the Easement Location, as defined more specifically below.
- F. Cypress and the Town have entered into a “Pre-Annexation Agreement” recorded at reception number 638399 and two amendments thereto recorded respectively at reception numbers 643828 and 656557 (collectively the “Pre-Annexation Agreement”).
- G. Cypress and the Town have also entered into an “Annexation Agreement” recorded \_\_\_\_\_, 2020, at reception number \_\_\_\_\_ in the Office of the Gunnison County Clerk and Recorder.
- H. Section 6.4.1.6. of the Pre-Annexation Agreement and subsection B.2.1 of the Annexation Agreement provide that Cypress and the Town shall enter into a “Boater Access Easement Agreement” in order to allow public use of the surface of the Slate River as it flows through the Easement Location, as defined more

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

specifically below. The obligation to enter into the Boater Access Easement Agreement is also binding on the Aperture HOA, as Cypress’s successor.

- I. This Agreement constitutes the Boater Access Easement Agreement contemplated by the Pre-Annexation Agreement and the Annexation Agreement.
- J. The effect of this Agreement is to make the Easement Location as defined more specifically below, available, in accordance with the terms and conditions contained herein, free of charge to the Town of Crested Butte, Colorado, and any individuals the Town authorizes to use the Easement for the recreational purposes set forth herein consistent and in accordance with C.R.S. § 33-41-101, *et seq.*

**II. Agreement**

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the foregoing recitals, which are incorporated herein by this reference, the Town and Owners agree as follows:

1. Grant of Easement. Owners hereby convey to the Town a non-exclusive easement over and across the location shown on **Exhibit A** (“Easement Location”) for the purpose of providing recreational use along the surface of the Slate River as it flows through the Property (the “Easement”). For purposes of clarification, and as shown on **Exhibit A**, the Easement does not include any portion of the east bank of the Slate River, the west bank of the Slate River south of the Pyramid Avenue bridge across the Slate River, or the bed of the Slate River. Nor does it include any portion of the Pyramid Avenue bridge across the Slate River. The scope of this Agreement does not include, and this Agreement does not address, access to the Easement Location. Nothing in this Agreement is intended to provide a right of access to the Easement Location, and nothing in this Agreement is or shall be construed as promoting, facilitating, authorizing, or aiding and abetting access to the Easement Location from public or private property, including but not limited to Owners’ private property and the private property of third parties. Cypress or the Aperture HOA shall have the right to construct a fence along the River Trail adjacent to the west bank of the Slate River similar to fencing along other sections of the Rec Path used to separate the Rec Path from adjacent private property.
2. Use of the Easement. Use of the Easement shall be subject to the following conditions:
  - a. Commercial use of the Easement for revenue is not permitted.
  - b. The Town and Owners shall develop signage to prevent trespassing by users of the Easement on Owners’ private property. The type and location of such signage shall be approved by the Town and Owners, shall be consistent with this Agreement, and shall, to the extent possible, be consistent with signage posted upstream and downstream from the Easement. The Town shall be responsible for the installation of signage and cost thereof of on Town Parcel 6(b). Owners shall be responsible for

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

- the installation of signage and the cost thereof on Open Space Parcel 1 or elsewhere on the East Parcel.
- c. Boats within the Easement Location shall be limited to non-motorized, hand-carried watercraft such as paddle boards, kayaks, canoes, small non-commercial rafts, inner tubes, and the like.
  - d. The Easement shall not be used when the water level in the Slate River is so low that the river cannot be floated without touching the bed or banks of the river as it passes through the Easement Location.
  - e. The Town shall continue to participate in educational efforts by the Slate River Working Group to ensure that potential users of the Easement are aware of the proper uses of the Slate River, the scope of this Agreement, as well as those uses that are prohibited altogether.
  - f. No fishing from any location outside of the Easement Location into Easement Location.
  - g. No stopping, anchoring intentional slowing, or exiting watercraft is permitted at any location within the Easement Location. This Agreement does not give any person any right to touch the bed or banks of the Slate River.
  - h. Dogs and other domestic animals are not permitted within the Easement Location.
  - i. The Easement may be used only between sunrise and sunset.
  - j. No excessive noise, amplified noise, or speakers shall be permitted within the Easement Location. Those using the Easement shall be quiet within the Easement Location and respectful to the owners and users of the adjacent private property.
  - k. Any use of Owners' property, the Easement, or Easement Location inconsistent with this Agreement constitutes trespassing, except that floating the Slate River consistent with this Agreement shall not constitute trespassing.
3. Parties Right to Enforce Against Third Parties; But No Obligation. Each Party has the right, but not the obligation, to enforce, through any means available in law or equity, the terms, conditions, and restrictions in this Agreement, including but not limited to those terms, conditions, and restrictions set forth in paragraph two above, against any third party purporting to use the Easement and Easement Location pursuant to this Agreement. In addition, Owners hereby expressly reserve the right to pursue any and all remedies available in law or equity against any person accessing or using Owners' property, the Easement, or the Easement Location in a manner that is inconsistent with this Agreement.
4. Liability and Restoration Obligation. Consistent with paragraph 3 above, any person the using the Easement is liable for any damage to Owners' private property or any other private property caused by such person's use of the Easement, including but not limited to any damage to any water feature, diversion, storage, conveyance, or measuring structure or device, fences, bridges, fish, fishing improvement, fish habitat structure, or other improvement. In the

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

event that any person using the Easement causes damage to Owners’ real or personal property, or any other person’s real or personal property, such person shall be obligated to restore the damaged property to the same condition it was in prior to such damage, or if such restoration is not possible, the such person shall replace the damaged property.

5. Fishing Improvements; No Floating Obstructions. Nothing in this Agreement shall prohibit Owners, their successors, or assigns from making natural or artificial improvements to fish habitat in accordance with applicable law or otherwise making diversions or appropriations of water, diversion structures, or any other improvements, alterations, fencing, or other modifications to any portion of Owners’ property in accordance with applicable law, as long as such improvements, alterations, fencing, or other modifications do not obstruct floating on the Slate River, and such improvements do not adversely affect the Town’s water rights in the Slate River, or the Town’s rights and interests in its real property located adjacent to the west bank of the Slate River that Cypress conveys to the Town; provided however that nothing shall prevent Owners from installing reasonable “floater friendly” fencing on their property, across the Slate River or elsewhere, to control cattle, enhance privacy, or for other purposes.
  
6. No Interest in Land or Access to Other Private Property; No Waiver of Other Rights. The Parties are voluntarily agreeing to the river access and use authorized by this Agreement. Accordingly, the Town, together with any person it authorizes to use the Easement, shall not make a claim at any time to any interest or estate of any kind or extent in the Property except as set forth in this Agreement. This Agreement is not intended to authorize, and does not authorize, the Town, or any person the Town authorizes to use the Easement, to enter any other private property, and by entering into this Agreement, Owners are not approving, agreeing to, or acquiescing in, the use of private property owned by third parties. The Parties acknowledge and agree that nothing in this Agreement shall preclude any Party from pursuing any right or remedy such Party may have against any person engaging in conduct outside the scope of the uses and activities permitted by this Agreement.
  
7. Notice of Terms and Conditions. The Town shall exercise reasonable means to ensure that any person it allows to use the Easement is provided with notice of the terms and conditions contained in this Agreement, including but not limited to posting this agreement on the Town’s website and posting a sign containing the rules and regulations for the use of the Easement contained herein at the Boat Launch. This sign will also state the same information as other signs the Town has placed along the Slate River informing river users of potentially dangerous conditions and proper floating etiquette. The Town acknowledges that it is familiar with the Property and the Easement Location, including the Slate River as it flows through the Property. The Town is entering into this Agreement with full knowledge of the dangers, risks, and hazards associated with the use of rivers in general and in particular with the use of the Slate River as it flows through the

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

Property, and the Town agrees to inform users of the Easement and the Slate River of the dangers, risks, and hazards associated with the use of the Slate River and of rivers in general, and in particular with the use of the Slate River as it flows through the Property.

8. *Indemnification and Enforcement.* Owners and the Town agree that the intent of this Agreement is to provide to Owners and the Town, their successors, and assigns, the protection afforded by C.R.S. § 33-41-103. Owners and the Town do not: (a) extend any assurance that the Easement Location is safe for any purpose; (b) confer upon any person using the Easement Location the legal status of an invitee or licensee to whom a duty of care is owed; or (c) assume responsibility or incur liability for any injury to person or property or for the death of any person caused by an act or omission of such person. Owners assume no liability for the safety and welfare of anyone on the Property at any time. The Easement granted herein is granted solely to the Town of Crested Butte, Colorado. The Town may allow, in its discretion, anyone or no one to use the Easement.

By using the Easement, a person (other than the Town) is agreeing to indemnify, defend and hold harmless Owners, the owners of lots within the Aperture subdivision, as well as their agents and employees from and against any and all claims, deaths, injuries, damages, losses, suits, actions, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs and expenses of litigation as such fees, costs, and expenses are incurred) arising out of or in connection with such person's use of the Easement and Easement Location. The Town, for itself, and any person it allows to use the Easement, agrees to use the Property as permitted herein at its own risk, and releases Owners, their agents, employees, successors, and assigns, from any claims for any accident, injury, illness, or damage to the fullest extent permitted by law.

9. *Insurance.* For the duration of this Agreement, the Town agrees to maintain comprehensive general liability insurance that provides coverage for any claims arising from the use of the Easement and any and all activities within the Easement Location, including but not limited to any injury to or death of any person, or damage to the Property or other private property resulting from any use of the Easement. The amount of such coverage shall be at least equal to the limits of recovery set forth in C.R.S. § 24-10-114 and shall name Owners and the owners of lots within the Aperture subdivision as additional insureds. Each year this Agreement is in effect, and prior to January 31<sup>st</sup>, the Town shall furnish to Owners, their successors, or assigns as applicable, a certificate of insurance verifying and confirming that such insurance is in full force and effect and will remain in full force and effect throughout the year, that such insurance covers all use of the Easement and all activities within the Easement Location, and that Owners and the owners of lots within the Aperture subdivision are named as an additional insured on such policy.

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

10. Subsequent Restrictions. In the event the Town subsequently imposes or agrees to more restrictive terms and conditions on the public's use of the Slate River, such subsequent, more restrictive terms and conditions shall apply to the use of the Easement and the Easement Location.
11. Remedies. In the event of a breach of this Agreement, the non-breaching party shall have all rights and remedies available at law and in equity, including but not limited to the recovery of damages and/or the right to specifically enforce this Agreement.
12. Privileges and Permission Not Exclusive. The privileges and permission granted to the Town in this Agreement are not exclusive, and Owners reserve the right at any time to grant to others the same or similar permissions or privileges.
13. Governmental Immunity and Colorado Recreational Use Act. In entering into this Agreement, the parties intend to maximize to the extent permitted under the law the protections afforded to the parties by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, and the Colorado Recreational Use Statute, C.R.S. § 33-41-101 *et seq.*, as from time to time amended.
14. No Third-Party Beneficiaries. The Easement granted herein is granted to the Town and is not granted to the public at large. There are no direct intended third-party beneficiaries of this Agreement that are entitled to enforce the terms hereof. Members of the public are not granted any rights under this Agreement. Members of the public may be permitted to use the Easement by the Town pursuant to the terms of this Agreement, but no charge may be required by the members of the public. Accordingly, the purpose of this Agreement is to indirectly permit, without charge, the use of the Easement by the public within the meaning of C.R.S. § 33-41-103(1).
15. Duration. The Easement shall be perpetual in duration.
16. Appurtenant Easement. The Easement shall run with the Easement Location and shall be appurtenant to the Easement Location. The terms of this Agreement shall be binding upon the heirs, assigns, successors and personal representatives of the parties.
17. Recording. This Agreement shall be recorded by the Town in the real property records of Gunnison County, Colorado.
18. Effective Date. This Agreement shall be effective as of the Effective Date.
19. Authority. The persons executing this Agreement on behalf of the parties do hereby covenant and warrant that such persons are duly authorized and have the full right and authority to enter into this Agreement on behalf of the parties.

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

20. Waiver of Defects. In executing this Agreement, the parties waive all objections they may have over defects, if any, in the form of this Agreement, the formalities for execution, or over the procedure, substance or form of the resolutions adopting this Agreement.
21. Entire Agreement. This Agreement supersedes and controls all prior written and oral agreements and representations of the parties with respect to the Easement and Easement Location and represents the total integrated agreement between the parties with respect to such subject matters.
22. Modification. This Agreement shall not be amended or modified, except by subsequent written agreement of the parties approved by resolutions of the Town Council.
23. Severability. If any term or provision of this Agreement shall be invalid or unenforceable, the remainder of this Agreement and the terms and provisions thereof shall not be affected thereby and all other terms and provisions of this Agreement shall be valid and enforceable to the full extent permitted by law.
24. No Waiver. A waiver of any right or remedy on any one occasion shall not be construed as a bar to or waiver of any such right or remedy on any other occasion.
25. Notices. Any notice or other information required by this Agreement to be sent to a party shall be sent by facsimile, e-mail, overnight courier or certified mail to the following:

Cypress Foothills, LP  
Attention: Cameron Aderhold  
8343 Douglas Ave., Suite 200  
Dallas, Texas 75225  
Facsimile: 214-283-1600  
cameron.aderhold@cypressequities.com

with a copy to:

Cypress Foothills, LP  
Attention: Brian Parro  
8343 Douglas Ave., Suite 200  
Dallas, Texas 75225  
Facsimile: 214-283-1600  
brian.parro@cypressequities.com

with a copy to:

Law of the Rockies  
Attention: Marcus J. Lock  
525 North Main Street

Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

Gunnison, Colorado 81230  
Facsimile: 970-641-1943  
mlock@lawoftherockies.com

Aperture Homeowners Association, Inc.  
Attention: Cameron Aderhold  
8343 Douglas Ave., Suite 200  
Dallas, Texas 75225  
Facsimile: 214-283-1600  
cameron.aderhold@cypressequities.com

with a copy to:

Aperture Homeowners Association, Inc.  
Attention: Brian Parro  
8343 Douglas Ave., Suite 200  
Dallas, Texas 75225  
Facsimile: 214-283-1600  
brian.parro@cypressequities.com

with a copy to:

Law of the Rockies  
Attention: Marcus J. Lock  
525 North Main Street  
Gunnison, Colorado 81230  
Facsimile: 970-641-1943  
mlock@lawoftherockies.com

Town of Crested Butte  
Attention: Town Manager, Dara MacDonald  
507 Maroon Avenue  
P.O. Box 39  
Crested Butte, Colorado 81224  
Facsimile: 970-349-6626  
[dmacdonald@crestedbutte-co.gov](mailto:dmacdonald@crestedbutte-co.gov)

with a copy to:

Town Attorney  
Sullivan Green Seavy, LLC  
Barbara J. B. Green or John Sullivan  
3223 Arapahoe Ave. Suite 300  
Boulder, Colorado 80303  
Barbara@sullivangreenseavy.com or John@sullivangreenseavy.com



Annexation Agreement – **Exhibit B**  
Boater Access Easement Agreement

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Brian Parro as Chief Financial Officer and Vice President of Cypress Foothills, GP, LLC, which is the General Partner of Cypress Foothills, LP.  
Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

APERTURE HOMEOWNERS ASSOCIATION, INC., a Colorado nonprofit corporation

By: \_\_\_\_\_  
Brian Parro, President

STATE OF TEXAS            )  
  ) ss.  
COUNTY OF DALLAS        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Brian Parro, as president of Aperture Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

