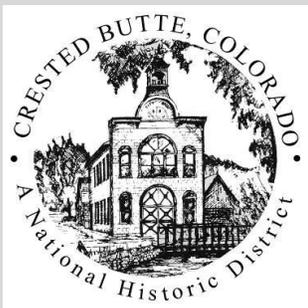


AGENDA
Town of Crested Butte
Regular Town Council Meeting
Tuesday, September 4, 2018
Council Chambers, Crested Butte Town Hall



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

Town Council Values

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

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

4:30 WORK SESSION

Joint Work Session with the Mt. Crested Butte Town Council at Mt. Crested Butte Town Hall, Located at 911 Gothic Rd in Mt. Crested Butte, Colorado to Discuss The Corner at Brush Creek Housing Project.

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

7:02 APPROVAL OF AGENDA

7:04 CONSENT AGENDA

- 1) August 20, 2018 Regular Town Council Meeting Minutes.
- 2) Emma Coburn's Elk Run 5K Special Event Application and Special Event Liquor Permit for September 29, 2018.
- 3) Letter to the GMUG National Forest Regarding Forest Plan Revision Draft Wilderness Evaluation Comments.
- 4) Resolution No. 16, Series 2018 - A Resolution of the Crested Butte Town Council Approving the Award of a Construction Agreement for the Town Park Playground Renovation Project to Black Dragon Development, LLC.
- 5) Resolution No. 17, Series 2018 - A Resolution of the Crested Butte Town Council Approving the Award of a Construction Agreement for the Bricks in the 100 Block of Elk Avenue Project to Beckwith Builders, Inc in the Amount of \$25,553.15.

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

7:06 PUBLIC COMMENT

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

7:12 STAFF UPDATES

7:20 OLD BUSINESS

- 1) Discussion on The Corner at Brush Creek Housing Project.
- 2) Update on Activities Related to Council Priorities.

7:55 NEW BUSINESS

- 1) Resolution No. 18, Series 2018 - A Resolution of the Crested Butte Town Council Allowing Alcohol Beverages in Non-Breakable Containers in Town Parks.
- 2) Update and Possible Action on Grant Opportunities for Trails, Open Space, and Youth Corps.

8:25 3) Resolution No. 14, Series 2018 - A Resolution of the Crested Butte Town Council Amending the Cypress Foothills, LP Pre-Annexation Agreement Reception No. 638399 and Amendment to Pre-Annexation Agreement Reception No. 643828 to Facilitate Construction and Landscaping of Slate River Trail Fencing.

9:25 LEGAL MATTERS

9:40 COUNCIL REPORTS AND COMMITTEE UPDATES

9:55 OTHER BUSINESS TO COME BEFORE THE COUNCIL

10:05 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND

COUNCIL MEETING SCHEDULE

- Monday, September 17, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, October 1, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, October 15, 2018 - 6:00PM Work Session - 7:00PM Regular Council

10:10 ADJOURNMENT



**Joint Town Council Work Session
Brush Creek Work Session
911 Gothic Road, Mt. Crested Butte
September 4, 2018, 4:30 p.m.**

- I. Introductions
- II. Current status of LUR application for the Corner at Brush Creek
- III. Use of the property
 - a. Discussion of potential uses
 - i. Athletic field(s)
 - ii. Intercept/Park-n-ride
 - iii. Affordable housing
 - iv. Other?
 - b. Density
 - c. Affordability
 - d. Rental versus For-sale units
 - e. Building size
 - f. Parking
 - g. Transit
 - h. Phasing
- IV. Next Steps

*It is not expected that public comment will be taken during this work session

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, August 20, 2018
Council Chambers, Crested Butte Town Hall

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

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

Staff Present: Town Manager Dara MacDonald (for entirety of the meeting)

Town Attorney Barbara Green, Public Works Director Rodney Due, Interim Public Works Director Shea Earley, Community Development Director Michael Yerman, Parks and Recreation Director Janna Hansen, and Town Clerk Lynelle Stanford (for part of the meeting)

APPROVAL OF AGENDA

Stanford stated that item #1 under New Business regarded Resolution No. 15, rather than an ordinance as reflected on the agenda. The resolution was included in the packet. Item #4 under New Business was removed from the agenda.

The regular Town Council meeting minutes from August 7, 2018 were removed from the Consent Agenda, and they became the new #4 under New Business.

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

PROCLAMATION HONORING ANNE MOORE

Schmidt explained the Council wanted to honor citizens for different reasons. He read and presented the proclamation to Anne Moore. She accepted and thanked the Council.

EXECUTIVE SESSION

Schmidt read the reason for the 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) regarding Brush Creek.

Green explained to the Council the reason she advised an Executive Session.

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

The Council went into Executive Session at 7:09PM. The Council returned to open meeting at 8:05PM. Mayor Schmidt made the required announcement upon returning to open meeting.

CONSENT AGENDA

- 1) **August 7, 2018 Regular Town Council Meeting Minutes.**
- 2) **August 13, 2018 Special Town Council Meeting Minutes.**
- 3) **Colorado Jazz Musicians Festival Special Event Application and Special Event Liquor Permit for September 8 and 9, 2018 in Town Park.**
- 4) **Resolution No. 13, Series 2018 - A Resolution of the Crested Butte Town Council Authorizing the Grant of Revocable License to SoprisHouse LLC to Encroach into the Alley to the South of Elk Avenue and to the North of Sopris Avenue in the 300 Block, the Right of Way Adjacent to Lots 22-24, Block 27, Town of Crested Butte.**

Schmidt reminded that item #1 was removed from the Consent Agenda and moved to New Business.

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

PUBLIC COMMENT

Sally Johnson - 119 Gothic Ave

- Thanked the Council for doing what they did.
- She represented citizens that had concerns about the growth of the Town. They wanted to be involved with solutions.
- She offered to be a conduit between the public and the Council.
- Suggested different solutions were needed, such as signs, stop stripes, and speed bumps.
- Encouraged the Council to think outside of the box on traffic issues.
- The public wanted to be involved to help with a solution.

Cinda Blewett - Representing Mountain Tops on Elk Ave

- Was at the meeting regarding the plastic bag ban.
- An extension would help their business financially.
- They already reordered new bags that would be compliant with the ordinance, but they had a significant stock of existing bags.
- Schmidt said they would discuss Blewett's request for an extension to use their existing bags under Other Business.

STAFF UPDATES

- Schmidt referred to the Manager's report in the packet.
- Dujardin questioned whether the budget retreat next week would be open to the public.
- MacDonald travelled to Buena Vista to see a subdivision that consisted of all modular housing called The Farm. The developer would provide a cost estimate for a unit in Crested Butte. Modular housing could potentially be used for building out affordable housing.
- Schmidt asked Due regarding the sidewalk on Belleview. Due updated the Council.
- MacDonald informed the Council that GCEA received the grant for the charging station for the parking lot at 1st and Elk, and they would start quickly on the solar array project.
- Schmidt thanked Due on behalf of the Council and reviewed work completed during his tenure.

PUBLIC HEARING

1) Application by Crested Butte Grocery LLC DBA Clarks's Market for a Fermented Malt Beverage (3.2% Beer) License Located at 500 Belleview Avenue.

Stanford confirmed proper public notice had been given. Schmidt acknowledged a petition that had been submitted by Clark's. He pointed out that Clark's had a 3.2 license at one time. Stanford reviewed the staff report. Staff recommended approval based on a complete application. The Council, as the Liquor License Authority, needed to determine the reasonable requirements of the neighborhood.

Schmidt opened the public hearing. Tom Clark explained the reasoning behind their application. Haver mentioned that his brother worked at a liquor store. No conflict of interest was identified.

Peter Cook - Owner of Acme Liquor located at 510 Belleview Ave

- He opposed the license application.
- He listed his reasons for opposition, including that Clark's sales would cut into the existing liquor stores' sales.
- He reviewed legislation around fermented malt beverages.
- He expounded upon reasons for disapproval of the application.
- Mentioned that sales tax dollars would be leaving the state.
- Read a letter supporting Cook's perspective from Red Mountain Liquors in CB South.
- Had 369 signatures on a petition opposing Clark's 3.2% alcohol license, plus 73 from online, and only 13 signatures were from people from out of Town.

Tracy Hastings - 39 Alpine Court - Owner of Treasury Liquors in Mt. Crested Butte

- Another retail liquor license was not needed in this community, from CB South to Mt. Crested Butte.

- Issuing another liquor license would not increase revenue, and it would give children more access to alcohol.
- There was no benefit to Town to have another liquor license.

Scott Strouse - Owner of The Wine House

- He was drawn to Crested Butte because of the people and the local ownership of businesses.
- The corporate channel was a slippery slope.
- Another license would not create new revenue; the revenue would be spread around.
- It threatened the aesthetic value of Town.

Tom Clark

- They did not consider themselves a chain. Clark's was a mom and pop organization.
- It was for the market to decide. They believed Clark's could be a great asset to the Town.
- They surrendered their previous license because their demand went to zero.

The public hearing was closed.

Green explained the distance requirements, age requirements for sales clerks, and other legislation. She reiterated the Council's charge was to determine the reasonable requirements of the neighborhood and the desires of the neighborhood. If both had been met, then the Council could impose reasonable requirements. There was no reason they could not continue the hearing to a date certain.

The public hearing was reopened.

Tom Clark

- They had nine grocery stores. All mountain resort stores would carry beer.
- They were based out of Aspen.

Haver recognized both petitions, one from Clarks and one from Acme. He suggested they continue the hearing.

David Leinsdorf - 3 Treasury Hill Rd

- It was important to support Clark's and Mountain Earth, the local food stores.
- If selling beer would help the financial viability of food stores, it was a positive in favor of approving the application.
- The Council's practice had been to let the market determine who succeeds and who doesn't.
- Food stores were more important than the liquor stores.

Tracy Hastings

- She said that the liquor stores were a viable part of the community, as well.

The public hearing was closed.

Dujardin stated there were responsible people of different ages working in the service industry. There were established rules, and he respected that the market determined where people spent their money.

Mitchell moved and Cowherd seconded a motion to approve the fermented malt beverage (3.2% beer) license for Crested Butte Grocery LLC DBA Clark's Market. A roll call vote was taken with all voting, "Yes," except Petito voted, "No." **Motion passed.**

OLD BUSINESS

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

Schmidt referenced correspondence from the County, included in the packet. MacDonald summarized the email from Rachel Magruder in which they proposed a meeting to participate in a discussion on Monday, August 27th, with no more than three people from each entity. MacDonald did not believe the meeting was considered open to the public. Schmidt agreed with having the Staff represent the Town at the meeting. Green clarified they were trying to identify the category of issues that had been raised to date. Haver concurred it was a good idea for Staff to attend to find out what the new process was looking like and how they could continue participating in the plan. Cowherd stated Town was looking for solutions on the parcel. Mitchell agreed that MacDonald should attend with whomever she chose to take. MacDonald updated on scheduling a meeting among the parties of the MOA. She was waiting to hear back from one entity.

Dwayne Lehnertz - On the Mt. Crested Butte Town Council - Acknowledged he was one of seven, and he was speaking for himself.

- He agreed with Cowherd's desire to have something go in at Brush Creek.
- They had a start.
- There was good reason to get something going out there.
- The project should match the needs.

Schmidt said the Town of Crested Butte had great dedication to affordable housing. Dujardin wanted the Town of Crested Butte and Mt. Crested Butte to come together and focus on the items that would help a project to function.

NEW BUSINESS

1) Resolution No. 15, Series 2018 – A Resolution of the Crested Butte Town Council Adopting an Amendment to the Annexation Agreement Between the Town of Crested Butte and Verzuh Ranch, Inc.

Yerman told the Council that this amendment was to grant the ability to develop Block 76. He thanked Lacy for helping the affordable housing efforts. Haver asked Yerman to review benefits. Yerman explained they heard from the public the desire to not have a construction zone for many years. He affirmed for Haver the intent was to get economy of scale. Dujardin conveyed feedback from a citizen asking for the process to slow down.

Mitchell moved and Dujardin seconded a motion to approve Resolution No. 15, Series 2018 for the amendment to the Verzuh Annexation Agreement Amendment. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

2) Mt. Express Funding Request for Purchase of Lot in Whetstone Industrial Park.

Chris Larsen was present on behalf of Mountain Express, and he introduced himself. He requested \$100,000 to help buy a lot in the Riverland Industrial Park. He described the benefits to the purchase of the lot. Larsen explained their future plans and that this opportunity would be the only to move to a different location close to Town. Schmidt questioned the repayment of a past grant. Mitchell recognized Town could gain snow storage and space. MacDonald said Town could give Mountain Express the ability to grow. MacDonald confirmed the funds would come from General Fund Reserve, and it was an expenditure that made a lot of sense.

Mitchell moved and Dujardin seconded a motion to give Mountain Express \$100,000 to be used for purchase of a lot in the Whetstone Industrial Park. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

3) An Update on Implementation of Bag Ban and Authorization of the Town Council to Send a Letter to Local Business Owners Notifying Them of the Bag Ban as of September 1, 2018.

Yerman explained the idea of the letter coming from the Council to local merchants. In the letter, they encouraged the businesses to work on sustainability with the Town. It was meant to be a feel good project to reduce waste. Schmidt recognized it would be wasteful of a business owner to dispose of existing bags. Haver identified their goal was to go green and have the community supporting it. Green informed the Council they had authority to direct enforcement on any of their ordinances. Cowherd suggested a time limit for using up bags. Blewett explained their process for ordering bags. She asked the Council to let them get through the expense and not force them to throw away \$2,000 worth of product. Green brought the Council’s attention back to the letter in the packet. Yerman reminded they were not going out to cite people. They could massage the letter, include a pro-active statement, and then then respond appropriately to citizens. Yerman summarized that businesses would have until April 1st to use up their remaining bags, and they should contact Town Staff to inform of their plan.

Dujardin moved and Petito seconded a motion to authorize the Mayor to sign a letter as amended to local businesses notifying them of the bag ban going into effect September

1st, 2018. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

4) August 7, 2018 Regular Town Council Meeting Minutes.

On page 13 of the packet, the minutes, in both the agenda title and the motion, reflected erroneous numbers for the Town’s contribution on the preservation of Long Lake. The Town contributed \$1,000,000.