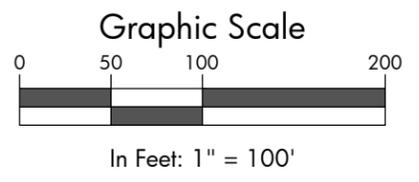
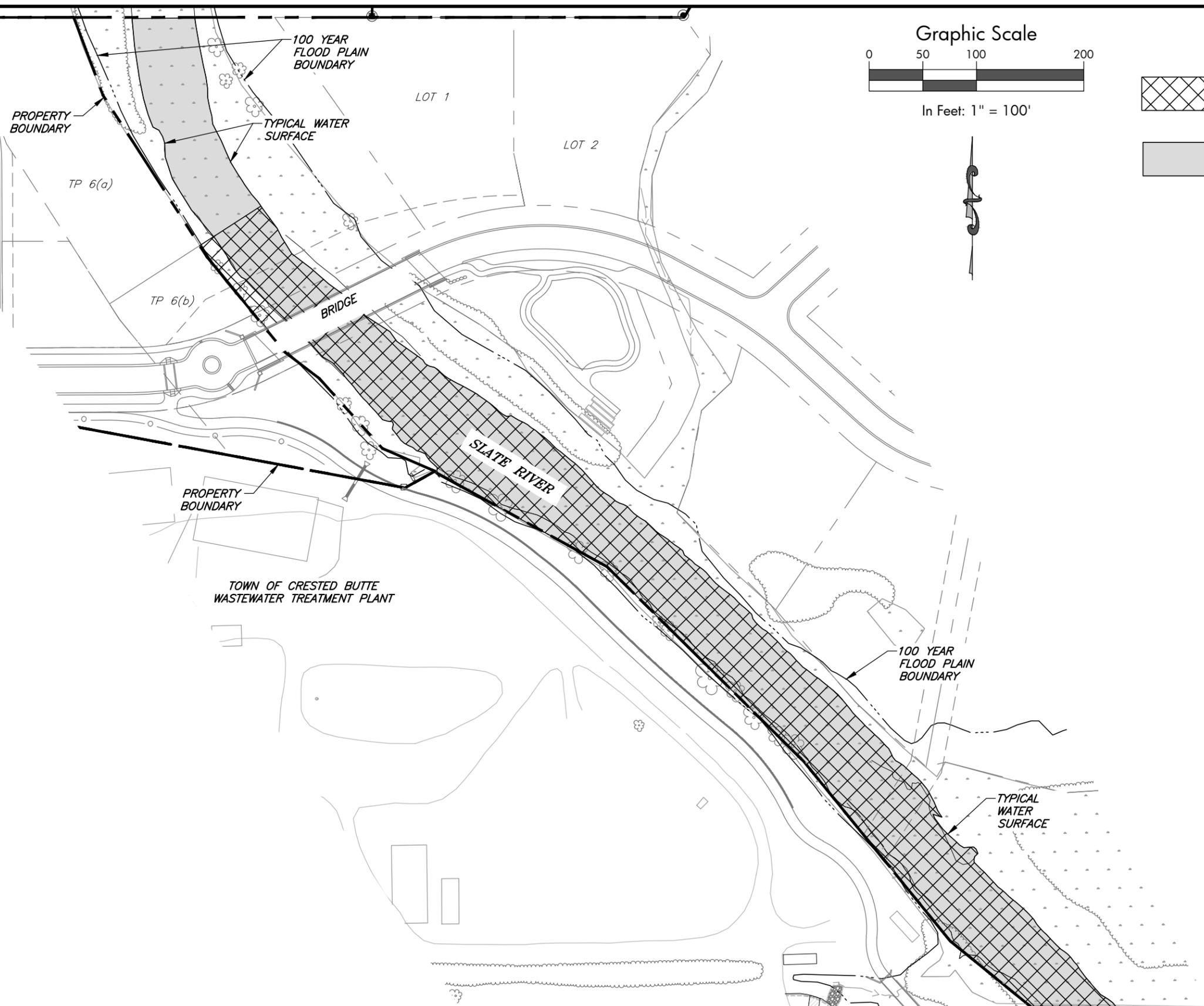
My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Boater Access Agreement – **Exhibit A**

**RIVER ACCESS MAP**

I:\2015\2015-201-SlateRvr\002-SiteDev\H-Dwgs\Civil\PS-SheetSet\SR-ExhibitRiverAccess.dwg Plotted: 4/30/2020 9:51 AM By: Shannon Kaminsky



**Legend**

-  RIVER ACCESS EASEMENT
-  SLATE RIVER TYPICAL WATER SURFACE ON PROPERTY



**SGM**  
 103 W. Tomichi Ave., Suite A  
 Gunnison, CO 81230  
 970.641.5355 www.sgm-inc.com

Slate River Development

#	Revision	Date	By
1			

Exhibit A  
River Access

Job No.	2015-201.002	1
Drawn by:	TH	
Date:	4/30/2020	
QC:	PE: TH	1
File:	SR-ExhibitRiverAccess	

Slate River Annexation Ordinance – **Exhibit C**

**ASSOCIATED AGREEMENTS BETWEEN THE TOWN OF CRESTED BUTTE AND  
CYPRESS FOOTHILLS, LP AND OTHER DOCUMENTS RELATED THERETO**

1. Pre-annexation agreement recorded March 14, 2016 at reception number 638399, <sup>(u)</sup> amendment to pre-annexation agreement recorded December 13, 2016 at reception number 643828, and second amendment to pre-annexation agreement, recorded October 10, 2018 at reception number 656557.
2. Aperture Plat, recorded August 1, 2017, at reception number 648057.
3. Declaration of Protective Covenants, Aperture recorded August 1, 2017 at reception number 648055; the First Amendment thereto recorded January 22, 2019, at reception number 658376 and the Second Amendment thereto recorder \_\_\_\_\_, 2020, at reception\_\_\_\_\_.
4. Water and Sewer Easement Agreement recorded August 31, 2017, at reception number 648729.
5. Development Improvements Agreement recorded on August 31, 2017, at reception number 648730.
6. Declaration of Covenant recorded September 19, 2017, at reception number 649112.
7. Water and Sewer Service Agreement recorded September 25, 2017, at reception number 649234.
8. Landscape Maintenance, License, and Easement Agreement recorded November 9, 2018 at reception number 657206, and the First Amendment thereto, recorded \_\_\_\_\_, 2020, at reception number \_\_\_\_\_.
9. Easement Agreement for Cemetery Water Line, recorded November 9, 2018 at reception number 657207.
10. Environmental Covenants for TP2, TP3, and TP4 recorded July 3, 2019, at reception numbers 660859, 660860, and 660861.
11. No Action Determination dated July 8, 2019.

**ORDINANCE NO. 10**

**SERIES 2020**

**AN ORDINANCE OF THE TOWN OF CRESTED BUTTE TOWN COUNCIL ESTABLISHING THE ZONING DESIGNATIONS FOR THE SLATE RIVER ANNEXATION; AND AMENDING THE TOWN OF CRESTED BUTTE'S OFFICIAL ZONING DISTRICT MAP FOR THE PURPOSE OF INCLUDING THE SLATE RIVER ANNEXATION.**

**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**, Cypress Foothills, LP, owner/applicant, has submitted a Petition for Annexation to the Town for the purpose of requesting annexation of a tract of land known as the Slate River Subdivision; and

**WHEREAS**, the Town Council of the Town of Crested Butte ("Town Council") adopted a resolution on the 6th day of April, 2020 finding the proposed Slate River Subdivision to be eligible for annexation to the Town of Crested Butte; and

**WHEREAS**, the Town Board of Zoning and Architectural Review has recommended that the zoning designations for properties within the proposed Slate River Annexation be zoned in accordance with the Proposed Zoning Map attached hereto as Exhibit A; and

**WHEREAS**, the Town Council finds that the proposed zoning of the properties within the Slate River Annexation meets the applicable requirements and criteria set forth in the Crested Butte Municipal Code and that the following amendment is in the best interest of the health, safety and welfare of the residents of the Town.

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

**Section 1. Description of Property to be Zoned.** The Slate River Subdivision is legally described as follows:

A portion of a parcel of land known as Tract Q of Book 516 Page 474, Parcel 13 of Book 552 Page 63, Parcel 1 of Warranty Deed recorded at Reception No. 570819, Parcel 1 of Quitclaim Deed recorded at Reception No.570822, Parcel 1 of the Correction Warranty Deed recorded at Reception No.584439, Parcel 1 of the Special Warranty Deed recorded at Reception No.612899, and the Correction Deed recorded at Reception No.618498 all located in the SW 1/4 of Section 35, Township 13 South, Range 86 W of the Sixth PM, Gunnison County, Colorado being more particularly described as follows:

Beginning at a point on the westerly boundary of Trampe Parcel described in Book 516 Page 494 also being on the easterly right of way line of County Road 317 (Gothic Road) as recorded at Reception No. 00119 and being on the south line of the SW1/4 of said Section 35 from which the southwest Corner of said Section 35 bears N89°43'49"W a distance of 130.05 feet; thence S89°43'49"E a distance of 17.52 feet to a point on the westerly line of the Dyer Subdivision as recorded at Reception No.497990; thence along the westerly, northerly and easterly lines of said Dyer Subdivision the following six (6) courses:

- 1) N00°01'42"W a distance of 15.19 feet,
- 2) N89°58'18"E a distance of 495.36 feet,
- 3) N00°01'42"W a distance of 226.55 feet,
- 4) N61°00'00"E a distance of 620.66 feet,
- 5) S79°30'09"E a distance of 381.57 feet,
- 6) N61°00'00"E approximately 31.96 feet to the high water line of the Slate River;

thence more or less along the wetland boundary on the southerly bank of the Slate River the following six (6) courses:

- 1) N66°34'01"W a distance of 53.68 feet,
- 2) N42°06'22"W a distance of 87.35 feet,
- 3) N52°37'46"W a distance of 40.69 feet,
- 4) N39°16'35"W a distance of 115.15 feet,
- 5) N32°48'09"W a distance of 178.03 feet,
- 6) N20°36'39"W a distance of 77.30' to a point on the northerly line of the Trampe

Partition Parcel 13 and the southerly line of Spann Parcel 22 as described in Court Decree Amended Order of Partition as recorded in Book 552 at Page 63; thence along the northerly line of said Parcel 13 N90°00'00"W a distance of 547.26 feet to a point on the easterly right of way line of County Road 317 (Gothic Road); thence along said easterly right of way line as described in deeds recorded at Reception No.474960 and 474961 the following five (5) courses:

- 1) S46°12'21"W a distance of 116.48 feet,
- 2) S35°50'27"W a distance of 185.49 feet,
- 3) S35°50'28"W a distance of 88.19 feet,
- 4) S40°05'13"W a distance of 207.37 feet,
- 5) S39°55'42"W a distance of 238.91 feet; thence continuing along the easterly line

of said right of way and westerly line of said Trampe Partition Parcel 13, 155.77 feet along the arc of a non-tangent curve to the left having a radius of 441.28 feet, a central angle of 20°13'30" and a long chord which bears S16°19'42"W a distance of 154.96 feet to a point which is common to the southwest corner of a parcel of land described in Book 518 at Page 403; thence S00°00'04"W continuing along the easterly right of way of said County Road 317 as recorded at Reception No.00119 and in accordance with Court Decree (Judgment) recorded in Book 516 at Page 494, a distance of 117.72 feet to the Point of Beginning.

Said Parcel as described above contains 14.157 acres, more or less.

All bearings shown hereon are relative to a bearing of N89°43'49"W between a GLO brass cap dated 1939 found at the southwest corner of Section 35 and a 3 ¼ inch aluminum cap stamped 18480 and dated 1995 found at the south quarter corner of Section 35.

**Section 2. Amendment of the Official Zoning District Map.** The Code and the official zoning district map of the Town of Crested Butte are hereby amended to include the Slate River Subdivision and the zoning shown on the proposed zoning map attached hereto as Exhibit A.

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

**Section 4. Savings Clause.** Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

**INTRODUCED AND FIRSTS READ BEFORE THE TOWN COUNCIL THIS \_\_\_\_\_ DAY OF APRIL, 2020**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND HEARING THIS \_\_\_\_\_ DAY OF APRIL, 2020**

TOWN OF CRESTED BUTTE, COLORADO

By \_\_\_\_\_  
James A. Schmidt, Mayor

ATTEST:

\_\_\_\_\_  
Lynelle Stanford, Town Clerk



**ORDINANCE NO. 13**

**SERIES 2020**

**AN ORDINANCE OF THE TOWN OF CRESTED BUTTE TOWN COUNCIL APPROVING A SUBDIVISION IMPROVEMENTS AGREEMENT FOR TRACTS 1-6 OF THE SLATE RIVER SUBDIVISION AND OTHER IMPROVEMENT WITHIN THE SLATE RIVER SUBDIVISION**

**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 Ordinance 9, Series 2020, the Town intends to annex a 14-acre parcel known as the Slate River Annexation ("Property"), and

**WHEREAS**, the Property will be divided into nine parcels to be conveyed to the Town, and six parcels to be retained by Cypress Foothills, L.P. ("Developer") which will require the construction of certain public improvements on the Property; and

**WHEREAS**, Section 17-5-80(b) of the Municipal Code provides that no final plat shall be executed until the subdivider has submitted and the Town Council has approved, a subdivision improvements agreement committing to timely construct those improvements which have been required pursuant to these subdivision regulations and according to specifications; and

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

**Section 1.** **Subdivision Improvement Agreement.** The Town Council hereby approves and directs the Mayor to execute the Subdivision Improvements Agreement for Slate River Subdivision attached hereto as **Exhibit A**.

**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 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 Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

**INTRODUCED AND FIRSTS READ BEFORE THE TOWN COUNCIL THIS \_\_\_\_\_ DAY OF MAY, 2020**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND HEARING  
THIS \_\_\_\_\_ DAY OF MAY, 2020**

TOWN OF CRESTED BUTTE, COLORADO

By \_\_\_\_\_  
James A. Schmidt, Mayor

ATTEST:

\_\_\_\_\_  
Lynelle Stanford, Town Clerk

**EXHIBIT A**  
Slate River Subdivision Improvements Agreement

**SUBDIVISION IMPROVEMENTS AGREEMENT  
FOR  
SLATE RIVER SUBDIVISION**

THIS SUBDIVISION IMPROVEMENTS AGREEMENT (“Agreement”) is entered into this \_\_\_ day of \_\_\_\_\_, 2020, by and between the Town of Crested Butte, Colorado, whose address is P.O. Box 39, Crested Butte, Colorado, 81224 (“Town”) and Cypress Foothills, L.P., a Texas limited partnership, whose address 8144 Walnut Hill Ln., Suite 1200, Dallas, Texas 75231 (“Developer”).

1.0 BACKGROUND.

1.1 The Development. On May 18, 2020, the Town Council adopted Ordinance 9, Series 2020 approving annexation of an approximately 14-acre parcel known as the Slate River Annexation (“the Property”), and approved the final subdivision plat (“Subdivision Plat”) for the Slate River Subdivision (the “Subdivision”) on the Property. The subdivision includes nine parcels to be conveyed to the Town (“Town Parcels”) and six parcels to be retained by the Developer (“Applicant Retained Lands.”) The Subdivision Plat was recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on \_\_\_\_\_, 2020, bearing Reception No: \_\_\_\_\_.

1.2 Connection to Town Water and Sewer Systems.

a. Town Parcels

The installation of all utility infrastructure necessary to connect the Town Parcels has been installed and accepted by the Town. Town Parcel 1 will require a private lift system to connect to the manhole in Pyramid Avenue. Installation of this private lift station will be the sole responsibility and sole cost of the owner of Town Parcel 1. All other Town Parcels have access to water and sewer systems in adjacent Town right-of-ways.

b. Applicant Retained Lands Water and Sewer Infrastructure

The installation of all utility infrastructure necessary to connect the six Applicant Retained Lands to the Town’s water and sewer system other than service lines as defined in Section 13-1-40 of the Town Code (the “Utility Infrastructure”) shall be constructed pursuant to the plans referenced in and approved by the Town in

Subsection 2.1, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by Developer. Within 30 days of receipt of itemized costs, Developer shall pay to the Town the cost and expense of the Town's review and acceptance of the Utility Infrastructure including required engineering inspections and testing for the acceptance of the infrastructure. The Town shall submit such itemized costs to Developer on a monthly basis.

1.3 Road Improvements. Developer has agreed to construct Road B and the alley on the Applicant Retained Lands to provide access to the six parcels on the Applicant Retained Lands (the "Road Improvements." The Road Improvements and Utility Infrastructure are more particularly described on **Exhibit A**). The Road Improvements shall be constructed pursuant to the plans referenced in and approved by the Town in Subsection 2.1, but shall be and remain private, and Developer, its successor, assigns, or the homeowners' association for the six parcels on the Applicant Retained Lands shall be solely responsible for the construction and maintenance of the Road Improvements and all costs thereof. Snow plowing of the Road Improvements will be the responsibility of Developer, its successors, assigns, or the homeowners' association for the six parcels on the Applicant Retained Lands.

## 2.0 DEVELOPER CONSTRUCTION OF ROAD IMPROVEMENTS AND UTILITY INFRASTRUCTURE.

2.1 Construction. Developer covenants and agrees with the Town to construct, at its sole cost, the Road Improvements and Utility Infrastructure listed on **Exhibit A**, which have been approved by the Town and documented by the engineering plans and specifications dated February 28, 2020 and submitted to the Town by Developer as part of the final plat approval for Slate River Annexation and Subdivision. **Following construction of the Road Improvements and Utility Infrastructure:**

a. Developer shall provide to the Town confirmation by a registered engineer that all construction done pursuant to this Agreement has been completed in accordance with the Engineering Plan Set, Slate River Annexation and Subdivision, Sheets 1-12, by SGM, dated February 28<sup>th</sup>, 2020; and

b. Developer shall provide to the Town "As-built" drawings for all the Utility Infrastructure before preliminary acceptance by the Town as set forth in Subsection 17-5-80(g)(5) of the Subdivision Regulations contained in Chapter 17 of the Crested Butte Municipal Code ("Town Code").

c. The Town shall hire one (1) or more inspectors acceptable to the Town to provide inspection services to the reasonable satisfaction of the Town Manager with respect to the construction of the Utility Infrastructure to be constructed pursuant to this Agreement. Within 30 days of receipt of itemized costs, Developer shall pay to the Town the cost and expense of the Town's review and acceptance of the Utility Infrastructure including required engineering inspections and testing for the acceptance of the infrastructure. The Town shall submit such itemized costs to Developer on a monthly basis.

2.2 Force Majeure. If Developer is delayed in commencing or completing construction of the Road Improvements and Utility Infrastructure, as required herein, by reasons of public health crisis, strikes or other labor troubles, unavailability of materials, national emergency, any rule, order or regulation of any governmental authority, or other similar cause not within Developer's control, and if prompt written notice of said cause of delay is given to Town by Developer, then the time for Developer to commence or complete construction, as the case may be, shall be deemed extended by the period of time during which said cause of delay shall continue.

### 3.0 QUALITY OF CONSTRUCTION/WARRANTY.

3.1 Quality of Construction. The construction of the Road Improvements and Utility Infrastructure in Section 2.0 shall be done in a good and workmanlike manner.

3.2 Warranty. Developer warrants that the Utility Infrastructure shall remain free from defects for a period of two (2) years from the date that the Town preliminarily accepts the Utility Infrastructure as provided in Section 8 of this Agreement. During such two-year period, any defect determined to exist with respect to such Utility Infrastructure shall be repaired or replaced, at the Town's option, at the sole cost of the Developer. With respect to snowplowing, following the completion of both annexation and preliminary acceptance, the Town shall be responsible for snowplowing Pyramid Avenue from its intersection with Gothic Road to its intersection with Eighth Street, and the Developer or its successors shall be responsible for snowplowing Road B and Pyramid Avenue east of its intersection with Eighth Street and Road B. The Town shall have no other obligation with respect to the Utility Infrastructure, except for normal routine maintenance, until it has been finally accepted by the Town in accordance with Subsection 8.2. Other than normal routine maintenance, Developer shall be responsible for all maintenance of and repairs to the Utility Infrastructure until final acceptance by the Town in accordance with Section 8.2 of this Agreement.

3.3 Maintenance of Utility Infrastructure. Upon final acceptance by the Town in accordance with Section 8.2 of this Agreement, the Town shall be responsible for all maintenance and repairs of the Utility Infrastructure.

3.4 Notice of Default; Cure Period. Except as provided in Section 3.5 with respect to emergency repairs, and until final acceptance by the Town in accordance with Section 8.2 of this Agreement, the Town shall provide notice to Developer if inspection reveals that any part of the Utility Infrastructure is defective for any reason. Developer shall have thirty (30) days from the giving of such notice to cure the defect. Such thirty-day time limit shall be extended if such defect cannot reasonably be cured within such thirty-day period. In the event Developer fails to cure the defect within the thirty-day period or any extension thereof, the Town may declare a default under this Agreement without further notice. No notice shall be required with respect to emergency repairs except as provided in Section 3.5.

3.5 Emergency Repairs. If at any time it appears that the Utility Infrastructure may be significantly damaged or destroyed as a result of a bona fide emergency, the Town shall have the right, but not the duty, to enter upon the Property and perform such repairs and take such other action as may be reasonably required in the Town's judgment to protect and preserve the Utility Infrastructure. The Town shall have no duty to inspect the Utility Infrastructure to identify emergency situations which may arise. Prior to taking any action pursuant to this Section 3.5, the Town shall make a reasonable effort to advise Developer of the existence and nature of the emergency. If, after reasonable efforts, Developer cannot be located, the Town shall have the right to enter the Property and perform any needed emergency repairs as herein provided; and, upon demand, Developer shall reimburse the Town for the costs of such emergency repairs. Failure of Developer to pay to the Town the costs of such emergency repairs within fifteen (15) days after demand shall constitute a default as provided in Section 9 of this Agreement.

#### 4.0 COMPLIANCE WITH LAW.

4.1 Compliance with Law. When fulfilling its obligations under this Agreement, Developer shall comply with all relevant laws, ordinances, and regulations in effect at the time of execution of this Agreement. Developer shall also be subject to laws, ordinances and regulations in effect at the time that the Utility Infrastructure is preliminarily accepted by Town.

4.2 Compliance with Building Permits. When fulfilling its obligations under this Agreement, Developer shall strictly comply with the terms, conditions, limitations and requirements of any

Building Permit which may be required by the Town for the construction of the Road Improvements and Utility Infrastructure.

4.3 Erosion Control. Developer shall comply with the applicable provisions of Section 17-6-50 of the Crested Butte Municipal Code during all stages of construction.

5.0 TRANSFER OF TITLE OF Utility Infrastructure. Upon final acceptance in accordance with Subsection 8.2, Developer shall cause the Utility Infrastructure to be conveyed to the Town by bill of sale with full warranty of title (if personal property), free and clear of all liens, encumbrances and restrictions upon the determination of the Town Manager that such Utility Infrastructure has been satisfactorily completed and that final acceptance of such Utility Infrastructure by the Town is proper in accordance with the provisions of Subsection 8.2. Conveyance of such Utility Infrastructure shall be made by an instrument acceptable as to form and substance by the Town Attorney.

6.0 PERFORMANCE GUARANTY. In order to secure all obligations of the Developer herein, Developer shall, at Developer's sole cost, and before starting work on any portion of the Road Improvements or Utility Infrastructure, obtain and provide to the Town as a guarantee of the performance of its obligations hereunder, including its obligation with respect to the two-year warranty period, the following cash, bond, letter of credit, or other form of security acceptable to the Town in the amount of \$435,893.75 (the "Performance Guaranty"). The amount is calculated to cover 125% of the cost of the Road Improvements and Utility Infrastructure, which amount shall be held by Town through the two-year warranty set forth in Section 3.2, subject to Section 6.1 below. The Developer shall execute the Performance Guaranty no later than July 1, 2021. Failure to execute the Performance Guaranty by this date shall cause the Developer to provide an updated engineered estimate on which the amount of a new Performance Guaranty will be calculated.

6.1 Request for Partial Release of Performance Guaranty. Developer may make periodic requests for the partial release of the Performance Guaranty in accordance with the provisions of this Agreement. All such requests shall be in writing to the Town Manager, shall be for a reduction of at least twenty five percent (25%) of the total original Performance Guaranty or any multiple thereof, and shall be accompanied by an invoice for the portion of the work reflected in the request. No more than one (1) request for a partial release of the Performance Guaranty may be submitted each month. The last twenty five percent (25%) of the Performance Guaranty may not be released until all of the Utility Infrastructure has been preliminarily

accepted, the two-year warranty period set forth in Section 3.2 has run, and the Utility Infrastructure has been finally accepted by the Town.

7.0 RELEASE OF GUARANTY. Developer's Performance Guaranty shall be released and returned to Developer with interest at a rate one percent less than received by the Town on such funds, only at such time as the Town determines, in its sole discretion, that all of the Road Improvements and Utility Infrastructure have been properly constructed or installed, the two-year warranty period set forth in Section 3.2 has expired, and the Utility Infrastructure is finally accepted.

8.0 ACCEPTANCE.

8.1 Preliminary Acceptance. Preliminary acceptance of the Utility Infrastructure shall occur at the Developer's request. The Town shall inspect the Utility Infrastructure and shall notify Developer within 14 days in writing of nonacceptance or preliminary acceptance. If the Utility Infrastructure is not acceptable, the Town shall state the reasons for nonacceptance and outline the necessary corrective measures.

8.2 Final acceptance and Release of Collateral.

a. Twenty-four (24) months following preliminary acceptance, the Town shall inspect all Utility Infrastructure for final acceptance. The Town Manager shall notify the Developer in writing of nonacceptance or final acceptance. If the Utility Infrastructure is not acceptable, the reason for nonacceptance shall be stated in writing, and corrective measures shall be agreed upon by the Town and Developer and timely completed by Developer.

b. Upon final acceptance, the Town shall release the remaining collateral and assume all future maintenance and repair responsibilities for the Utility Infrastructure.

c. The Town shall not be required to accept any of the Utility Infrastructure until the Town Manager determines that:

i. The Utility Infrastructure been satisfactorily completed in accordance with the approved plans and specifications referenced in Section 2.1;

ii. Developer has delivered to the Town the as-built drawings of the Utility Infrastructure; and

iii. Developer has delivered to the Town instruments conveying the Utility Infrastructure to the Town in accordance with Section 5.0.

9.0 DEFAULT. The following conditions, occurrences or actions shall constitute a default by Developer under this Agreement:

9.1 Developer's failure to construct the Road Improvements and Utility Infrastructure in accordance with the approved plans and specifications referenced in Section 2.1 and this Agreement;

9.2 Developer's failure to cure defective construction of any Utility Infrastructure within the applicable cure period as provided in this Agreement;

9.3 Once Developer commences work on the Road Improvements and Utility Infrastructure, Developer's failure to perform work thereon for a period of more than forty-five (45) consecutive days, except for delays occasioned by winter weather conditions or other reasons beyond Developer's control, without the prior written approval of the Town;

9.4 Developer's insolvency, the appointment of a receiver for Developer, or the filing of a voluntary or involuntary petition in bankruptcy respecting Developer;

9.5 Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of all or part of the Property in lieu of foreclosure prior to final acceptance of the Utility Infrastructure by the Town;

9.6 Developer's failure to pay to Town upon demand the cost of emergency repairs performed in accordance with this Agreement; or

9.7 The Town may not declare a default until thirty (30) days' advance written notice has been given to Developer; provided, however, that such notice shall not be required with respect to any defective construction for which thirty (30) days' notice of right to cure has already been given in accordance with Section 3.3.

10.0 MEASURE OF DAMAGES. The measure of damages for breach of this Agreement by Developer shall be the reasonable costs of completing the Utility Infrastructure, including design, engineering, legal and inspection costs. For improvements upon which construction has

not begun, the amount of the Performance Guaranty shall be prima facie evidence of the cost of completion; however, the amount of the Performance Guaranty does not establish the extent of Developer's liability under this Agreement. The Town shall be entitled to, but not obligated to, complete all unfinished improvements after the time of default regardless of the extent to which development has taken place on the Applicant Retained Lands or whether development has even commenced.

11.0 TOWN'S RIGHTS UPON DEFAULT. In the event of default, the Town shall have the following rights and remedies set forth in this section. The remedies provided for herein are cumulative in nature.

11.1 Complete Construction. The Town may, but shall not be required to, have the Road Improvements and Utility Infrastructure constructed by such means and in such manner as the Town shall determine, without the necessity of public bidding.

11.2 Use of Performance Guaranty. If the Town elects to have the Road Improvements and Utility Infrastructure constructed, it shall have the right to use Developer's Performance Guaranty to pay for the construction thereof. If the amount of the Performance Guaranty exceeds the costs of constructing the Road Improvements and Utility Infrastructure as set forth in this Agreement, the Town shall deliver any excess funds to Developer. If the Performance Guaranty is insufficient to fully pay such costs, Developer shall, upon demand, pay such deficiency to the Town.

11.3 Rights under the Law. The Town and Cypress may exercise such rights as they may have under Colorado law.

12.0 INTEREST. Any sum which is required to be paid by Developer to the Town under this Agreement and which is not timely paid shall accrue interest at eighteen percent (18%) per annum, commencing as of the date such sum was due.

13.0 PAYMENT OF FEES AND CHARGES. Developer agrees to pay all fees and other charges in a timely manner as required by the Town, including but not limited to building permit fees, inspection fees and tap fees imposed by Town ordinance, resolution or motion, or by the terms and conditions of this Agreement.

14.0 NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to

such enforcement, shall be strictly reserved to the Town and Developer, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on this Agreement. It is the express intention of the Town and Developer that any person other than the Town or Developer receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

15.0 ATTORNEYS FEES. If any action is brought in a court of law by either party to this Agreement concerning the arbitration, should the parties so choose, enforcement, interpretation or construction of this Agreement, or any documents provided for herein, the substantially prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorneys' fees, as well as costs, including expert witness fees, incurred in the prosecution or defense of such action.

16.0 INDEMNIFICATION. Developer agrees to indemnify and hold the Town, its officers, employees, agents and insurers harmless from and against all liability, claims and demands 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, which arise out of or are in any manner connected with the construction of the Road Improvements and Utility Infrastructure if such injury, loss or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, intentional act or other fault of Developer, any subcontractor of Developer, or any officer, employee, representative or agent of Developer or of any subcontractor of Developer, or which arise out of any workers' compensation claim of any employee of Developer or of any employee of any subcontractor of Developer. Developer agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at the sole expense of Developer. Developer also agrees to bear all other costs and expenses related thereto, including court costs and attorneys' fees, whether or not any such liability, claims or demands alleged are determined to be groundless, false, or fraudulent.

17.0 NO WAIVER. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Town and Developer; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by Developer or the acceptance of any improvements.

18.0 RECORDATION. This Agreement shall be recorded by the Town in the office of the Clerk and Recorder of Gunnison County, Colorado, and Developer shall pay to the Town the costs thereof upon demand.

19.0 IMMUNITY. Nothing contained in this Agreement shall constitute a waiver of the Town's sovereign immunity under any applicable state or federal law.

20.0 PERSONAL JURISDICTION AND VENUE. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement, whether arising out of or relating to the Agreement or the Performance Guaranty, shall be deemed to be proper only if such action is commenced in the District Court of Gunnison County, Colorado. Developer expressly waives its right to bring such action in or to remove such action to any other court, whether state or federal.

21.0 CODE CHANGES. References in this Agreement to any provision of the Town Code or to any Town or other governmental standard or regulation are intended to refer to any subsequent amendments and/or revisions to such Code or standard. Such amendments or revisions shall be binding upon Developer.

22.0 NON ASSIGNABILITY. This Agreement may not be assigned by Developer without the prior written consent of the Town.

23.0 NOTICES. Any notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered, mailed by certified mail, return receipt requested, or sent by facsimile, addressed as follows:

If to the Town:

Town of Crested Butte  
Attn: Town Manager  
P. O. Box 39  
Crested Butte, CO 81224  
(970) 349-5338  
Fax No. (970) 349-6626

With a Copy (which shall not constitute notice to the Town) to:

Sullivan Green Seavy  
3223 Arapahoe Avenue Suite 300  
Boulder, CO 80303

If to Developer:

Cypress Foothills, LP  
Attention: Cameron Aderhold  
8144 Walnut Hill Ln., Suite 1200  
Dallas, Texas 75231  
Facsimile: 214-283-1600  
[cameron.aderhold@cypressequities.com](mailto:cameron.aderhold@cypressequities.com)

with a copy to:

Cypress Foothills, LP  
Attention: Brian Parro  
8144 Walnut Hill Ln., Suite 1200  
Dallas, Texas 75231  
Facsimile: 214-283-1600  
[brian.parro@cypressequities.com](mailto:brian.parro@cypressequities.com)

with a copy (which shall not constitute notice to Cypress) to:

Law of the Rockies  
Attention: Marcus J. Lock  
525 North Main Street  
Gunnison, Colorado 81230  
Facsimile: 970-641-1943  
[mlock@lawoftherockies.com](mailto:mlock@lawoftherockies.com)

Notices mailed in accordance with the above provisions shall be deemed to have been given on the third business day after mailing. Notices personally delivered shall be deemed to have been given upon delivery. Notices sent by facsimile shall be deemed to have been given at the time

the transmission is received. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process.

24.0 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement and understanding between the parties relating to the actual construction of the Road Improvements and Utility Infrastructure, provided however that nothing herein modifies, or is intended to modify, or supersedes, or is intended to supersede any other agreement between the Parties. Accordingly, both parties reserve any rights and remedies they may have under any other agreement between them, and both parties expressly reserve all rights and remedies available to them under any such other agreements.

25.0 SEVERABILITY. It is understood and agreed by the parties hereto that, if any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, state or federal, the validity of the remaining portions or provisions hereof shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

26.0 MODIFICATION. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

27.0 BINDING AGREEMENT. This Agreement shall run with the Property and shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns.

28.0 GOVERNING LAW. This Agreement shall be interpreted in accordance with the laws of the State of Colorado.

29.0 INCORPORATION OF EXHIBIT. The attached Exhibit is incorporated herein by reference: **Exhibit A.**

Dated to be effective the \_\_\_\_ day of \_\_\_\_\_, 2020.

TOWN OF CRESTED BUTTE, a Colorado home rule municipal corporation

By:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

The foregoing Development Improvements Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, Mayor, and \_\_\_\_\_, Town Clerk, of the Town of Crested Butte, a Colorado home rule municipal corporation.

Witness my hand and seal.