Petito moved and Dujardin seconded a motion to approve the minutes from August 7, 2018 as amended. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

LEGAL MATTERS

Green updated that Judge Patrick did not rule in favor of the plaintiffs in their motion for summary judgment. The case management conference would be next week.

COUNCIL REPORTS AND COMMITTEE UPDATES

Jackson Petito

- The Housing Foundation was grateful for the proceeds from Long Lake. They were considering purchasing housing in Gunnison.

Will Dujardin

- Attended DOLA affordable housing workshop. Urban outpaced rural communities as far as growth.
- He wanted to emphasize building community support through engagement.
- He went to the Gunnison City Council work session on LIHTC funding and the community charrette on Block 76.
- Attended Mountain Express meeting. July ridership was only up 1%, but they were under budget for the month. They were in the process of looking at raises and benefit packages.
- The Town Manager review went well.

Kent Cowherd

- He also attended the community housing meeting.
- Attended RTA Board meeting. They had multiple clean audits.

Chris Haver

- The TA was actively marketing for the Denver hub. Larger planes would be flying in on Saturdays later this winter. Pre-sales were down compared to last year. They were working on a new logo.
- Attended various meetings, including Gunnison City Council.
- The Community Task Force asked him to work with Jennifer (Executive Director of GVRHA) on a whole valley, regional housing plan. The first launch would be

Thursday, with the intent to get public input. The idea was to come up with a cohesive plan for feedback from the jurisdictions. MacDonald asked for Council input on whom to appoint. It was determined that MacDonald and Yerman would represent the Town.

Jim Schmidt

- The CAST meeting and dinner would be coming up this week.
- Attended a housing meeting. They did a review of the director, and there was a follow up meeting this morning.
- A week ago, the Council reviewed the Town Manager. He stated MacDonald was doing a terrific job.
- There was a cemetery meeting last Friday. The Jokerville film would be repeated this Wednesday at the Center for the Arts. There has been work on the perimeter fence at the cemetery.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

- Petito was honored and pleased to be working with MacDonald.
- Mitchell thought that committees had to run decisions past the whole Council. Schmidt explained what Green's suggestion was for handling feedback. Mitchell suggested they all talk more.
- The company where Dujardin worked was a contractor at the Center for the Arts. Dujardin would remove himself from future Center for the Arts conversations during the time he would be working there.
- Related to STRs, Dujardin said it shouldn't become the burden of the citizen to do follow up work that should be done by the Town. MacDonald agreed the burden of enforcement was not on a neighbor.
- Schmidt brought up parking concerning STRs. He asked the Staff to be greener, related to grass. MacDonald and Yerman explained the process as it went through BOZAR. Parking on the public right of way required road base, rather than grass.
- Mitchell reported they might consider the Car Show, the road closures, and the times. Schmidt noticed there were few cars in each block. She suggested opening Elk at an earlier time.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- *Tuesday*, September 4, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- *Monday*, September 17, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- *Monday*, October 1, 2018 - 6:00PM Work Session - 7:00PM Regular Council

The next meeting would be on a Tuesday. The budget planning work session would be next Monday at 1:00PM.

EXECUTIVE SESSION

Schmidt read the reason for the Executive Session: for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding snow storage lots.

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

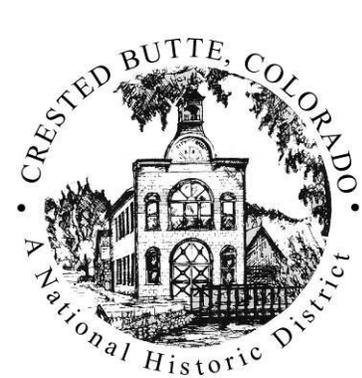
The Council went into Executive Session at 10:39PM. The Council returned to open meeting at 11:15PM. Mayor Schmidt made the required announcement upon returning to open meeting.

ADJOURNMENT

Mayor Schmidt adjourned the meeting at 11:16PM.

James A. Schmidt, Mayor

Lynelle Stanford, Town Clerk (SEAL)



Staff Report

September 4, 2018

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Lynelle Stanford, Town Clerk
Subject: Emma Coburn's Elk Run 5K Special Event Application and Special Event Liquor Permit
Date: August 22, 2018

Summary:

Joel Vosburg and Joe Bosshard submitted a special event application and special event liquor permit for Emma Coburn's Elk Run 5K on behalf of Living Journeys. The event is proposed to take place on Saturday, September 29th, 2018. There will be races for high school girls and boys and the headline 5K run. All of the races start and end at 3rd Street and Elk Avenue. Girls' and boys' high school races begin at 9AM and 9:30AM respectively. The headline race starts at 10AM. The route heads east on Elk Avenue to 5th Street, to Maroon Avenue through Totem Pole Park to Butte Avenue. The loop is made on Peanut Lake Road. Arriving back in Town, the route returns to Elk Avenue via 1st Street, with the finishing line at 3rd and Elk. The organizer requested road closures throughout the race route the morning before the race until the completion.

The start and finish line, food vendors, sponsor booths, and a stage with live music are located at 3rd Street and Elk Avenue. The organizers requested that 3rd Street be closed from alley to alley, on both sides of Elk, with Elk remaining open, on September 28th. The parking lot at 1st and Elk would be closed early in the morning on September 29th for staging the high school races. On September 29th, the roads along the route re-open after the race. Elk Avenue from 2nd Street to 4th Street would remain closed until 4PM. Third Street from alley to alley would remain closed until clean-up is completed by 5PM.

The organizers are working with Waste Management for trash and recycling. They will provide portapotties for the event to be located at both 3rd and Elk and in the parking lot at 1st and Elk. Parks and Rec will provide picnic tables.

Recommendation:

To approve Emma Coburn's Elk Run 5K Special Event Application and Special Event Liquor Permit as part of the Consent Agenda.



TOWN OF CRESTED BUTTE
SPECIAL EVENT APPLICATION

1. EVENT INFORMATION:

Name of Event: Emma Coburn's Elk Run 5K

Date(s) of Event: September 29, 2018

Location(s) of Event: Third Street + Elk Avenue Corner

Blocked off from Elk to Third Street Alleys

Map Attached Showing Location of Event *Attach map showing location of event* And Race Route during Races

Diagram Attached Detailing Event *Attach 8 1/2" X 11" diagram detailing the event showing tents, vendors, security, toilets, tables, signage, fencing, booths, ingress and egress, stage, etc.:*

Event Schedule and Description of Event Attached

Name of Organization Holding the Event ("Permittee"): Living Journeys

Note: The permittee of an event must be the same "Entity Name" as the named insured on the insurance certificate and the Secretary of State Certificate of Good Standing.

see Attached

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

Date	Time: From	To
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Date	Time: From	To
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Expected Numbers: Participants: 1000 (one thousand) Spectators: 1000

Name of Event Organizer: Joel Vosburg emmajcoburn@gmail

Phone: 970-201-1581 Cell Phone: same

E-Mail: jvosburg@mountainoffice.com Fax Number: NA

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

Phone: _____ Cell Phone: 303-589-8172 E-Mail: joebossard@gmail.com

Mailing Address of Organization Holding the Event: P.O. Box 2024, Crested Butte, CO 81224

Email Address of Organization: info@livingjourneys.com Phone Number: 970-349-2777

2. INSURANCE, LIQUOR PERMITS, SECURITY PLANS:

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

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

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

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

See Attached.