My commission expires: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Notary Public

CYPRESS FOOTHILLS, L.P.,  
a Texas limited partnership

By: CYPRESS FOOTHILLS, G.P., L.L.C.,  
a Delaware limited liability company, its  
General Partner

By: \_\_\_\_\_  
Brian Parro, its  
Chief Financial Officer  
and Vice President

STATE OF TEXAS            )  
  )ss.  
COUNTY OF DALLAS        )

The foregoing Development Improvements Agreement was acknowledged before me  
this \_\_\_\_ day of \_\_\_\_\_, 2020, by Brian Parro, as Chief Financial Officer and Vice President of  
Cypress Foothills GP, LLC, which is the General Partner of Cypress Foothills, LP.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## Exhibit A To SIA

### SLATE RIVER DEVELOPMENT West Side Town Annexation 6 Lot ENGINEER'S OPINION OF PROBABLE COST

Updated 03/03/2020

Item/Description	Estimated Quantity	Unit	Unit Price (\$)	Total Construction Price \$
<b>Roadway and Earthwork/Drainage Infrastructure</b>				
Topsoil Stripping/Stockpile	1235	CY	\$7.50	\$9,262.50
Topsoil Re-Placement	950	CY	\$5.00	\$4,750.00
Class 6 Aggregate Base Course	313	TONS	\$45.00	\$14,085.00
3" Hot Bituminous Asphalt	150	TONS	\$175.00	\$26,250.00
24' Concrete Curb and Gutter	831	LF	\$40.00	\$33,240.00
1.5' Concrete Ribbon	44	LF	\$25.00	\$1,100.00
4" Wide Concrete Valley Pan	20	LF	\$42.00	\$840.00
Street Signs	1	EA	\$500.00	\$500.00
Excavation - Cut Remove from Site	4343	CY	\$12.50	\$54,287.50
Wetland Dispersion Outlet	40	SY	\$78.00	\$3,120.00
Asphalt Removal	55	SY	\$2.50	\$137.50
24' Concrete Curb and Gutter Removal	105	LF	\$2.50	\$262.50
TOTAL				\$147,835.00
<b>Water Distribution System</b>				
8" C900 Main Line	260	LF	\$80.00	\$20,800.00
8" Connection to Existing	1	EA	\$1,500.00	\$1,500.00
8" Gate Valve	2	EA	\$3,100.00	\$6,200.00
Concrete Reaction Blocks	2	EA	\$200.00	\$400.00
Fittings	2	EA	\$350.00	\$700.00
New Fire Hydrants Assemblies	2	EA	\$7,750.00	\$15,500.00
Adjust Existing Fire Hydrant	1	EA	\$5,000.00	\$5,000.00
Air Release Valve & Vault	1	EA	\$7,300.00	\$7,300.00
1.5" Service Lines off new line	3	EA	\$2,600.00	\$7,800.00
1.5" Service Lines off Existing Line with Flow Fill	1	EA	\$5,000.00	\$5,000.00
Flowfill Trench in Existing Roadway	12	LF	\$300.00	\$3,600.00
Protection Bollards	2	EA	\$1,500.00	\$3,000.00
TOTAL				\$76,800.00
<b>Sewer Collection System</b>				
8" Gravity PVC Pipe	204	LF	\$60.00	\$12,240.00
New Standard Manholes	4	EA	\$4,500.00	\$18,000.00
4" PVC Gravity Service Lines	3	EA	\$1,200.00	\$3,600.00
2" HDPE Pressure Service Lines	306	LF	\$50.00	\$15,300.00
Concrete Encasement	32	LF	\$100.00	\$3,200.00
TOTAL				\$52,340.00

**SLATE RIVER DEVELOPMENT West Side Town Annexation 6 Lot  
ENGINEER'S OPINION OF PROBABLE COST**

Updated 03/03/2020

Item/Description	Estimated Quantity	Unit	Unit Price (\$)	Total Construction Price \$
<b>Misc. Utilities</b>				
Gas Lines	300	LF	\$40.00	\$12,000.00
Phone Lines	470	LF	\$15.00	\$7,050.00
Electric Lines	470	LF	\$15.00	\$7,050.00
Trenching	470	LF	\$12.00	\$5,640.00
TOTAL				\$31,740.00
<b>Contractor Overhead (In County)</b>				
Mobilization/Demobilization	1	EA	\$30,000.00	\$30,000.00
Stormwater Permit/Plan/Oversight	1	EA	\$5,000.00	\$5,000.00
Revegetation/Weed Management	1	Acres	\$5,000.00	\$5,000.00
TOTAL				\$40,000.00
<b>6 Lot Applicant Retained TOTAL</b>				\$348,715.00



## Staff Report

May 18, 2020

**To:** Town of Crested Butte Planning Commission  
**From:** Dara MacDonald, Town Manager  
**Subject:** Slate River Subdivision Final Plat Review

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### **Summary:**

Upon execution of the Slate River Annexation, Cypress Foothills, L.P. wishes to proceed immediately with subdivision as contemplated in the pre-annexation and annexation agreements.

### **Background:**

Cypress Foothills, LP, owner/applicant, is seeking to subdivide a 14.16 acre parcel along the Town's northeastern boundary originally platted as the West Remainder Parcel of the Aperture Subdivision and now referred to as the Slate River Subdivision. The final subdivision plan includes nine (9) Town Parcels and one (1) Tract of Applicant Retained Lands; the primary public roadways, Pyramid Avenue and Eighth Street extension, and underground public utility mainlines have been installed as part of the County-approved Aperture Subdivision to the east. Proposed zoning for the subdivision allows the following land uses: government, public service and recreational facilities, deed-restricted affordable housing, six (6) free-market single-family lots, open space and preserved wetland areas.

Prior Pre-annexation Agreements were recorded as Reception Nos. 638399, 643828 and 656557. These Agreements were necessitated by two important factors: First, the Town agreed to extend water and sewer service outside the Town limits to that portion of the development (Aperture Subdivision) that will remain in the County in exchange for land that the developer will dedicate for public uses in the area that will be annexed to the Town (Slate River Subdivision); and second, portions of the land to be annexed require environmental clean-up because they contained the former town landfill site.

A Voluntary Clean-up Plan (VCUP) requires that intended land uses be specified to ensure appropriate clean-up standards are established before the former landfill area can be remediated and later developed. VCUP standards vary depending upon the intensity of the proposed use; the clean-up requirements may allow higher intensity uses ranging from schools to housing as proposed on Town Parcels (TP) 2 and 3 to lesser standards for more passive public uses such as open space, parks or snow storage as proposed on TP 4. For housing to be developed on TP5, additional clean-up is required. The majority of the land within the proposed Slate River Subdivision, however, is environmentally "clean" and not subject VCUP. The land uses agreed

upon by the Town and Developer are identified in the Annexation Agreement and shown graphically on the Zoning Map and Illustrative Sketch Plan.

Planning Commission reviewed and approved with conditions the Slate River Preliminary Plan on January 14, 2020 and the Sketch Plan on April 8, 2019. The Slate River Subdivision Annexation Impact Report was submitted March 21, 2019 to the Gunnison County Board of County Commissioners.

**A. Preliminary Plan Conditions:**

1. That the Pre-Annexation Agreement be revised to reflect the updated Subdivision Plat having nine (9) Town Parcels (TP) and (1) Applicant Retained Land Tract (T).
2. That the Slate River Major Subdivision Plat including the title page with the Attorney's Opinion be finalized.
3. That the platting of the Applicant Retained Land Tract with six (6) single-family lots be finalized and that a complete set of construction drawings which meet the requirements of the Public Works Director and Crested Butte Fire Protection District be submitted.
4. That the deed restriction for TP7 which contains the wetland area between TP1 and the Applicant Retained Land be finalized.

**B. Sketch Plan Conditions:**

1. That a future waterline easement be provided to the north through the Applicant Retained Land.
2. That all fencing within the subdivision be a maximum of forty-two (42) inches in height to allow for wildlife migration through the property, excluding any off-site fencing around the Public Works facility and multi-use trail.
3. That a boater access and floating agreement for TP6B be finalized.
4. That the north-south private street within the Applicant Retained Land be named after a local mountain or natural feature.
5. That the R4-Residential maximum lot size requirement be waived for TP3 and TP 5.
6. That a deed restriction for the TP6 (now identified as TP7) open space/wetland area be finalized.
7. That a recommendation be forwarded to Town Council for the granting of an exemption for all of the capital expansion recovery system fees pursuant to Sec. 17-5-100(c) Exemption from fee.

**Discussion:**

The Slate River Subdivision Final Plan and Final Plat include the subdivision layout, easements, protective covenants and deed restrictions. The application contents are outlined below:

- a) The Slate River Subdivision is the perimeter property boundary was previously platted as the West Remainder Parcel of the Aperture Subdivision; the Slate River Subdivision include a total of approximately 14.16 acres.
- b) Town Parcel (TP) 1, potential fire station site contains 1.55 acres and excludes the wetland area.
- c) TP 2 boundary, potential public use facility/open space contains 2.04 acres and includes the low-quality wetland south of Pyramid Avenue.
- d) TP3, potential affordable housing includes 0.95 acres.
- e) TP4, proposed open space/sledding hill, snow storage and staging area contains 3.15 acres and accurately reflects the actual VCUP area.
- f) TP5, potential affordable housing includes 0.99 acres and may be subject to further VCUP.
- g) TP6A-B, proposed protected open space and boater access contains 0.87 acres and it has been revised to include and the area under the elevated roadway bridge.
- h) TP7, proposed open space and wetland area contains 1.22 acres that are to be owned, managed and maintained by the Town.
- i) TP8 and TP9, proposed open space, are remnant parcels located between Pyramid Avenue and the Dyer Subdivision and area beneath the elevated roadway bridge; these two (2) parcels contain 0.09 acres and 0.55 acres, respectively.
- j) Applicant Retained Land (Tracts 1-6), proposed single-family lots, contains 1.56 acres.
- k) Public rights-of-way, Pyramid Avenue and Eight Street extension contain 1.19 acres.

**Legal Review:** The Town Attorney has been heavily involved in review of the final plat.

**Recommendation:** The Council should convene as Planning Commission. Once convened as the Planning Commission, the Planning Commission should open the public testimony portion of the Combined Hearing and consider any public comments. After closing the public hearing and considering the application, staff recommends the Planning Commission approve the Slate River Subdivision Final Plat.

**Proposed Motion:** Make a motion to approve the Slate River Subdivision Final Plat.



# FINAL PLAT OF SLATE RIVER SUBDIVISION

BLOCKS 81 & 82, SLATE RIVER MAJOR SUBDIVISION,  
 LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 13 SOUTH,  
 RANGE 86 WEST OF THE 6TH P.M.,  
 COUNTY OF GUNNISON, STATE OF COLORADO  
 SHEET 2 OF 3

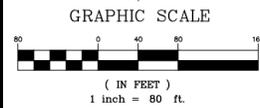
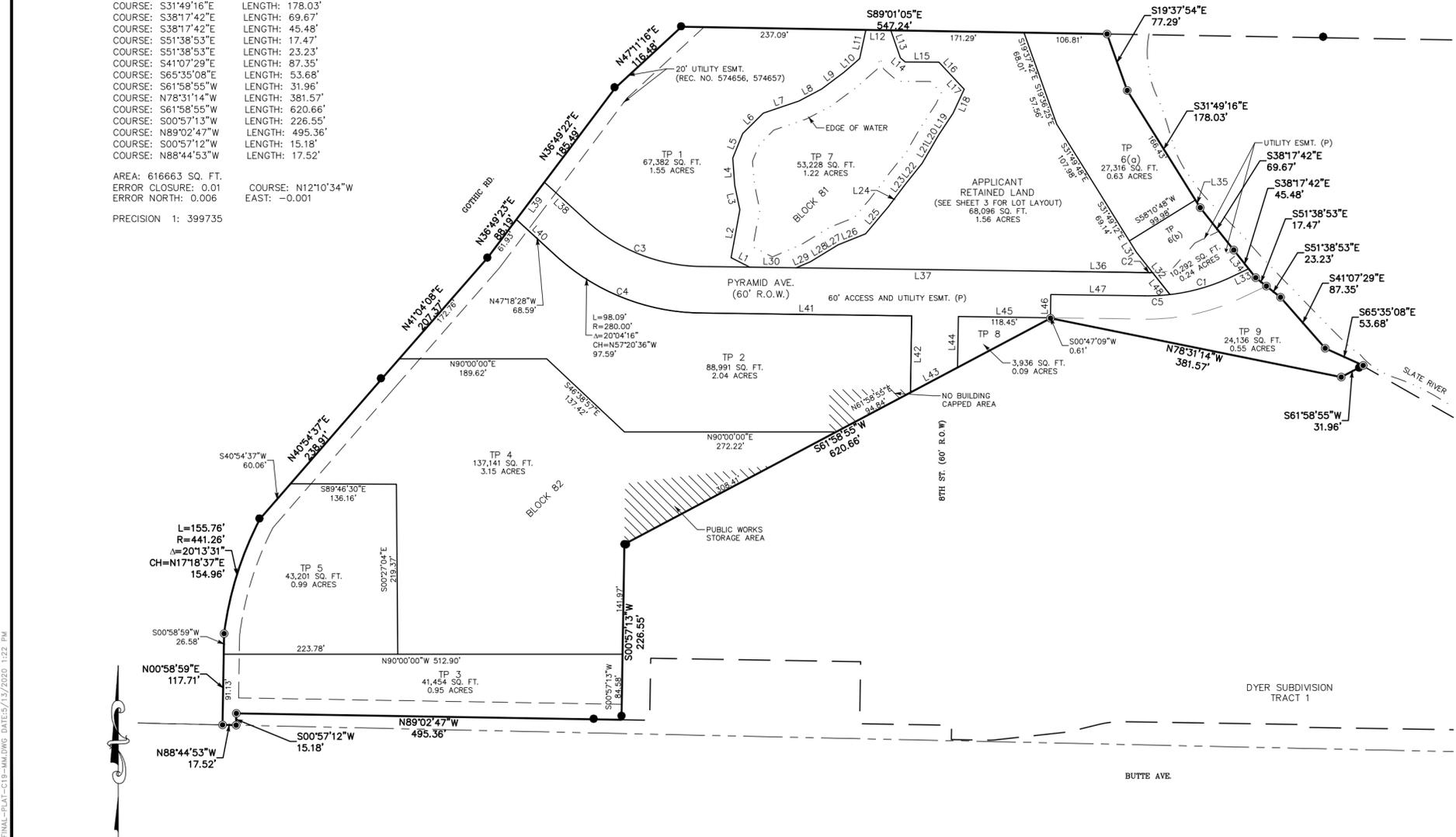
### Boundary Closure Report

COURSE: N00°58'59"E LENGTH: 117.71'  
 LENGTH: 155.76' RADIUS: 441.26'  
 DELTA: 020°13'31"  
 CHORD: 154.96'  
 COURSE: N17°18'37"E LENGTH: 238.91'  
 COURSE: N41°04'08"E LENGTH: 207.37'  
 COURSE: N36°49'23"E LENGTH: 88.19'  
 COURSE: N36°49'22"E LENGTH: 185.49'  
 COURSE: N47°11'16"E LENGTH: 116.48'  
 COURSE: S89°01'05"E LENGTH: 547.24'  
 COURSE: S19°37'54"E LENGTH: 77.29'  
 COURSE: S31°49'16"E LENGTH: 178.03'  
 COURSE: S38°17'42"E LENGTH: 69.67'  
 COURSE: S38°17'42"E LENGTH: 45.48'  
 COURSE: S51°38'53"E LENGTH: 17.47'  
 COURSE: S51°38'53"E LENGTH: 23.23'  
 COURSE: S41°07'29"E LENGTH: 87.35'  
 COURSE: S65°35'08"E LENGTH: 53.68'  
 COURSE: S61°58'55"W LENGTH: 31.96'  
 COURSE: N78°31'14"W LENGTH: 381.57'  
 COURSE: S61°58'55"W LENGTH: 620.66'  
 COURSE: S00°57'13"W LENGTH: 226.55'  
 COURSE: N89°02'47"W LENGTH: 495.36'  
 COURSE: S00°57'12"W LENGTH: 15.18'  
 COURSE: N88°44'53"W LENGTH: 17.52'  
 AREA: 616663 SQ. FT. COURSE: N12°10'34"W  
 ERROR CLOSURE: 0.01 EAST: -0.001  
 ERROR NORTH: 0.006  
 PRECISION 1: 399735

- Legend**
- ⊕ FOUND ALIQUOT MONUMENT AS DESCRIBED
  - FOUND MONUMENT AS DESCRIBED
  - ⊙ SET 18" #5 REBAR WITH 1 1/2" ALUMINUM CAP "FLATRONS SURV 16406"
  - (P) PER THE PLAT OF APERTURE; REC. NO. 648057

PARCEL LINE TABLE				PARCEL LINE TABLE				PARCEL LINE TABLE			
LINE #	LENGTH	DIRECTION	LINE #	LENGTH	DIRECTION	LINE #	LENGTH	DIRECTION	LINE #	LENGTH	DIRECTION
L1	26.97	N62°59'59"W	L9	33.17	S33°30'22"W	L37	571.50	N89°12'51"W	L15	26.88	S42°59'38"E
L2	62.83	N10°22'32"E	L20	12.73	S30°10'34"W	L38	74.73	N47°32'56"W	L16	20.78	S42°59'38"E
L3	32.12	N11°51'22"W	L21	29.83	S30°10'34"W	L39	60.00	S36°49'22"W	L17	34.27	S24°47'05"W
L4	35.30	N04°13'00"W	L22	34.19	S38°34'17"W	L40	68.59	S47°18'28"E	L18	34.27	S24°47'05"W
L5	34.23	N21°59'53"E	L23	12.19	S36°57'40"W	L41	271.98	S89°12'51"E			
L6	37.31	N45°07'07"E	L24	24.71	S36°57'40"W	L42	98.89	S00°57'14"W			
L7	48.54	N71°12'36"E	L25	45.40	S40°10'28"W	L43	68.58	N61°58'55"E			
L8	33.11	N61°57'01"E	L26	38.20	S68°01'47"W	L44	65.85	N00°57'13"E			
L9	35.42	N53°07'50"E	L27	5.05	S58°31'39"W	L45	118.45	S89°12'51"E			
L10	27.15	N48°57'10"E	L28	36.68	S58°31'39"W	L46	29.99	N00°47'09"E			
L11	37.96	N12°06'51"E	L29	19.77	S66°46'00"W	L47	121.06	S89°12'51"E			
L12	32.05	S89°01'05"E	L30	59.80	S89°12'51"E	L48	36.23	N38°17'39"W			
L13	37.68	S19°08'36"E	L31	17.27	S31°49'12"E						
L14	8.08	S49°16'53"E	L32	69.54	S38°17'39"E						
L15	43.43	S89°37'59"E	L33	25.11	S64°36'14"W						
L16	26.88	S42°59'38"E	L34	30.79	S38°17'42"E						
L17	20.78	S42°59'38"E	L35	11.60	S31°49'16"E						
L18	34.27	S24°47'05"W	L36	120.86	S89°12'51"E						

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	81.98	250.00	18°47'18"	S73°59'53"W	81.61
C2	9.33	220.00	2°25'47"	N89°34'16"E	9.33
C3	160.91	220.00	41°54'23"	N68°15'39"W	157.35
C4	204.79	280.00	41°54'23"	S68°15'39"E	200.26
C5	32.26	250.00	7°23'37"	N87°05'21"E	32.24



REVISION	DATE
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SLATE RIVER MAJOR SUBDIVISION

**Flatrons, Inc.**  
 Surveying, Engineering & Geomatics  
 www.flatronsinc.com  
 6855 FOURTH AVE. SUITE 395  
 LOUISVILLE, CO 80501  
 PH: (303) 776-1753  
 PH: (303) 776-4355  
 FAX: (303) 443-9830  
 FAX: (303) 443-9830  
 FAX: (303) 923-3160



**DRAFT**  
 WORKING COPY ONLY  
 ONLY FINAL VERSION  
 WILL HAVE STAMP AND SIGNATURE

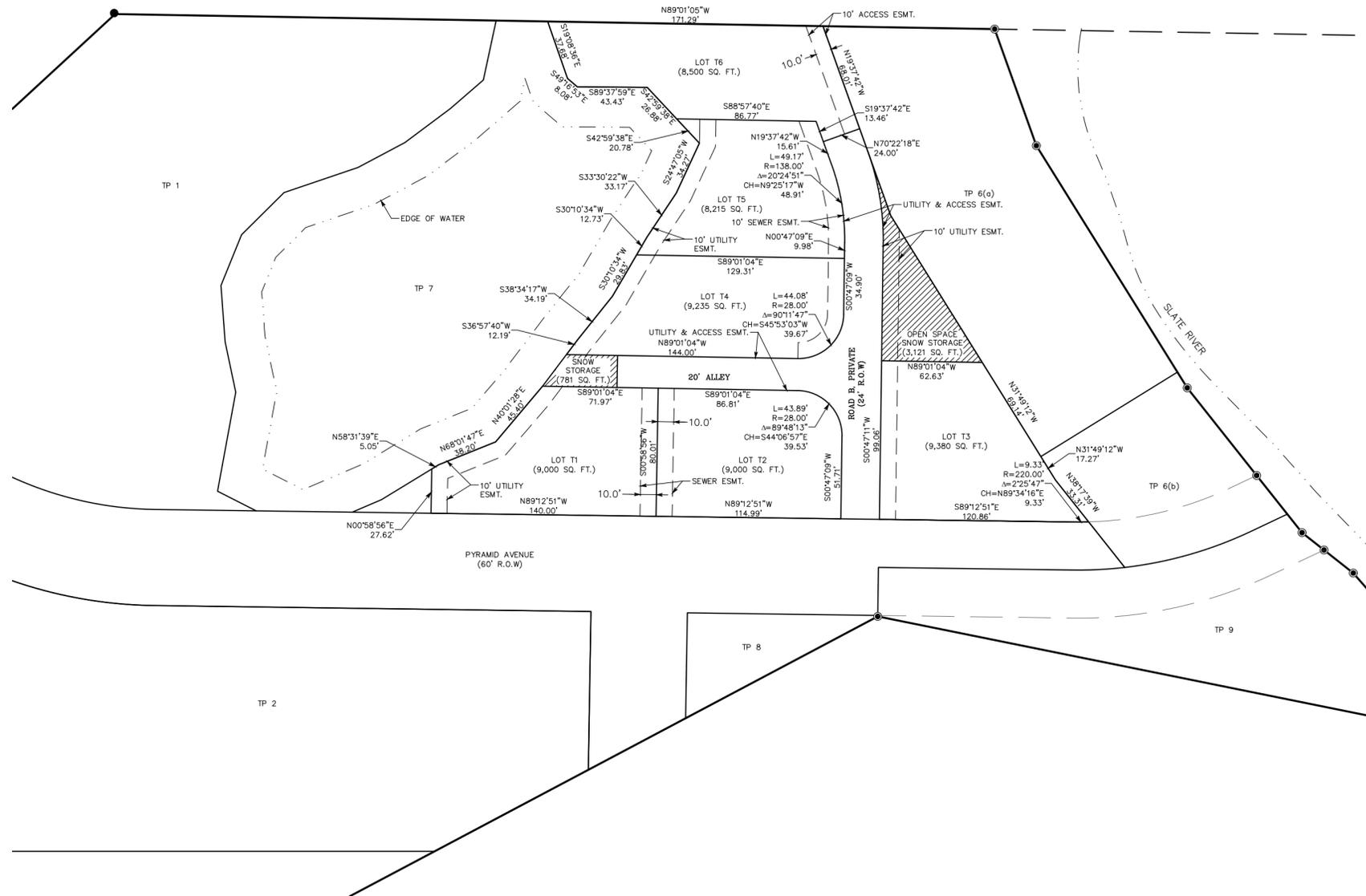
JOB NUMBER: 17-70,453  
 DATE: 05-12-2020  
 DRAWN BY: M. PERSE/M. MUNKHOLD  
 CHECKED BY: BOL/JZG  
 SHEET 2 OF 3

# FINAL PLAT OF SLATE RIVER SUBDIVISION

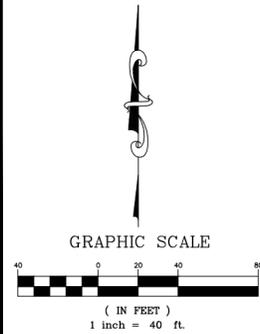
BLOCKS 81 & 82, SLATE RIVER MAJOR SUBDIVISION,  
 LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 13 SOUTH,  
 RANGE 86 WEST OF THE 6TH P.M.,  
 COUNTY OF GUNNISON, STATE OF COLORADO

SHEET 3 OF 3

APPLICANT RETAINED LAND DETAIL



BRADWIN ELECTRADES-FINAL-PLAT-C19-MALCWS DATES/11/2020 1:22 PM



REVISION	DATE
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SLATE RIVER MAJOR SUBDIVISION

**Flatrons, Inc.**  
 Surveying, Engineering & Geomatics  
 www.flatronsinc.com  
 3925 IRE AVE, STE. 395  
 LOUISVILLE, CO 80501  
 PH: (303) 776-1733  
 FAX: (303) 776-4355

4501 LOGAN ST.  
 DENVER, CO 80216  
 PH: (303) 443-7001  
 FAX: (303) 443-9830



**DRAFT**  
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 WILL HAVE STAMP AND SIGNATURE

JOB NUMBER:  
17-70,453  
 DATE:  
05-12-2020  
 DRAWN BY:  
M. PERSE/M. MUNKHOLD  
 CHECKED BY:  
BOL/JZG  
 SHEET 3 OF 3



## Staff Report

May 18, 2020

**To:** Mayor and Town Council

**Prepared By:** Rob Zillioux, Finance and HR Director

**Thru:** Dara MacDonald, Town Manager

**Subject:** Ordinance No 14, Series 2020 – An Ordinance of the Crested Butte Town Council Approving the Lease of the Chamber of Commerce Visitors Center – A Town Owned Building – Located at 601 Elk Avenue to the Crested Butte / Mt Crested Butte Chamber of Commerce

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### Summary:

The Chamber of Commerce has leased the Visitors Center building, located at 601 Elk Avenue, for 25 years. This lease has now expired. The proposed new lease is for 10 years

### Previous Council Action:

Council leased the newly built Visitors Center to the Chamber of Commerce in 1995.

**Discussion:** The Chamber will be responsible for paying all necessary utilities. They are also responsible for basic maintenance and repairs to the inside and outside of the building.

**Legal Review:** 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. Chamber shall also maintain and supply the public restroom on the property. Town is responsible for major building repairs, clearing sidewalks of snow using a machine only and landscaping.

**Recommendation:** Staff recommends the Town enter into a 10-year lease with the Crested Butte / Mt Crested Butte Chamber of Commerce.

**Proposed Motion:** Motion and a second to approve Ordinance No. 14, Series 2020 at the May 18th Council meeting.

ORDINANCE NO 14

SERIES 2020

**An Ordinance of the Crested Butte Town Council Approving the Lease of the Chamber of Commerce Visitors Center - A Town Owned Building - Located at 601 Elk Avenue to the Crested Butte / Mt Crested Butte Chamber of Commerce**

**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 politic under and by virtue of the Constitution and laws of the State of Colorado; and

**WHEREAS**, the Crested Butte / Mt. Crested Butte Chamber of Commerce, Inc., a Colorado nonprofit corporation (hereafter "Chamber"), has been duly organized for the purpose of providing tourist information and other related services for the towns of Crested Butte and Mt. Crested Butte; and

**WHEREAS**, the parties wish to enter into a 10 year lease which would allow the Chamber to lease the Visitor Center from the Town for the term and upon the conditions set forth in the lease agreement; and

**WHEREAS**, Colorado Revised Statutes, section 31-15-713(1)(c) requires that such a lease for a period of more than one year be authorized by ordinance; and

**WHEREAS**, the Town anticipated entering into the below-referenced Visitor's Center Lease Agreement as set forth in the recitals of Ordinance No., Series 2020; and

**WHEREAS**, the Town Council hereby finds that it would be in the best interests of the Town's inhabitants and visitors to lease the Visitor's Center to the Chamber for the term and with the conditions set forth in the Visitor's Center Lease Agreement.

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

**Section 1. Adoption of Visitor's Center Lease Agreement.** The Town Council hereby approves, ratifies and adopts the Visitor's Center Lease Agreement between the Town of Crested Butte, and the Crested Butte / Mt. Crested Butte Chamber of Commerce, Inc., a Colorado nonprofit corporation in good standing, which Agreement is attached hereto and incorporated herein by this reference. The Mayor and Town Clerk are hereby authorized and directed to execute said Agreement on behalf of the Town.

**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 hereby amended, the 1987 Crested Butte Municipal Code shall remain valid, and in full force and effect. Any provision of any ordinance previously adopted by the Town of Crested Butte which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

**INTRODUCED, AND FIRST READ BEFORE THE TOWN COUNCIL THIS X DAY OF APRIL, 2020.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING THIS \_\_\_\_ day of May, 2020**

(SEAL)

VISITOR'S CENTER LEASE AGREEMENT

THIS AGREEMENT is made induplicate and entered into this X day of May 2020, at Crested Butte, Colorado, as follows:

1. PARTIES. The parties to this Agreement are:

TOWN OF CRESTED BUTTE, a Colorado home rule municipal corporation, whose address is P.O. Box 39, Crested Butte, CO 81224 (hereafter "Town"),

and

THE CRESTED BUTTE / MT. CRESTED BUTTE CHAMBER OF COMMERCE, INC, a Colorado nonprofit corporation, whose address is P.O. Box 1288, Crested Butte, CO 81224 (hereafter "Chamber").

2. RECITALS.

2.1 The Town will be the owner of a building to be located on the real property located within the Town of Crested Butte, Colorado, being east of Sixth Street and west of Block 53, and north of Elk Avenue and south of Maroon Avenue (hereafter "Building").

2.2 The Town desires to lease the Building and the real property immediately surrounding the Building which is described on the **Exhibit** to be attached hereto and incorporated herein by referenced (hereafter "Property") to the Chamber for a period of ten years for use as a visitor's center.

2.3 The Chamber wishes to lease the Building and Property from the Town upon the terms and conditions set forth in this Agreement.

3. AGREEMENT. For and in consideration of the above Recitals and the mutual promises set forth herein, the sufficiency of which is hereby acknowledged, the parties agree to the following terms and conditions of this Agreement.

4. TERM. The Lease term shall commence on X date 2020 and shall continue for a period of ten years thereafter.

5. LEASE OF BUILDING AND PROPERTY. The Town hereby leases to the Chamber, and Chamber hereby takes and rents from the Town the Building and Property located in the County of Gunnison and State of Colorado, together with the fixtures in the Building on the date of commencement of the Lease term.

6. RENT. In lieu of rent, the Chamber agrees to be responsible for maintaining the public restrooms in the Building, and keep them open to the public during hours when the Chamber is open, or as otherwise reasonably required by the Town.

7. SECURITY DEPOSIT. The Chamber shall not be required to pay a security deposit to the Town.

8. USE OF BUILDING. The Building and Property shall be used by the Chamber as a Visitor's Center and for other customary Chamber of Commerce business, and for no other purpose without the prior written consent of the Town, which consent shall not be unreasonably withheld. The Chamber shall not use the Building in any fashion as would increase the risk of fire, explosion or any physical destruction or damage to the Building. Further, the Chamber shall not use the Building to further any discrimination based upon race, sex, sexual preference, creed, religion or national origin. The Chamber shall comply with all federal, state and municipal laws, ordinances and regulations applicable to the Building and Property and the business conducted therein by the Chamber.

9. UTILITIES. The Chamber shall timely pay, as the same become due and owing, all costs, charges, statements or assessments for all utility services of every nature and description, including those incurred for the public restrooms referenced below, and including, without limitation, gas, electricity, telephone, internet and water and sewer service assessments for 1.0 EQRs.

10. MAINTENANCE AND REPAIRS. The Chamber shall be responsible for and pay for all necessary basic maintenance and repairs to the interior and exterior of the Building, except repairs necessitated by the negligent or intentional acts of the Town or its employees. Town shall be responsible for roof repairs and replacement.

11. TOWN'S RESPONSIBILITIES. The Town shall at all times during the term of this Agreement and any extension hereof be responsible for:

11.1 Keeping the sidewalks within the Property as free of snow and ice accumulations as reasonable by using its sidewalk machine only, and keeping the motor vehicle driving and parking areas reasonably free of snow and ice accumulations.

11.2 Maintaining the landscaping within the Property in a healthy and well-kept condition.

12. CHAMBER'S RESPONSIBILITIES. The Chamber shall at all times during the term of this Agreement and any extension hereof be responsible for:

12.1 Any hand shoveling and chipping necessary to maintain the sidewalks within the Property reasonably free and clear of snow and ice accumulations. Town's responsibility for sidewalk clearing is noted in 11.1.

12.2 Maintaining the exterior and interior of the Building, and the Property in a clean, attractive, and well-kept condition by providing all necessary maintenance and janitorial services to the Building and by removing all refuse from the Building and Property. The Chamber shall not place any trash or other refuse, or other items of any nature outside the Building, except as is necessary for removal from the Property. The Chamber is responsible for painting the inside of the building with the vendor of their choice, as deemed necessary, while Town is responsible for painting the outside of the building.

12.3 Maintaining, and if required by law modifying, the Building and Property so that it conforms with any state or federal requirement for use of the Building for its intended purpose during the term of this Agreement and any extension hereof.