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

Is Proof of Insurance Attached? Yes No

from Last Year. Being updated

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

Will Your Event Require Any Road Closures? Yes No

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

see attached

Streets: _____ Date _____ Time: From _____ To _____

Streets: _____ Date _____ Time: From _____ To _____

Streets: _____ Date _____ Time: From _____ To _____

Streets: _____ Date _____ Time: From _____ To _____

Streets: _____ Date _____ Time: From _____ To _____

Streets: _____ Date _____ Time: From _____ To _____

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

If Yes, Explain Impact (include times):

see attached

Will Your Event Affect Any Handicapped Parking Spaces? Yes No

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

Describe Plan for Parking: work with Marshal's office

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

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

see attached

Does Your Event Include a Parade? Yes No

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

Signature of Event Coordinator

4. AMPLIFIED SOUND AND NOTIFICATION:

Will There Be Amplified Sound at This Event? Yes No

If Yes, Describe: Announcer/DJ 8:00 to 4:00p.m Band

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

Describe Plan for Notifying Businesses and Residents Impacted by Your Event: we will post

notices. Also advertise event on KCBT, newspapers + social media

5. TRASH, RECYCLING, PORTABLE TOILETS AND RESTROOMS:

How much trash do you anticipate generating at the event? 1 Dumpster + Recycling

What recyclable products will be generated at the event? Cups + Bottles

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

Waste Management Joy Henning
 970-349-1033 jhenning@wm.com

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

Eight Portable Toilets one being ADA
 at 3rd + Elk
 approved. Also town bathrooms
 Two portable toilets at 1st + Elk Lot

6. SALES TAX:

Have you paid sales tax from your event last year? Yes No

If No, you must pay delinquent sales tax before your special event application will be considered.

Will You Be Selling Products (food, drink, or merchandise) At Your Event? Yes No

If yes, you must collect sales tax and attach a completed Town of Crested Butte Sales Tax License Application with a List of Vendors to the Clerk's Office.

Town of Crested Butte Sales Tax Application is Attached. N/A

List of Vendors with your Crested Butte Sales Tax Application. N/A

7. BANNER PERMITS:

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

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

Town Manager Approval: _____

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

8. PLEASE REVIEW, SIGN, AND DATE:

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

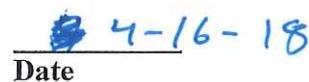
The undersigned Permittee certifies that all the statements and answers to the above questions are true without any reservations or evasions. The undersigned also understands that the Town of Crested Butte reserves the right to require payment for additional services for major impact events.

Joel Vosburg

Print Name Clearly



Signature of Applicant (Permittee)



Date

Road Closures

3rd Street from Elk Ave to Both Alleys	9-28-18	3:00pm - Overnight
Elk Ave from 2nd-4th	9-29-18	7:00am - 4:00pm
Elk Ave Adding 1st-5th	9-29-18	8:30 - 11:00
5th St from Elk - Maroon	9-29-18	8:30 - 10:15
Maroon from 5th - 1st	9-29-18	8:30 - 10:30
3rd St. from Maroon - Butte	9-29-18	8:30 - 10:30
Butte Ave from 3rd St - Edgocottown	9-29	8:30 - 11:00
1st St. From Butte - Elk	9-29	8:30 - 11:00

Course is:

Start at third and Elk and go to 5th street and turn left, left again at Maroon, right at 3rd St. across the Totem Pole Bridge to Butte, Left at Butte out to Peanot Lake Road, loop around past Gronk back to town and turn right on 1st St. left on Elk and then finish at 3rd and Elk.

Event Schedule

9-28-18 3:00^{P.M.} Set-Up - 3:00 pm To overnight
 3rd St. from Elk to both Alleys closed
 set up Tent for stage, Drink stations
 Fencing for secured alcohol area
 sponsor Booths, Pre Race Registration
 and Packet pick up
 close parking lot at 1st & Elk for High School
 staging

9-29-18

7:00 am Close Elk Ave from 2nd - 4th
 7:30 Registration + Packet Pick-up.
 8:30 Close Elk Ave. from 1st - 5th
 9:00 Girls High School Race
 9:30 Boys High School Race
 10:00 Elk Run 5-K
 11:00 Awards + Street Games
 12:00 Band starts
 3:00 End of Band
 3:00 Clean Up
 4:00 Elk Avenue OPEN
 5:00 End of Event

Additional Services from:
Town of Crested Butte.