13. PUBLIC RESTROOMS. The Chamber shall maintain, clean and supply the public restrooms on the Property at its sole cost; and keep them open to the public during hours when the Chamber is open, or as otherwise reasonably required by the Town. Said restrooms shall be cleaned on a regular basis.

14. INSURANCE AND INDEMNIFICATION.

14.1 During the term of this Agreement and any extension hereof, the Town shall maintain in effect fire and extended coverage insurance on the Building.

14.2 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. To clarify, sidewalks adjacent to building are not part of the property.

14.3 The Chamber shall carry fire and extended coverage insurance on all items of personal property, fixtures and improvements located within the Building and owned by it, and shall be solely responsible for any damage or destruction of such personal property, fixtures, or improvements.

14.4 The Chamber agrees to hold harmless and to indemnify the Town from all claims and liabilities, expenses and costs, including reasonable

attorneys' fees, arising or alleged to arise from any act or omission of the Chamber, or its employees, contractors, customers or invitees, or arising from any injury or damage to any person or the property of any person in the Building or on the Property during the term of this Agreement and any extension hereof, except those arising from the acts or omissions of the Town, or its employees, contractors, customers or invitees.

14.5 The Town agrees to hold harmless and indemnify the Chamber from all claims and liabilities, expenses and costs, including reasonable attorneys' fees, arising from its negligent actions in the Building and on the Property during the term of this Agreement and any extension hereof, provided that the Town is not immune from such liability directly under any governmental immunity law or laws.

15. ACCESS TO THE BUILDING. The Town shall have access to the Building and Property at any reasonable time for purposes of inspecting the condition thereof, to make repairs as set forth herein, and for emergencies.

16. AMERICANS WITH DISABILITIES ACT. It shall be the sole duty and responsibility of the Chamber, at its sole cost, to take such actions and make such modifications as may be necessary to bring the Building and Property in full compliance and conformity with the mandatory requirements of the Americans With Disabilities Act within a reasonable time of learning of such responsibility during the term of this Agreement and any extension hereof.

17. ADDITIONS AND ALTERATIONS TO THE BUILDING.

17.1 The Chamber shall not make any changes, additions, alterations or improvements to the Building or Property without the prior written consent of the Town.

17.2 All expenses, fees and costs pertaining to any such changes, additions, alterations or improvements shall be timely paid by the Chamber, including all permits, licenses, and water and sewer system development fees required in connection therewith. The Chamber shall not permit any mechanic's lien or materialman's lien, or any other liens to be filed against the Building or the Property for any labor or material furnished to them.

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17.3 Any alteration or addition to the Building, including wall-to-wall carpeting, panelling or other wall covering, and any other article attached or affixed to the floor, wall or ceiling of the Building shall become the property of the Town and shall remain upon and be surrendered with the Building as a part of it at the termination of this Agreement or any extension hereof. The Chamber hereby waives all rights to any payment or, compensation therefor. Provided, however, that the Town may request the Chamber, prior to the termination of this Agreement or any extension hereof, to remove any and all such additions, alterations or fixtures placed or installed by it in the Building and the Chamber shall repair any damage caused by such removal.

18. REMOVAL OF FIXTURES. Prior to the commencement of the Lease term, the parties shall jointly prepare a list of the fixtures contained within the Building which shall be and remain a part of the Building. The Chamber may remove any of its fixtures which are not a part of the Building at the termination of this Agreement or any extension hereof provided that it properly repairs all damage caused by such removal.

19. HOURS OF OPERATION. The Chamber shall provide adequate personnel to operate the Visitor Center seven (7) days per week 365 days a year, with the exceptions of Tuesdays-Thursdays in the off-seasons at the discretion of the Chamber (see Visitor Center Policy). Operating hours will be 9-5 pm with reasonable flexibility to manage the hours of operation to best accommodate the tourists. Council will be notified of any changes in the scheduled hours.

20. SIGNS. The Chamber shall be permitted to place a sign or signs upon the Building or Property provided that they are first approved by the Town, which approval shall not be unreasonably withheld, and appropriately permitted as otherwise required by the Town's ordinances. Any such signs shall be properly maintained in an attractive condition.

21. DEFAULT BY CHAMBER. Any of the following events shall constitute a default of this Agreement by the Chamber:

21.1 The failure of the Chamber to perform or observe any covenant, agreement or obligation contained herein if such failure continues for 30 days following written notice to it by the Town, provided that if the nature of the Chamber's failure is such that more than 30 days is reasonably required to cure the default, then the Chamber shall not be deemed to be in default if it commences such cure within the 30 day period and thereafter diligently pursues such cure to completion.

21.2 An assignment of this Agreement or the leasehold created hereby for the benefit of creditors of, or by the Chamber.

21.3 The filing of any case, petition or answer by or against the Chamber under the provisions of the Federal Bankruptcy Act or successor legislation.

21.4 Any petition or other proceedings by or against the Chamber for the appointment of a trustee, receiver or liquidator of the Chamber or of any of the Chamber's property.

21.5 Any attachment or execution levied upon the Chamber's property or its interest under this Agreement.

22. TOWN'S REMEDY UPON THE CHAMBER'S DEFAULT. If any of the above defaults occurs, the Town shall have the right to terminate this Agreement.

23. DEFAULT BY THE TOWN. If the Town shall default in the performance of any covenant, agreement or obligation to be performed by it pursuant to this Agreement, and such default continues for 30 days after written notice thereof by the Chamber to the Town, then the Chamber shall have the right to cure such default with the reasonable costs and expenses thereof to be paid by the Town within 15 days after receiving a statement therefor. Provided, however, that if such default cannot reasonably be cured within such 30 day period, then the Town shall not be deemed to be in default if it shall commence such cure within the 30 day period and thereafter diligently pursue such cure to completion. Should no cure for a Town default of performance be agreed up, Chamber has the right to terminate this Agreement after the 30 day written notice period.

24. SURRENDER OF THE BUILDING AND PROPERTY. The Chamber agrees that on the last date of this Agreement or any extension hereof, or upon termination of this Agreement, it will quietly and peacefully leave and surrender the Building and Property to the Town in as good condition as at the commencement of this Agreement, ordinary wear and tear excepted.

25. AUTOMATIC TERMINATION. It is agreed that if a building permit for construction of the Building is not issued and construction of the Building is not commenced on or before July 1, 1996, this Agreement shall terminate and be of no force or effect.

26. TAXES PAYABLE BY CHAMBER. The Chamber shall promptly pay all taxes and assessments levied upon the personal property and fixtures of the Chamber located within the Building and on the Property.

27. DESTRUCTION OF BUILDING. In the event that the Building or any part thereof is damaged as a result of fire, destruction, or other casualty or peril, the Town or Chamber shall have the right to continue this Agreement and to repair and replace the

Building in as good a condition as it was prior to such damage. Such election shall be made by giving written notice to the other party within 90 days from the date of such damage. If the parties agree to terminate the Agreement, the Chamber shall immediately surrender the Building to the Town. If an election is made to repair the Building, the same shall be done as expeditiously as reasonably possible.

28. ASSIGNMENT AND SUBLETTING. The Chamber shall not assign this Agreement, in whole or in part, nor sublet all or part of the Building or Property without the prior written consent of the Town, which consent shall be granted or withheld at the Town's sole discretion.

29. EXECUTION AND RATIFICATION. This Agreement shall be ratified by resolution of the Board of Directors of the Chamber and subscribed and sealed by the President and Secretary of the Chamber. It shall be adopted by Ordinance of the Town.

30. ARBITRATION. The parties agree that prior to filing an action to enforce, interpret or construe the provisions of this Agreement, the parties shall enter into good faith arbitration with an arbitrator agreed to between the parties, or appointed by the Gunnison County District Court Judge, as a condition precedent to filing any such litigation.

31. ATTORNEYS' FEES. If any action is brought in a court of law by either party to this Agreement as to the arbitration, enforcement, interpretation or construction of this Agreement or any document provided for herein, the substantially prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

32. WAIVER. No assent, express or implied, by either party to any breach hereof by the other shall be deemed to be a waiver of any subsequent or other breach.

33. APPLICABLE LAW AND VENUE. This Agreement is entered into in Gunnison County, Colorado and it is agreed that it shall be construed pursuant to Colorado law, and that the proper jurisdiction and venue of any action pertaining hereto shall be in the District Court of Gunnison County, Colorado.

34. NOTICES. All notices required hereunder shall be in writing and shall be delivered in hand, or sent by certified mail to the parties at their respective addresses set forth above. Either party may change its address by giving written notice of the change to the other party.

35. BINDING AGREEMENT. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

36. CAPTIONS. The captions are inserted only as a matter of convenience for

reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision thereof.

37. SEVERABILITY. If any provision, covenant, clause or agreement contained in this Agreement or the application thereof shall be found to be invalid, such invalidity shall not affect the validity of the remaining provisions, covenants, clauses, agreements or the validity of this Agreement as a whole.

38. OPTION TO RENEW LEASE AGREEMENT. The Chamber shall have the option to renew this Agreement for an additional term of 10 years subject to the following conditions:

38.1 The Chamber shall give the Town written notice of its intention to renew this Agreement not less than 120 days prior to the end of the initial term hereof.

38.2 On or after the date written notice of intent to renew the Agreement is provided to the Town, the Chamber is not in default of the Agreement.

38.3 If reasonably necessary in the public interest, the parties shall reasonably renegotiate any of the conditions and covenants hereof for the extended term.

**IN WITNESS** WHEREOF, the parties have executed this Agreement in duplicate to be effective as of the date first written above.

**TOWN:**

TOWN OF CRESTED BUTTE, a Colorado  
home rule municipality

**CHAMBER:**

THE CRESTED BUTTE/MT. CRESTED  
BUTTE CHAMBER OF COMMERCE, INC.,  
a Colorado nonprofit corporation



**To:** Mayor Schmidt and Town Council

**From:** Michael Yerman, Community Development Director

**Thru:** Dara MacDonald, Town Manager

**Subject:** **Bywater Release of Option Block 79 4, 10, 11 and Block 78 Lot 6**

**Date:** May 18, 2020

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**Background:**

At this time, closings on Phase 2 are set to close the first two weeks of June. These closings will put 10 locals and renters in new homes. To allow these properties to close, the Town will need to lift its option to purchase the units back in the case of a default in Phase 2 by Bywater. The new homes for locals will still have the Master Deed Restriction to protect the properties in perpetuity.

**Recommendation:**

A Council person make a motion followed by a second to approve Ordinance 15, Series 2020.

**ORDINANCE NO. 15**

**SERIES 2020**

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING THE PARTIAL RELEASE OF THE TOWN'S OPTION TO REPURCHASE TOWNHOUSE UNITS CONSTRUCTED ON BLOCK 78, LOT 6, AND BLOCK 79, LOTS 4, 10 AND 11, IN THE PARADISE PARK SUBDIVISION, TOWN OF CRESTED BUTTE, GUNNISON COUNTY, STATE OF COLORADO**

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

**WHEREAS**, the Town Council is authorized pursuant to § 14.4 of the Town Charter to sell and convey Town-owned property; and,

**WHEREAS**, the Town owns an interest in Block 78, Lot 6 and Block 79, Lots 4, 10 and 11, in the Paradise Park Subdivision, Town of Crested Butte, Gunnison County, State of Colorado, under an Option Agreement with Bywater LLC and Community Banks of Colorado, a division of NBH Banks recorded April 4, 2019, at Reception No. 659377 of the records of the Gunnison County Clerk and Recorder (the "Phase 2 Property"); and,

**WHEREAS**, Bywater has substantially completed the construction of the Townhouse Units on the Phase 2 Property pursuant to the Contract to Buy, Sell and Develop Deed Restricted Housing in the Town's Paradise Park subdivision entered into by the Town and Bywater on February 28, 2019, and the Amendment to this Contract dated August \_\_, 2019; and,

**WHEREAS**, the Town no longer needs to exercise its option under the Option Agreement to repurchase any of the Townhouse Units that were constructed on the Phase 2 Property since the Units are ready to be conveyed to the qualified purchasers; and,

**WHEREAS**, the Town Council hereby finds that it is necessary and suitable, and in the best interests of the Town and the health, safety and welfare of the residents and visitors of Crested Butte, that the Town release and relinquish its option granted under Option Agreement with Bywater and Community Banks of Colorado, as set forth herein.

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

**Section 1. Authorization to Release Town-owned Deed Restrictions.** The Town Council, pursuant to the Crested Butte Town Charter and the laws of the State of Colorado, hereby authorizes the Town to release the following described property from Town's option under the Option Agreement recorded April 5, 2019, at Reception No. 659377 of the Gunnison County Clerk and Recorder, to wit:

Block 78, Lot 6  
Block 79, Lots 4, 10 and 11  
Paradise Park Subdivision,  
Town of Crested Butte, Gunnison County, Colorado

according to the plat recorded August 29, 2002, at Reception No. 523289, the Replat of Block 79 recorded on April 27, 2016, at Reception No. 639098, of the records of the Gunnison County Clerk and Recorder (the “Phase 2 Property”).

The Town Council further authorizes and directs the Town Manager and Town Clerk to appropriately execute any additional documents necessary and appropriate to consummate the partial release of the Town’s option under the Option Agreement upon the Phase 2 Property, following approval thereof by the Town Attorney.

**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 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 conflicts with this ordinance is hereby repealed as of the enforcement date hereof.

**INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS \_\_ DAY OF \_\_\_\_\_, 2020.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS \_\_ DAY OF \_\_\_\_\_, 2020.**

**TOWN OF CRESTED BUTTE, COLORADO**

By: \_\_\_\_\_  
**James A. Schmidt, Mayor**

**ATTEST:**





## Staff Report

May 18th, 2020

**To:** Mayor and Town Council  
**From:** Rob Zillioux, Finance and HR Director  
**Through:** Dara MacDonald, Town Manager  
**Subject:** 1Q20 Financial Update

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**Summary:** For the quarter, Town Sales Tax collections were 20% below 1Q19. March collections are 45% below March 2019. Most other revenue sources are below 2019. RETT was even with 2019, but nothing booked after April 1<sup>st</sup>. STR excise tax is 29% below 2019. The newly implemented cigarette / nicotine tax produced \$30,746.

Expenses are largely under budget, given normal management as well as specified actions implemented to mitigate COVID 19 related revenue shortfalls.

**Discussion:** This COVID 19 crisis is exactly why Town has maintained strong reserves and practiced conservative spending habits. Continued spending caution is advised should conditions worsen or another crisis hit Town.

Town can manage operations and provide regular services to our residents through 2020, even in a scenario where revenue is only 25% of budget. The most likely scenario is where full year sales tax revenue comes in below budget by +/- \$2,000,000. STR Excise tax, recreation / parks revenue and RETT are all likely to be well below budget for the year. All non-essential expenses will be scrutinized so as to protect against potential economic worsening.

# 1Q20 Financial Summary



# Caveats

- Numbers reflect totals for January through March
- Major revenue and expense items only are displayed. Some totals include non-major items.
- Some allocations / accounting entries need to be made to adjust 1Q between departments or funds
- Numbers are GASB, not GAAP
- Full year sales tax forecast expected to be +/- \$2,000,000 lower than Budget

# Primary Revenue Sources – 1Q20

## TOWN SALES TAX

BUSINESS CATEGORY	2020	2019	\$ Diff	% Diff
BARS/REST	\$226,021	\$374,436	-\$148,415	-40%
RETAIL	\$178,837	\$225,063	-\$46,226	-21%
GROCERY	\$132,026	\$122,175	\$9,851	8%
LODGING	\$101,316	\$138,010	-\$36,693	-27%
CONST/HRDWR/AUTO	\$82,872	\$67,021	\$15,851	24%
OTHER / UTILITIES	\$82,342	\$76,904	\$5,438	7%
SERVICE	\$35,140	\$42,901	-\$7,761	-18%
RETAIL:MMJ	\$31,104	\$34,253	-\$3,149	-9%
<b>TOTAL TOWN SALES TAX</b>	<b>\$869,843</b>	<b>\$1,081,028</b>	<b>-\$211,185</b>	<b>-20%</b>
<b>County Sales Tax</b>	<b>\$79,831</b>	<b>\$114,428</b>	<b>-\$34,597</b>	<b>-30%</b>
<b>STR Excise Tax</b>	<b>\$63,852</b>	<b>\$90,046</b>	<b>-\$26,194</b>	<b>-29%</b>
<b>RETT</b>	<b>\$372,774</b>	<b>\$374,070</b>	<b>-\$1,296</b>	<b>0%</b>
<b>Property Tax</b>	<b>\$403,687</b>	<b>\$363,434</b>	<b>\$40,253</b>	<b>11%</b>
<b>Total Major Sources</b>	<b>\$1,789,987</b>	<b>\$2,023,006</b>	<b>-\$233,019</b>	<b>-12%</b>

### Notes:

- March town sales tax was down 45% versus 2019, (as of May 14)
- Cigarette / nicotine tax collected through March 31 was \$30,746

- No RETT booked since April 1<sup>st</sup>

- Property tax should be on Plan for the full year

# General Fund Expense Summary

<b><u>General</u></b>	<b><u>YTD</u></b>	<b><u>Budget</u></b>	<b><u>Variance</u></b>
Marshals	\$318,918	\$337,145	-\$18,227
General Government	\$155,085	\$100,071	\$55,014
Finance/HR	\$99,757	\$98,869	\$888
Building	\$97,839	\$75,877	\$21,962
Planning/GIS	\$93,943	\$96,878	-\$2,935
Recreation	\$54,837	\$64,663	-\$9,825
Facilities Maintenance	\$52,570	\$62,190	-\$9,620
Legal	\$46,968	\$47,025	-\$57
Dyer Shop	\$46,913	\$66,359	-\$19,447
Clerk	\$44,163	\$49,484	-\$5,321
Administration	\$39,599	\$50,083	-\$10,484
Public Works	\$32,533	\$71,121	-\$38,588
Council	\$23,757	\$18,587	\$5,170
<b>TOTAL EXPENSES</b>	<b>\$1,184,150</b>	<b>\$1,140,193</b>	<b>\$43,957</b>

Notes:

- Benefits and insurance allocations need to be made between General Gov't and other departments / funds
- Creative District expenses \$12,000 over budget as of March 31. However, this is timing and we will stay within annual budget.
- Council overage driven by travel and education.