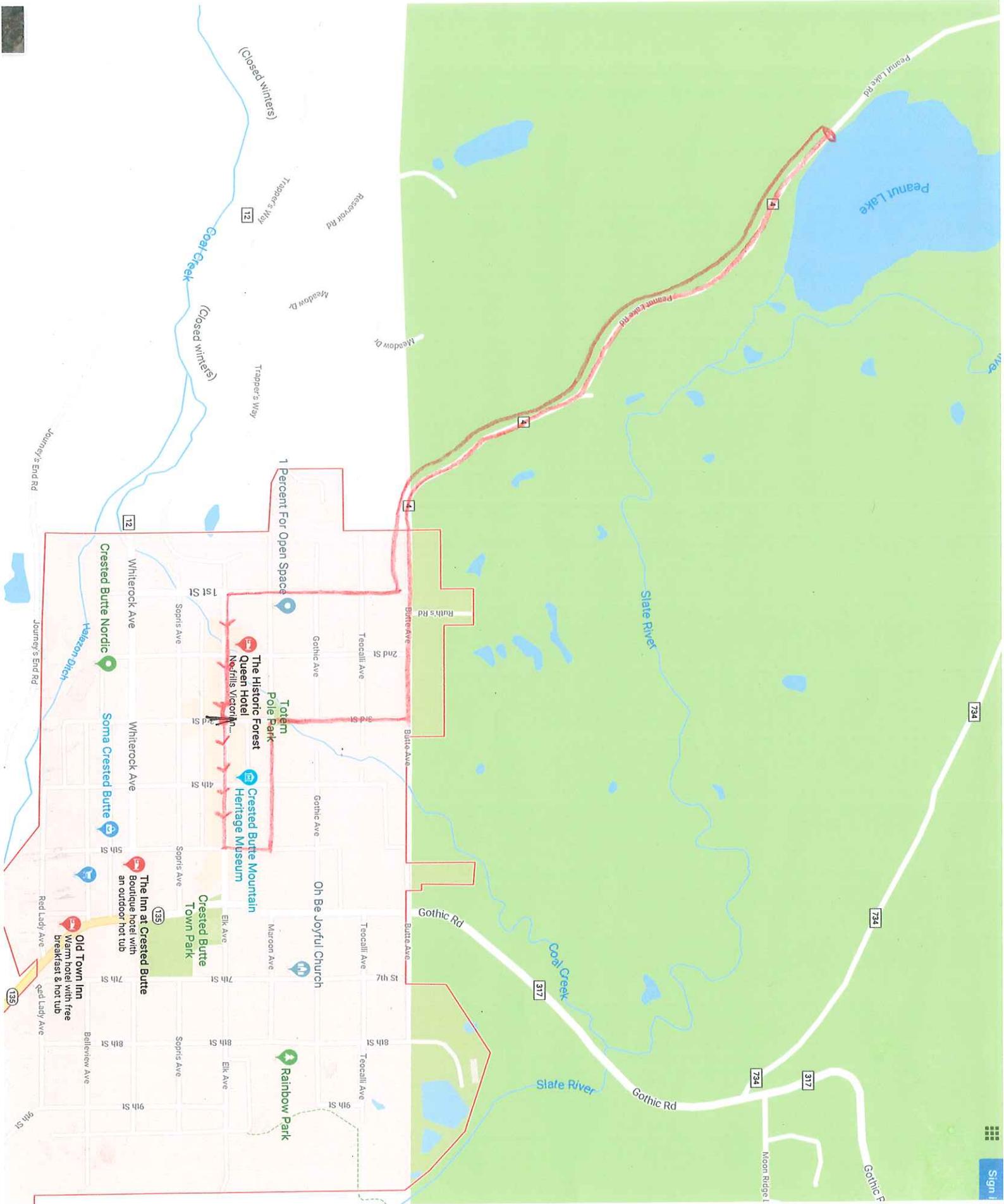
9-28-18

3:00 p.m.

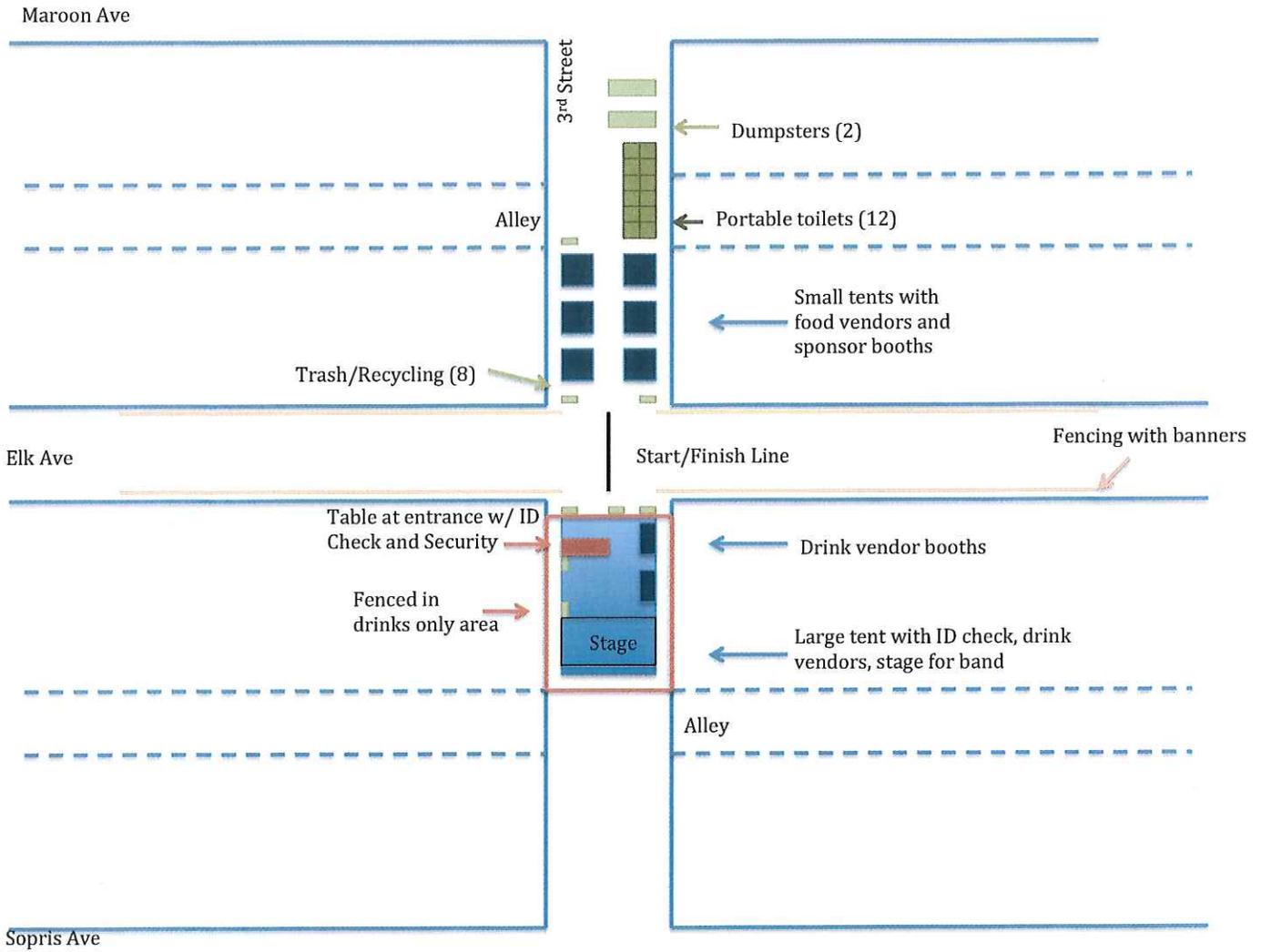
- 1.) Deliver barricades to corners to put out next morning
- 2.) Put No Parking signs on Elk 1st - 4th Street for No Overnight Parking.
- 3.) Deliver Picnic Tables to venue
- 4.) Put No Parking signs out Parking lot at 1st & Elk for No OVERNIGHT Parking

9-29-18

- 1.) Police Awareness 7:00am - 6:00pm
- 2.) Help Place barricades 8:30am.
- 3.) Remove barricades from course
- 4.) Remove Picnic Tables from venue