# Sewer & Water Fund Summary

	<u>1Q20</u>	<u>Budget</u>	<u>Variance</u>
<b>REVENUE</b>			
SEWER CHARGES	\$193,967	\$189,137	\$4,831
WATER CHARGES	\$153,995	\$160,399	-\$6,404
SANITATION CHARGES	\$76,190	\$67,837	\$8,354
SEWER TAP FEE	\$42,159	\$37,500	\$4,659
WATER TAP FEE	\$34,494	\$37,500	-\$3,006
INTEREST INCOME	\$29,980	\$25,000	\$4,980
<b>TOTAL REVENUE</b>	<b>\$568,844</b>	<b>\$542,685</b>	<b>\$26,159</b>
<b>TOTAL EXPENSES</b>	<b>\$661,326</b>	<b>\$459,886</b>	<b>-\$201,439</b>
Surplus / (Deficit)	-\$92,481	\$82,798	

## Notes:

- Revenue excludes budget and actual for Water Treatment Plan loan. Proceeds will be received in May.
- Expense overage driven largely by Water Treatment Plan project timing. Project on budget overall.

# Capital Fund Summary

	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	Notes:
<b>REVENUE</b>				
TRANSFER TAX-GEN CAP	\$186,387	\$137,500	\$48,887	
TRANSFER TAX-OPEN SPACE	\$186,387	\$137,499	\$48,888	
SALES TAX - PARKS	\$68,974	\$110,534	-\$41,560	
USE TAX-BLDG MATERIAL	\$28,249	\$25,000	\$3,249	
<b>TOTAL REVENUE</b>	<b>\$484,190</b>	<b>\$434,533</b>	<b>\$49,657</b>	
<b>TOTAL EXPENSES</b>	<b>\$1,184,061</b>	<b>\$208,676</b>	<b>-\$975,385</b>	<ul style="list-style-type: none"> <li>Expense overage driven by \$1mm Long Lake open space project, which was budgeted for 2019.</li> </ul>
Surplus / (Deficit)	-\$699,871	\$225,857		

# Street & Alley Fund Summary

	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>
<b>REVENUE</b>			
PROPERTY TAX-Street	\$313,335	\$295,175	\$18,161
HIGHWAY USERS TAX	\$8,081	\$0	\$8,081
<b>TOTAL REVENUE</b>	<u>\$321,826</u>	<u>\$309,693</u>	<u>\$12,133</u>
<b>EXPENSES</b>			
LABOR-SNOW REMOVAL	\$71,052	\$52,000	-\$19,052
ENGINEERING	\$17,843	\$5,002	-\$12,841
R&M VEHICLES	\$15,094	\$5,000	-\$10,094
FUEL	\$14,303	\$6,250	-\$8,053
TREASURER FEES	\$9,022	\$8,425	-\$597
LABOR-STREET MAINT	\$7,775	\$26,000	\$18,225
SNOW REMOVAL-SUPPLIES	\$3,160	\$20,000	\$16,840
CAPITAL EQUIPMENT	\$0	\$235,000	\$235,000
<b>TOTAL EXPENSES</b>	<u><b>\$154,887</b></u>	<u><b>\$391,325</b></u>	<u><b>\$236,438</b></u>
Surplus / (Deficit)	\$166,939	-\$81,632	

Notes:

- Capital equipment place on hold, as part of the COVID 19 expense management plan.

# Affordable Housing Fund Summary

	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>
<b>REVENUE</b>			
Excise Tax	\$63,852	\$65,000	-\$1,148
DUPLEX/RANCH HSE RENT	\$3,465	\$9,500	-\$6,035
RED LADY RENT/SALES	\$3,200	\$1,639	\$1,561
HOUSING PMT IN LIEU	\$0	\$10,000	-\$10,000
<b>TOTAL REVENUE</b>	<b>\$70,517</b>	<b>\$86,139</b>	<b>-\$15,622</b>
<b>EXPENSES</b>			
PARADISE PARK DUPLEX BUILD	\$176,996	\$186,000	-\$9,004
Block 76 PROJECT BUILD	\$92,226	\$0	\$92,226
HOUSING AUTHORITY	\$14,688	\$14,500	\$188
HOUSING MAINTENANCE	\$1,754	\$3,000	-\$1,246
UTILITIES	\$457	\$500	-\$43
<b>TOTAL EXPENSES</b>	<b>\$286,429</b>	<b>\$206,000</b>	<b>\$80,429</b>
Surplus / (Deficit)	-\$215,912	-\$119,861	

## Notes:

- March excise tax at \$27k, as compared to \$56k in 2019.
- Expense overage driven by timing on Phases I & II.

# Debt Schedule

	Year	Term	Interest Rate	Principal	Current Balance	2019 Payments	Maturity Date
Water Tank	2012	20 years	2%	\$400,000	\$272,960	\$24,788	2032
Wastewater Treatment Plant	2017	20 years	2%	\$2,500,000	\$2,332,247	\$154,926	2037
Wastewater Treatment Plant clarifier	2011	20 years	2%	\$1,900,000	\$1,204,580	\$90,766	2030
Sub-Total as of May 2019				\$4,800,000	\$3,809,787	\$270,480	
<i>Approved 2020 WTP Loan</i>	2020	20 years	2.5%	\$2,025,000	\$2,025,000	\$129,899	2040
<b>Total</b>				<b>\$6,825,000</b>	<b>\$5,834,787</b>	<b>\$400,379</b>	

## Notes:

- Mt Emmons \$2.11m – ballot measure approved debt
- 2020 Water Treatment Plan project \$2,025,000. Loan approved by CWR&PDA and Town will receive funds during May 2020.
- Water and Sewer Rates raised for 2020 so as to cash flow increased debt.

# Appendix

# Small Business Grant Program – COVID 19 relief

## Award recipients – Phase 1

<b>Business Name</b>	<b>\$ Amount</b>	<b>Business Name</b>	<b>\$ Amount</b>
A Daily Dose	\$2,500	Mountain Nugget Bodywork	\$600
Alpenglow Rentals	\$2,500	On Point Accupuncture	\$2,500
Alpine Getaways	\$2,500	Pet au Pairs	\$2,500
Bella Voi Salon	\$1,380	Purple Mountain B&B	\$2,500
Bliss Community Chiropractic	\$2,500	Rijks Family Gallery	\$2,500
Bonez	\$2,500	Rumors Coffee	\$2,500
Calico Queen Tattoo	\$2,500	Sea Level Spa	\$2,500
CB Angler	\$2,500	Sherpa Café	\$2,500
CB Fine Art Gallery	\$2,500	Slogar LLC	\$2,500
CB Strength & Conditioning	\$2,500	Sopris Women's Clinic	\$2,500
CB Tobacconist & Lifted Gifts	\$2,500	Studio West Inc	\$2,500
Chopwood	\$2,500	Sunflower	\$2,500
Cloud Cottage	\$2,500	Tacos Local	\$2,500
Colorado Real Soap	\$2,500	T-Bar	\$2,500
Creekside Spa	\$2,500	The Bubble Wrap	\$2,500
Elk Ave Prime	\$2,500	The Mountain Store	\$2,500
Integrative Dentistry	\$2,500	Thrive Yoga	\$2,500
Last Steep	\$2,500	Zacharia Zypp & Co	\$2,500
Lavish	\$2,500		
Little Sparrow, LLC	\$2,500		
Mikey's Pizza	\$2,500		
Milky Way	\$2,500		
Misty Mountain Too	\$2,500		

# Small Business Grant Program – COVID 19 relief

## Award recipients – Phase 2

<b>Business Name</b>	<b>\$ Amount</b>
CB Wellness	\$2,215
Casa Bella	\$2,500
CB Pediatrics	\$2,500
Hideaway Home	\$2,500
McGills	\$2,500
Mountain Tops	\$2,500
Oh Be Joyful Gallery	\$2,500
Retail Therapy	\$2,500
Rooted Apothecary	\$2,500
Secret Stash	\$2,500



## Staff Report

May 18, 2020

**To:** Mayor Schmidt and Town Council  
**From:** Mel Yemma, Planner I  
**Thru:** Troy Russ, Community Development Director  
**Subject:** **Update Regarding Discussion of Potential Summer Expansion of Business Footprints Along Elk Avenue**  
**Date:** May 18, 2020

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**Summary:** The Town Council has been discussing the potential of limiting vehicle traffic on Elk Avenue in the summer of 2020. The goal of the changes would be to allow businesses along Elk Avenue to access public right of way space adjacent to their businesses to expand their offerings during ongoing social distancing requirements. Encouraging gatherings of people or creating the atmosphere of a special event or festival is not the goal of these potential changes. The intentions of the changes are to help business operations adhere to social distancing requirements in the public health orders, encourage local commerce, and overall help the community and visitors feel more comfortable and safe with more space to spread out. Lastly, these potential Elk Avenue traffic limitations changes would be temporary and removed concurrent with Gunnison County moving to Phase 3 of the re-opening plan.

**Update:** On May 4<sup>th</sup>, the Town Council approved developing a process for businesses to begin utilizing the paver space in front of their business to expand their operations. The [revocable furnishing zone use permit application is available on the Town's website](#) and was shared via Munirevs, the CB/Mt. CB Chamber of Commerce, and ICElab subgroups. To date, four businesses, two retailers and two restaurants, have applied and three been approved as of May 14<sup>th</sup>.

Additionally, On May 4<sup>th</sup>, the Town Council gave Town staff direction to proceed with planning for the potential of a one-way street from 5<sup>th</sup> Street to 1<sup>st</sup> Street and to have this option ready to go for potential implementation this summer. The Council did not officially approve this change, but asked to continue planning via ordering signage, developing a plan regarding flower barrels maintenance, and to better engage business owners to create a hybrid design that could allow more space for those businesses that want it while retaining public parking for businesses that would prefer the latter.

On Wednesday, May 20<sup>th</sup>, Town Staff will be hosting an Elk Avenue businesses outreach day to discuss the potential one-way street and seek feedback from businesses on the concept and design. Elk Avenue will be closed for the day and the Town will draw the potential one-way lane down the street for businesses to visualize the potential reconfiguration. Town Staff will then meet with businesses owners block by block, with large print outs of maps of their block to talk through and discuss their feedback. Multiple Town staff will be present to split into groups smaller than 10. Please refer to the attached flyer that includes more details about the outreach meetings. This information has been shared via the Town's website, Munirevs, e-alerts, social media, the Chamber of Commerce, individual emails to Elk Avenue business owners, door to

door flyers, and lastly, in the Crested Butte News and on KBUT. Those who can't attend in person are welcome to (and have been directed to) submit their feedback directly to Town Staff.

After May 20<sup>th</sup>, Town Staff will then work through the feedback to develop a proposed design for the potential one-way reconfiguration to be presented to the Town Council on June 1<sup>st</sup>. Should the Council decide to proceed and approve the design, it will take Town Staff roughly two weeks to implement the reconfiguration.

## **June 1, 2020**

### **Work Session**

Update on Zinc Situation at WWTP  
Climate Action – JCI Recommendations on Moving Forward  
Recovery Plan Update

### **Consent Agenda**

Resolution – Adopting Updated Zoning Map  
ARTumn Special Event Application

### **Old Business**

Updated Financial Forecast and Discussion  
Elk Ave

### **New Business**

Alcoholic Beverages on Elk Avenue  
Ordinance – Verizon Tower Lease  
Ordinance – CBFPD Station 1 Lease  
Ordinance – PUD

## **June 15, 2020**

### **Consent Agenda**

BOZAR Appointments

### **Old Business**

Updated Financial Forecast and Discussion

## **July 6, 2020**

### **Old Business**

Updated Financial Forecast and Discussion

### **New Business**

Ordinance – BOZAR Guidelines Adoption

### **Future Items**

- Work Session – Climate Action Plan Update – Town Facilities Energy Audit Findings, Other Actions from the Plan, Recommendations for Next Steps
- SOAR Affordable Housing Project
- Formation of Committee(s) to Review Options for Affordable Housing and Climate Action
- Quarterly Financial Reports

- Ordinance - CO Model Traffic Code 2020
- Briefing of the Legal Implications of Vested Rights
- Appointment of Municipal Judge - July 2020
- Cemetery Committee Presentation
- Big Mine Hockey Changing Rooms Bid Award
- Utility Extension Policy



STATE OF MIND

DEAR TOWN COUNCIL OF CRESTED BUTTE,

I WANT TO EXTEND MY SINCERE GRATITUDE FOR YOUR CONTRIBUTION TO CB STATE OF MIND'S THERAPY SCHOLARSHIP PROGRAM. YOUR GENEROUS GIFT WILL HAVE A MAJOR IMPACT ON THE LIVES OF 10 COMMUNITY MEMBERS, CONNECTING THEM TO MENTAL HEALTH SUPPORT

I WANT TO THANK YOU FOR HELPING US MAKE A POSITIVE DIFFERENCE. YOUR SUPPORT ENCOURAGES OUR COMMITMENT TO REACHING OUR GOAL.

THANK-YOU,

[www.cbstateofmind.org](http://www.cbstateofmind.org)

CBSOM  
BOARD OF DIRECTORS



May 1, 2020

Town of Crested Butte  
PO Box 39  
Crested Butte, CO 81224

Mayor Jim Schmidt, Town Council and Staff,

Thank you for your most generous Small Business COVID-19 Relief program to assist Town of Crested Butte businesses during these trying times. Our businesses have been hit hard while we try to keep our community safe and healthy. They have been real team players in this fight against COVID-19 and have suffered greatly.

We recognize it is a difficult balance to keep our community healthy and safe while holding on to our tourist economy. Knowing that we can count on the Town of Crested Butte to be a partner with us is uplifting to our business community. Right now, today, every little bit helps to keep us all here for tomorrow.

Thank you again for your assistance and efforts.