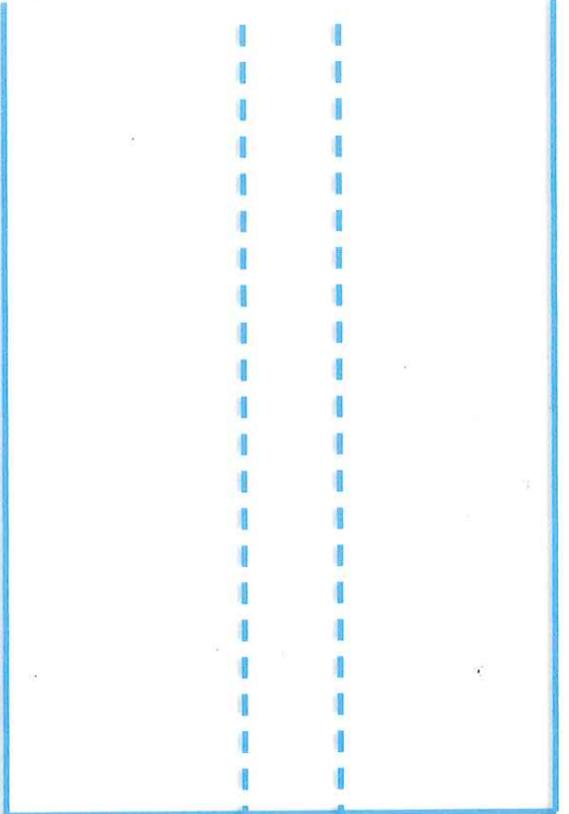


Elk Run 5K Map, 2018

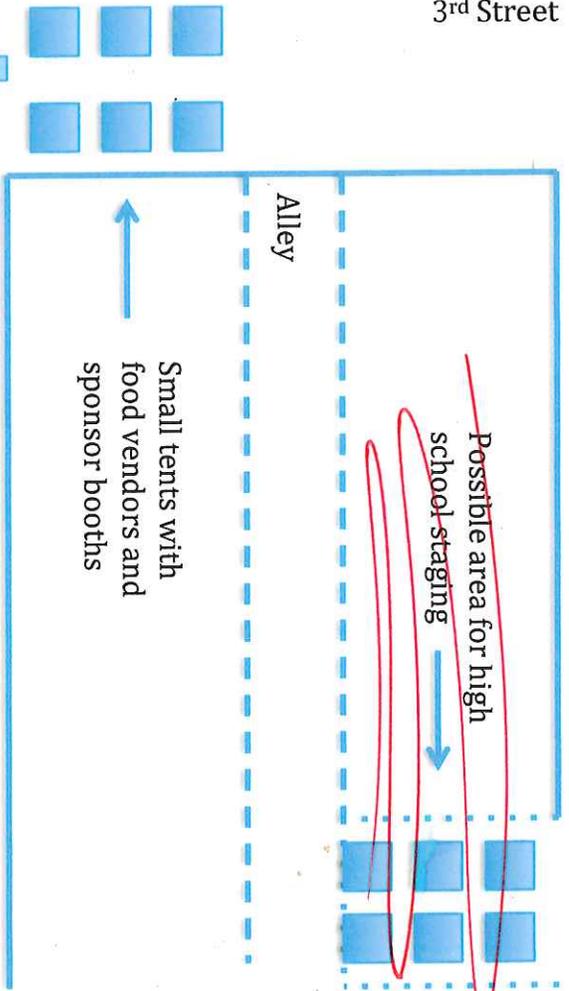


Elk Run 5K Map, 2018

Maroon Ave



3rd Street

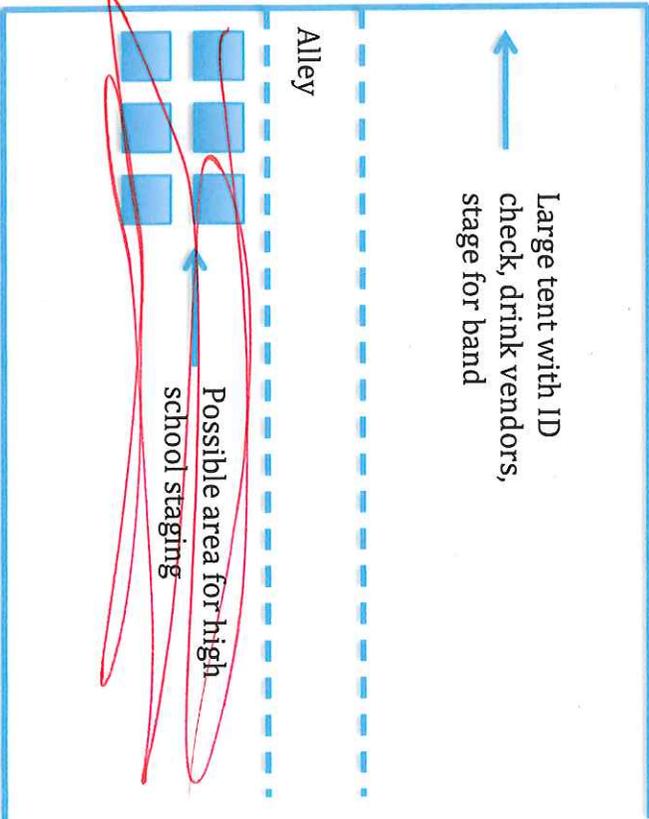
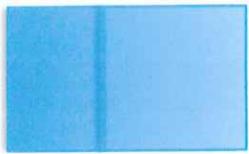
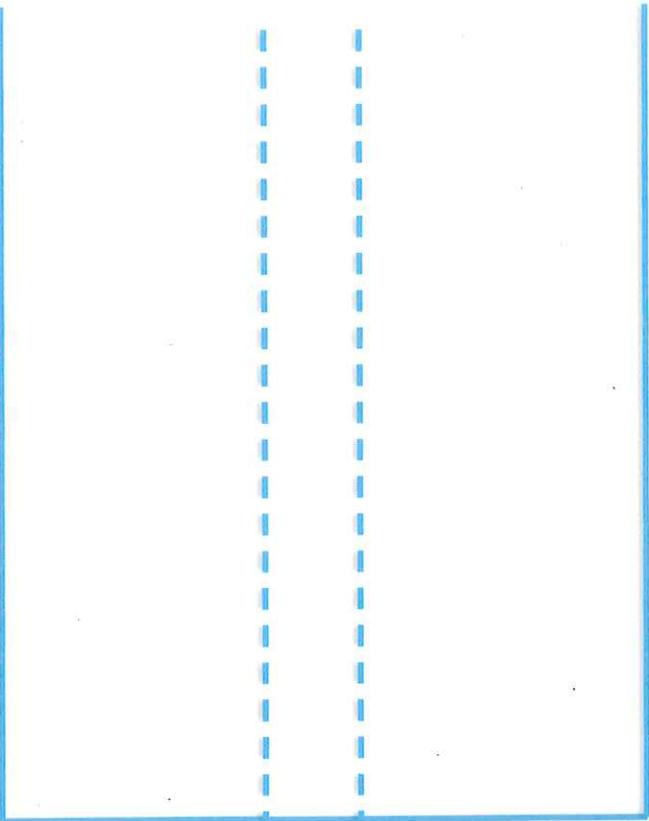


Alley

Small tents with food vendors and sponsor booths

Start/Finish Line

Elk Ave



Alley

Large tent with ID check, drink vendors, stage for band

Possible area for high school staging

Sopris Ave

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

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

LIVING JOURNEYS

is a

Nonprofit Corporation

formed or registered on 01/17/2003 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20031020718 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 04/13/2018 that have been posted, and by documents delivered to this office electronically through 04/16/2018 @ 10:54:11 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 04/16/2018 @ 10:54:11 in accordance with applicable law. This certificate is assigned Confirmation Number 10843238 .