The Gunnison Country Chamber of Commerce Board of Directors  
Paula Swenson, President, Internet Colorado  
AJ Mani, Vice President, Econo Lodge/Gunnison Real Estate & Rentals  
Jim Harris, Treasurer, Western Colorado University School of Business  
Jennifer Kermode, Secretary, Gunnison Valley Housing Authority  
Ken Henry, Community Banks of Colorado  
Wendy Boardman, Ace Hardware  
Dani Crist, Rocky Mountain Rose  
Erica Rasmussen, Holiday Inn Express  
Josh Young, TAVA Realty

**Agenda  
Design Review Committee  
Monday  
May 11, 2020**

- 3:00 Consideration of the application of **Valley Housing Fund in conjunction with Paul C. Redden Estate** to site a mobile home park with five, one bedroom mobile homes to be located at Avenue, Block 5, Lots 9-11 in the M zone. (Gillie)  
**- Architectural approval is required.**  
**- Permission to demolish three non-historic structures (exempt from Ordinance #34, Series 2019) is requested.**
- 4:00 **Virtual site visit** and consideration of the application of **Edwin R. Schmidt and Mary K. Schmidt** to construct an addition to the existing historic residence located at 320 Whiterock Avenue, Block 39, Lots 6-7 and the East 19 feet of Lot 8 and the North 25 feet of Lots 25-27 in the R2C and C zone. (Schmidt)  
**- Architectural approval is required.**  
**- Permission to demolish a portion of a non-historic structure is requested.**
- 5:05 Consideration of the application of **Jordan Williford and Willa Willaford** to demolish the existing deck on the South and construct an addition to the rear of the existing single family residence located at 808 Belleview Avenue, Block 65, Lots 13-14 in the R1 zone. (Williford)  
**- Architectural approval is required.**
- 5:35 Consideration of the application of **John Collins and Lisabeth Collins** to make additions to the existing single family residence and construct a new accessory building to be located at 19 Teocalli Avenue, Block 6, Lots 25-26 in the R1 zone. (Cowherd/Mattes-Ritz)  
**- Architectural approval is required.**  
**- A conditional use permit for a non-residential, heated and/or plumbed accessory building in the R1 zone is required.**
- 6:20 Consideration of the application of **Vaquera House LLC** to make changes to the previously approved plan to the existing building associated with an existing PUD located at 510 Whiterock Avenue, Block 37, Lots 10-14 in the T zone. (Weber/Cook)  
**- Architectural approval is required.**

Join the Meeting

<https://us02web.zoom.us/j/83278248543?pwd=T2tuQjNObzF2NTFaZnpCcjBtVEowUT09>

Meeting ID: 832 7824 8543

Password: 358087

One tap mobile

+12532158782,,83278248543#,,1#,358087# US (Tacoma)

+13462487799,,83278248543#,,1#,358087# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

Meeting ID: 832 7824 8543

Password: 358087

Find your local number: <https://us02web.zoom.us/j/83278248543>

***The above times are only tentative. The meeting may move more quickly or slowly than scheduled***



# AGENDA

## Regular Town Council Meeting

6:00 PM - Tuesday, May 19, 2020

Council Chambers

- 
1. To attend this meeting please connect either by your computer or phone.  
Please join my meeting from your computer, tablet or smartphone.  
<https://www.gotomeet.me/TownofMtCrestedButte>  
  
You can also dial in using your phone.  
United States: [+1 \(224\) 501-3412](tel:+12245013412)  
  
Access Code: 413-330-189  
  
New to GoToMeeting? Get the app now and be ready when your first meeting starts:  
<https://global.gotomeeting.com/install/413330189>
  2. **5:00 PM - WORK SESSION**  
Community Housing Guidelines
  3. **CALL TO ORDER**
  4. **ROLL CALL**
  5. **PUBLIC COMMENT**  
Citizens may make comments on items NOT scheduled on the agenda. Per Colorado Open Meetings Law, no Council discussion or action will take place until a later date, if necessary. You must sign in with the Town Clerk before speaking. Comments are limited to three minutes.
  6. **APPROVAL OF MINUTES**
    - 6.1. Approval of the May 5, 2020 Regular Town Council Meeting Minutes
  7. **REPORTS**
    - 7.1. **Town Manager's Report**
    - 7.2. **Department Head Reports**
      - 7.2.1. Community Development Report
      - 7.2.2. Finance
      - 7.2.3. Police Department
      - 7.2.4. Public Works
    - 7.3. **Town Council Reports**
    - 7.4. **Other Reports**
      - 7.4.1. Adaptive Sports Center - Winter 2019/2020 - Admissions Tax Report - Justin Clapp

**8. CORRESPONDENCE**

**9. OLD BUSINESS**

**10. NEW BUSINESS**

- 10.1. Discussion and Possible Consideration of Appointing One Representative and One Alternate Representative to the Gunnison/Hinsdale Combined Emergency Telephone Service Authority - Joe Fitzpatrick

**11. OTHER BUSINESS**

**12. ADJOURNMENT**

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 970-349-6632 at least 48 hours in advance of the meeting.

**GUNNISON COUNCIL AGENDA**  
**MEETING IS HELD AT CITY HALL, 201 WEST VIRGINIA AVENUE**  
**GUNNISON, COLORADO; IN THE 2<sup>ND</sup> FLOOR**  
**COUNCIL CHAMBERS**  
**REMOTE ACCESS MEETING**  
Approximate meeting time: 4.5 hours

**TUESDAY**

**MAY 12, 2020**

**REGULAR SESSION**

**5:30 P.M.**

*Due to the international outbreak of novel coronavirus (COVID-19), the City of Gunnison is holding Gunnison City Council online. The public may attend Public Hearings and Regular and Special Sessions remotely. The City is holding remote meeting to follow social distancing and event guidelines. Click [Gunnison City Council Regular Session](#) to register and access the meeting.*

**I Presiding Officer Call Regular Session to Order: (silent roll call by City Clerk):**

**II Public Hearing**

*Please see the e-packet for the public hearing format. The City of Gunnison is asking concerned citizens to submit their comments in writing for the scheduled Public Hearing by 4:00 pm on Tuesday, May 12, 2020 or to attend the public hearing virtually. Written comments will be read into the record during the hearing.*

**A. Public Hearing for Gunnison Rising PUD Development Standards**

Background: The purpose of this public hearing is to receive input on the merits of a Major Change to PUD application, ZA 20-1, to revise zoning designations and amend the Gunnison Rising PUD Development Standards. This continued hearing is to discuss the Commercial Districts Design Standards and Infrastructure.

Due to the large size of the Gunnison Rising PUD file, it is available online:

[Gunnison Rising Application Materials](#)

Staff Contact: Community Development Director Anton Sinkewich

Estimated Time: 90 minutes

**III Citizen Input: (estimated time 3 minutes)**

*At this agenda time, non-agenda scheduled citizens may present issues of City concern to Council on topics on are not to be considered later in the meeting. Per Colorado Open Meetings Law, no Council discussion or action will take place until a later date; unless an emergency situation is deemed to exist by the City Attorney. Each speaker has a time limit of 3 minutes to facilitate efficiency in the conduct of the meeting and to allow an equal opportunity for everyone wishing to speak.*

**IV. Action Items:**

**A. Approval of the April 28, 2020 Regular Session meeting minutes**

Background: Per City Charter, the City Clerk produces minutes of the Council actions for all regular and special session meetings. Minutes are approved or amended at the following regular session meetings and become permanent city record. If a city councilor was not present at the meeting, they must abstain in the vote and action on approval of the minutes.

Staff contact: City Clerk Erica Boucher

**Action Required of Council:** A motion, second and vote to approve the April 28, 2020 Regular Session meeting minutes.

Estimated time: 2 minutes

**B. Contract for Taylor Canyon Campground Host**

Background: At the April 28, 2020, Regular Session meeting, City Council directed the City Attorney and staff to look into the concerns that were raised about the carrying capacity, public access, and other issues related to Campfire Ranch's proposal for Camp Host at Taylor Mountain Park, and also to revise the contract with Campfire Ranch to operate the Taylor Canyon campground.

Staff Contact: Interim Parks and Recreation Director Dan Vollandorf

**Action Required of Council:** A motion to authorize the City Manager to execute any and all documents with Campfire Ranch, including the contract.

Estimated Time: 30 minutes

**C. Ordinance No. 4, Series 2020; Second Reading:** *An Ordinance of the City Council of the City of Gunnison, Colorado, for the regulation of traffic by the City of Gunnison, Colorado; adopting by reference the 2020 edition of the "Model Traffic Code for Colorado"; repealing all ordinances in conflict therewith; and providing penalties for violation thereof*

Background: Council was provided an overview and discussion of the 2020 Model Traffic Code in January. Based on that discussion and follow-up with Public Works and Community Development an ordinance adopting the 2020 Model Traffic as amended is attached.

Staff contact: Police Chief Keith Robinson

**Action Requested of Council:** Introduce, read by title only by the City Attorney, motion, vote to pass and adopt Ordinance No. 4, Series 2020 on second and final reading.

Estimated time: 15 minutes

**D. Resolution No. 9, Series 2020:** *A Resolution of the City Council of the City of Gunnison, Colorado adopting the City of Gunnison construction standards revised May 1, 2020*

Background: The City of Gunnison adopted Construction Standards to provide the city engineer, design engineers, architects, and contractors a technical reference to the City's requirements for the design and construction of infrastructure projects within the City of Gunnison and to maintain consistency in such projects. Minor changes were previously made to Construction Standards in 2013. Before that, revisions to the Construction Standards were made well over 20 years ago. The City of Gunnison retained JUB Engineers, Inc. in early 2020 to conduct a thorough examination and revision of the current construction standards.

Staff contact: Public Works Director David Gardner

**Action Requested of Council:** Introduce, read by title only by the City Attorney, motion, and vote to adopt Resolution No. 9, Series 2020.

Estimated time: 15 minutes

**E. Resolution No. 10, Series 2020:** *A Resolution of the City Council of the City of Gunnison, Colorado elevating the local status of Bromus Tectorum (commonly known as Cheatgrass) from List C to List B Noxious Weed within the City of Gunnison*

Background: At the April 28, 2020, Regular Session meeting, City Council appointed the Gunnison Weed Advisory Board. This Board has the authority to make changes to the Local Weed Priority List as deemed necessary to support the economic and environmental values of the City of Gunnison.

Staff contact: City Clerk Erica Boucher

**Action Requested of Council:** Introduce, read by title only by the City Attorney, motion, and vote to adopt Resolution No. 10, Series 2020.

Estimated time: 5 minutes

**F. COVID-19 Business Relief Grant Update and Discussion**

Background: Staff will update the City Council on COVID-19 response and recovery actions. Additionally, staff seeks direction on next steps regarding the COVID-19 Business Relief Grant program.

Staff contact: City Manager Russ Forrest

**Action Requested of Council:** To provide staff with direction on actions that Council deems appropriate regarding recovery for the City of Gunnison.

Estimated time: 25 minutes

**V. Reports:**

City Attorney Report

City Clerk Schedule Update

City Manager Strategic Projects Update and Report

City Councilors with City-related meeting reports; discussion items for future Council meetings

**VI. Meeting Adjournment:**

The City Council Meetings agenda is subject to change. The City Manager and City Attorney reports may include administrative items not listed. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are posted at City Hall and on the City website at [www.gunnisonco.gov](http://www.gunnisonco.gov). Discussion Sessions are 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.**

**When: May 12, 2020 05:30 PM Mountain Time (US and Canada)**

**Topic: Gunnison City Council Regular Session**

**Register in advance for this webinar:**

[https://us02web.zoom.us/webinar/register/WN\\_v14PEl6kRPCKtGCshVZPOw](https://us02web.zoom.us/webinar/register/WN_v14PEl6kRPCKtGCshVZPOw)

**After registering, you will receive a confirmation email containing information about joining the webinar.**

GUNNISON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING AGENDA

DATE: Tuesday, May 5, 2020

Page 1 of 2

PLACE: **Board of County Commissioners'** Meeting Room at the Gunnison County Courthouse

- 8:30 am
- Call to Order
  - Agenda Review
  - Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
    1. Alcohol Beverage License Renewals; Hotel & Restaurant (County) License #03-06291; Fermented Malt Beverage On/Off (County) License #05-23848-0002; Three Rivers Smokehouse / Three Rivers Resort
    2. Alcohol Beverage License Renewal; Fermented Malt Beverage Off (County) License #04-01232; Skyhigh Colorado, LLC, dba Taylor Park Trading Post
    3. Alcohol Beverage License Renewal; Liquor Store (County) License #05-32593-0002; Ferro John LLC, dba Ferros Liquors
    4. Grant Application; Gunnison County Juvenile Diversion and Marijuana Cash Fund SFY 2020-2021; \$35,000
    5. Grant Application; Community Foundation of the Gunnison Valley; Gunnison Valley COVID-19 Recovery Fund; \$4,000
    6. Grant Application; Community Foundation of the Gunnison Valley; Gunnison County Substance Abuse Prevention Project; \$3,000
    7. Application for Federal Assistance SF-424; Gunnison-Crested Butte Regional Airport; \$15,408,700
    8. Gunnison County Integrated Community Care Team Amendment #1; United Healthcare Services, Inc., Reunion Health and Rocky Mountain Health Maintenance Organization; Extend Performance Period to 12/31/2020
    9. Contractor Agreement; Denise Steiskal; Professional Title and Administration Training of Assessor Staff; 5/12/2020 thru 9/30/2020; \$12,000
    10. Contractor Agreement; Town of Crested Butte and Coal Creek Watershed Coalition; Mt. Emmons and Coal Creek Project; 1/1/2020 thru 12/31/2020; \$15,600
    11. Employee Health & Welfare Benefit Plan Claims Administration Agreement; Group & Pension Administrators, Inc.; 1/1/2020
    12. Ground Lease Agreement; John Councilman, Inc.; 25315 SH 135, Crested Butte, CO 81224; 5/5/2020 thru 10/31/2020
    13. Gunnison-Crested Butte Regional Airport Terminal Independent Fee Estimate Proposal; Mead & Hunt, Inc.; \$9,500
  - Scheduling
- 8:40
- **County Manager's Report**
    1. Region 10 Revolving Loan Fund
    2. Personal Protective Equipment (PPE) Funding Options
- 8:50
- **Deputy County Manager's Report**
- 9:00
- Lot Cluster Agreement and Declaration; Wendy Tomlinson; Lots 8, 10, 12, 14 and 16 on the East Side of 3rd Ave, LaVeta Placer, Pitkin, CO
- 9:05
- Resolution; Deferring Payment of Airport Rents, Fees and Charges; 4/1/2020 thru 6/30/2020
- 9:10
- Gunnison-Crested Butte Regional Airport Agreements; Terminal Project
    1. Authorization for County Manager to Negotiate and Execute a Contract for the Balance of Architectural Services; \$1,500,000

*NOTE: This agenda is subject to change, including the addition of items up to 24 hours in advance or the deletion of items at any time. All times are approximate. The County Manager and Deputy County Manager's reports may include administrative items not listed. Regular Meetings, Public Hearings, and Special Meetings are recorded and ACTION MAY BE TAKEN ON ANY ITEM. Work Sessions are not recorded and formal action cannot be taken. For further information, contact the County Administration office at 641-0248. If special accommodations are necessary per ADA, contact 641-0248 or TTY 641-3061 prior to the meeting.*

GUNNISON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING AGENDA

DATE: Tuesday, May 5, 2020

Page 2 of 2

PLACE: **Board of County Commissioners'** Meeting Room at the Gunnison County Courthouse

2. Authorization for County Manager to Negotiate and Execute a Pre-Construction Agreement for Pre-Construction Services

9:25           •     Colorado Counties Casualty Property Pool Loss Ratio Report

9:55           •     Commissioner Items: Commissioners will discuss among themselves activities that they have recently participated in that they believe other Commissioners and/or members of the public may be interested in hearing about.

                  •     Unscheduled Citizens: Limit to 5 minutes per item. No formal action can be taken at this meeting.

                  •     Adjourn

Zoom Meeting:

Time: May 5, 2020 08:30 AM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/85730658392?pwd=ZDlQV2swR0pBUmplVE1ZcldpNGZ2QT09>

Meeting ID: 857 3065 8392

Password: 023923

One tap mobile

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+13462487799,,85730658392#,,1#,023923# US (Houston)

GUNNISON COUNTY BOARD OF COMMISSIONERS  
WORK SESSION AGENDA

DATE: Thursday, May 7, 2020

Page 1 of 1

PLACE: **Board of County Commissioners'** Meeting Room at the Gunnison County Courthouse  
(REMOTE)

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS WORK SESSION

- 4:00 pm
- COVID-19 Response
  - Adjourn

Zoom Meeting:

Time: May 7, 2020 04:00 PM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/82135441652?pwd=L2xGMIFzNzgrck1NOXZZY3VmM1BJZz09>

Meeting ID: 821 3544 1652

Password: 625391

One tap mobile

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+13462487799,,82135441652#,,1#,625391# US (Houston)

**MEETING CANCELED**

**GUNNISON COUNTY BOARD OF COMMISSIONERS  
SPECIAL MEETING & WORK SESSION AGENDA**

**DATE:** Tuesday, May 12, 2020

**Page 1 of 1**

**PLACE:** Board of County Commissioners' Meeting Room at the Gunnison County Courthouse  
(REMOTE)

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS SPECIAL MEETING:**

- 8:30 am
- Call to Order
  - BOCC Letter of Support; Variance Request for Executive Order D 2020 044 and CDPHE Order 20-28
  - Adjourn

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS WORK SESSION:**

- 8:35
- Discussion; Cattleman's Days
- 8:55
- Introduction; Crested Butte Chamber of Commerce Executive Director
- 9:10
- COVID-19 Relief Fund
  - Adjourn

**Zoom Meeting:**

**Time: May 12, 2020 08:30 AM Mountain Time (US and Canada)**

**Join Zoom Meeting**

<https://us02web.zoom.us/j/83852128925?pwd=ZzRwS1gwamp1MWxBK2Z2XejU4MVpZdz09>

**Meeting ID: 838 5212 8925**

**Password: 249095**

**One tap mobile**

**+16699006833,,83852128925#,,1#,249095# US (San Jose)**

**+12532158782,,83852128925#,,1#,249095# US (Tacoma)**