Secretary of State of the State of Colorado

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

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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/1/2018

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

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

PRODUCER Shondeck Financial Services & Insurance, Inc 114 N. Blvd St. #102 Gunnison CO 81230		CONTACT NAME: Andy Albershardt PHONE (A/C, No, Ext): (970) 641-4700 E-MAIL ADDRESS: andya@shondeckfinancial.com		FAX (A/C, No): (970) 641-3344	
INSURED Living Journeys PO Box 2024 Crested Butte CO 81224		INSURER(S) AFFORDING COVERAGE		NAIC #	
		INSURER A: Secura Insurance			
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
		INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** Emma Coburn Elk Ave Run **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDSUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	20CP003189131-8	9/29/2018	9/30/2018	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100000 MED EXP (Any one person) \$ excluded PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 2000000 Liquor Liability \$ 1000000 COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY					\$ \$ \$ \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N / A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is ADDITIONAL INSURED

CERTIFICATE HOLDER Town of Crested Butte PO Box 30 507 Maroon Ave Crested Butte CO 81224	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Andy Albershardt
---	---

APPLICATION FOR A SPECIAL EVENTS PERMIT

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

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

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:	DO NOT WRITE IN THIS SPACE
2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY	LIQUOR PERMIT NUMBER
2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE Living Journeys	State Sales Tax Number (Required) 34-1974654
--	--

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) PO Box 2024 300 Belleview Ave Ste. 3B Crested Butte CO 81224	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) Third St. & Elk Avenue Crested Butte, CO 81224
--	---

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Darcie Perkins- Executive Director	5/17/73	15 Kubler St. Crested Butte, CO 81224	(970)349-2777

5. EVENT MANAGER Joel Vosburg	12/15/57	303 Riverbend Dr. Crested Butte, CO 81224	(970)209-1581
----------------------------------	----------	---	---------------

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES HOW MANY DAYS? _____	7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____
---	--

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

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

Date	Hours	From	To	Date	Hours	From	To	Date	Hours	From	To	Date	Hours	From	To
9/29/18	8a		6p												

OATH OF APPLICANT

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

SIGNATURE <i>Darcie Perkins</i>	TITLE Executive Director	DATE 4/10/18
------------------------------------	-----------------------------	-----------------

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

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

THEREFORE, THIS APPLICATION IS APPROVED.

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

SIGNATURE	TITLE	DATE
-----------	-------	------

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

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

DEPARTMENT APPROVALS (For Official Use Only)

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

	From: Michael Reily	
	Sent: Friday, May 04, 2018 8:30 AM	
	To: Betty Warren	
	Subject: RE: Special Event: Emma Coburn Elk Run5K	
	OK per CBMO. Pre-event meetings a must on this event.	
	Mike	

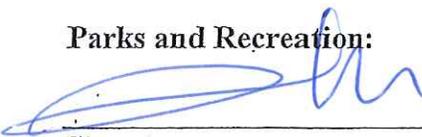
Public Works:

 5/7/2018
 Signature Date
Robby E Dine
 Name (Printed)

Conditions/Restrictions/Comments:

OK, will work with Marshals & organizers
 Request meeting at least 1 wk prior to event.

Parks and Recreation:

 8/28/18
 Signature Date
Janna Hansen
 Name (Printed)

Conditions/Restrictions/Comments:

Will provide 6 picnic tables

Town Clerk:

 8-22-2018
 Signature Date
Lynelle Stanford
 Printed Name (Printed)

Conditions/Restrictions/Comments:

Town Manager:

 8/30/18
 Signature Date
DARA MACDONNELL
 Printed Name (Printed)

Conditions/Restrictions/Comments:

Crested Butte Fire Protection District:

Signature [Signature] Date 8/29/18
Printed Name (Printed) ROBERTS

Conditions/Restrictions/Comments:
Need more Volunteers at
all intersections

Mt. Express Bus Service:

Signature [Signature] Date 5/1/18
Printed Name (Printed) CHRIS LARSEN

Conditions/Restrictions/Comments:
will change route
to accommodate race course

Official Use Only:

Application Received 4-16-2018 Date Distributed 5-4-2018

Council Date (if applicable) 9-4-2018

Approval Date _____ Method of Approval: Administratively By Town Council

Approval Contingencies _____

Application fee 25 Check # 6598 Date Paid 4-16-2018

Permit Fee 200 Check # 6598 Date Paid 4-16-2018

Local Liquor License Fee 25 Check # 6598 Date Paid 4-16-2018

State Liquor License Fee _____ Check # _____ Date Paid _____ Date Liq. Application Sent _____

Additional Fee _____ Check # _____ Date Paid _____

Clean Up Deposit 200 Check # 6598 Date Paid 4-16-2018 Date Returned: _____



Staff Report

September 4, 2018

To: Mayor Schmidt and Town Council

From: Mel Yemma, Open Space/Creative District Coordinator

Thru: Michael Yerman, Director of Community Development

Subject: Letter to the GMUG Forest Planning Team, Re: Wilderness Evaluation Report

Background:

The Town of Crested Butte has been actively engaged in the Grand Mesa, Uncompahgre, and Gunnison's (GMUG) Forest Planning Revision Effort.

Forest Planning has three phases: assessment, planning, and monitoring. The GMUG Forest Plan is currently in the second of three phases: planning.

The Town has engaged so far with the following actions:

- October 16, 2017 – Town Council authorized the mayor to sign a pre-assessment letter to the Forest Service outlining four major issue areas the Town hopes the Forest Service to address in the upcoming revision (recreation infrastructure, protection of local watersheds, historic preservation, and climate change)
- December 4, 2017 – Town Council authorized the Mayor to sign a letter with comments on the draft assessments released by the Forest Service on November 6, 2017
- December 4, 2017 – Town Council authorized the Mayor to sign a Memorandum of Understanding to establish the Town of Crested Butte as a cooperating agency. This letter will be finalized when the Forest Service begins its NEPA process.
- January 22, 2018 – Town Council authorized a letter with detailed comments on assessments as related to air quality and the wilderness inventory.
- April 16, 2018 – Town Council authorized a letter with detailed comments on scoping as related to at-risk species and supporting the Gunnison Public Lands Initiative (GPLI).

The next phase of the assessment process is for the GMUG to build upon the wilderness inventory released in January and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System (NWPS), which will then guide determination on whether to recommend any such lands for wilderness. On August 6, 2018, the GMUG released the Draft Wilderness Evaluation Report, which evaluates the wilderness characteristics of lands included in the final Inventory based on the following:

1. Apparent naturalness,
2. Outstanding opportunities for solitude or primitive/unconfined type of recreation,
3. Sufficient size to make its preservation and use in an unimpaired condition practicable,
4. Ecological, geological, or other features of scientific, educational, scenic, or historical value, and
5. Degree to which the area may be managed to preserve its wilderness characteristics

The Draft Wilderness Evaluation report and map includes all polygons that met the Inventory criteria and provides detailed information on how the polygons were evaluated to possess a High, Moderate, Low, or No degree of wilderness characteristics. The full draft evaluation report, as well as an interactive story map and other useful resources can be viewed at www.fs.usda.gov/main/gmug/landmanagement/planning.

Because the Town's past letters to the GMUG regarding the Forest Plan Revision include comments on supporting the GPLI, this letter specifically compares the characterizations of particular lands in the report to the specific wilderness and special management area recommendations put forth by GPLI, which were compiled by diverse stakeholders and has garnered broad community support.

The GPLI's proposal can be compared to the Draft Wilderness Evaluation Report by viewing the story map at <https://usfs.maps.arcgis.com/apps/MapSeries/index.html?appid=f79028627ef64aa49c906088b59b6020> and clicking on only "GMUG_Wilderness Evaluation" and "Gunnison Public Lands Initiative-Nov 2017" under the "Operational Layers" tab.

In the Draft Wilderness Evaluation Report, all of the lands surrounding the Town and within its watershed, with the exception of Mount Emmons (G5-N on the story map—characterized as low), were classified as possessing Moderate degrees of wilderness characterizations. However, portions of three specific areas: Poverty Gulch (G5-N), Deer Creek and Star Peak (G9), were identified by the GPLI to be recommended for wilderness. To provide consistency with the Town's support for the GPLI, in the attached letter and comments to be sent to the forest planning team request that these three areas be considered as possessing high degrees of wilderness characteristics, per the language provided in the GMUG's Revised Evaluation Criteria document.

Staff Recommendation:

Town Staff recommends that the Council make a motion to authorize the Mayor to sign the comment letter on the GMUG's Forest Plan Revision: Draft Wilderness Evaluation Report.

Town of Crested Butte
P.O. Box 39
Crested Butte, Colorado 81224
-A National Historic District-

Phone: (970) 349-5338
FAX: (970) 349-6626
www.townofcrestedbutte.com

September 4, 2018

Grand Mesa, Uncompahgre, and Gunnison National Forests
Attn: Plan Revision Team
2250 South Main Street
Delta, CO 81416

Submitted via email to: gmugforestplan@fs.fed.us

Dear Scott Armentrout and the GMUG Forest Planning Team,

Thank you for releasing the Draft Wilderness Evaluation Report as a component of the Forest Plan Revision process, and for including such user-friendly components including the story map and webinars to encourage public feedback. We appreciate your outreach efforts and the Town of Crested Butte is honored to be a cooperating agency in this process.

The Town values its surrounding public lands because the health and wellbeing of our Town is directly linked to the surrounding Gunnison National Forest. More specifically, the Town of Crested Butte values wilderness. Our surrounding wilderness areas provide unparalleled naturalness and beauty, as well as outstanding opportunities for solitude and outdoor recreation, which contribute to our recreation/tourism-based economy. Additionally, our surrounding wilderness areas all boast incredible ecological, geological, riparian, and scenic values, which contribute to the fabric of the Town and to the quality of life of its residents and visitors.

As we've stated in the past, the Town supports the efforts of the Gunnison Public Lands Initiative (GPLI). The GPLI is a collaborative, community-driven, science-based process, and by being inclusive of diverse stakeholders, we believe that the GPLI initial proposal has found a balance between recreational, ecological, and economic values while achieving broad support from our local community. This community-driven effort has resulted in specific wilderness and special management area recommendations, many of which overlap with lands identified and included in the Draft Wilderness Evaluation Report.

Our examination of the Draft Evaluation Report focused on the lands surrounding the Town and within its watershed, specifically Polygons G5-N, G5-S, G6-128, G7, G8, and G9. With the exception of G5-S, all of the lands surrounding the Town were classified as possessing Moderate degrees of wilderness characteristics. While we agree with many of the Report's characterizations, we find that there are distinctions in the landscape that aren't reflected in the Report. Specifically,

Town of Crested Butte
P.O. Box 39
Crested Butte, Colorado 81224
-A National Historic District-

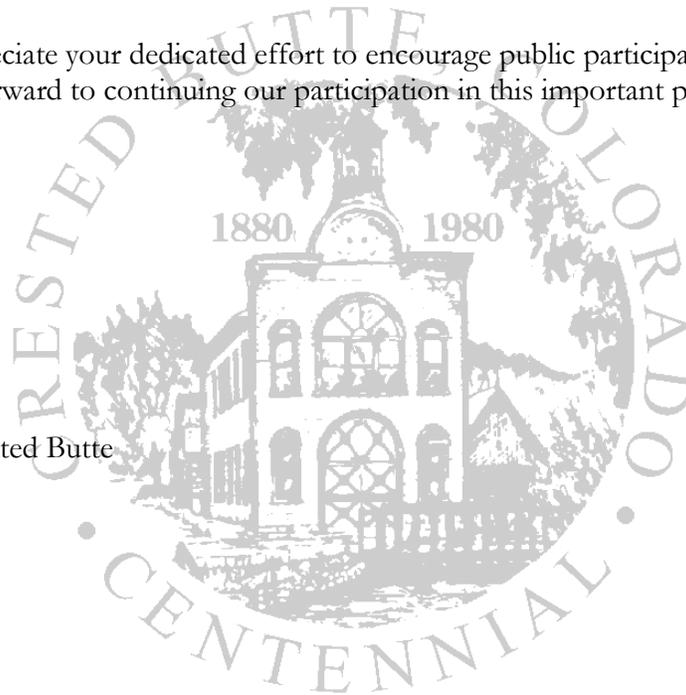
Phone: (970) 349-5338
FAX: (970) 349-6626
www.townofcrestedbutte.com

portions of G5-N (Poverty Gulch) and G9 (Deer Creek and Star Peak) satisfy the criteria for High wilderness characteristics. These areas have been identified by GPLI and other community members to be recommended for wilderness, and the Town requests that these areas be considered as possessing high degrees of wilderness characteristics, per the language provided in the GMUG's Revised Evaluation Criteria document.

We continue to appreciate your dedicated effort to encourage public participation in the Forest Plan Revision and look forward to continuing our participation in this important process.

Sincerely,

James A. Schmidt
Mayor, Town of Crested Butte





Staff Report September 4, 2018

To: Mayor Schmidt and Town Council

Thru: Dara MacDonald, Town Manager

From: Janna Hansen, Parks and Recreation Director

Subject: Resolution No. 16, Series 2018 – A Resolution of the Crested Butte Town Council Approving the Award of a Construction Agreement for the Town Park Playground Renovation Project to Black Dragon Development, LLC

Background:

In 2015 Town Council voted in support of Resolution No. 4, allowing the use of public property for the purpose of expanding the Center for the Arts (CFA) facilities in Town Park. The approval was contingent upon the CFA's compliance with, among others, the requirement to "update playground and park equipment" and provide a "synergistic relationship with Town Park". Black Dragon Development LLC ("Black Dragon") is the current General Contractor/Construction Manager ("GCCM") for the Center for the Arts Expansion Project in Town Park.

Summary:

The budget for the playground renovation portion of the CFA project is separate from the rest of the project due to the GOCO funding for the playground, therefore the contract for a GCCM is separate from the CFA contract with Black Dragon. Staff recommends making an exception to the formal bidding process for this agreement with Black Dragon Development, LLC for the following reasons:

- The playground is part of the scope of the entire Center for the Arts Expansion Project and Black Dragon is the current GCCM for that project.
- Much of the scope of the Project is site work including drainage, utility, concrete, and rock work that ties in with the larger landscaping plan for the CFA project. Integrating this into one seamless project provides efficiencies and cost savings.
- Having one responsible contractor for construction sequencing will ease that process.
- Black Dragon is currently mobilized and on site providing cost savings for mobilization.
- By not having an additional GCCM on site, there will be efficiencies in communication between the Town, contractors, architects, and engineers.
- The construction staging area for the CFA project is in the new playground location. There is insufficient space on site for an additional contractor to stage equipment.
- Black Dragon has sub-contractors on contract and prices locked for concrete and site work. This will allow for cost savings and efficiencies in securing subs for the Project.
- Black Dragon has been at the table since the beginning of the project and would thereby eliminate the need to bring a new contractor up to speed.

- The Town has a positive existing working relationship with the Black Dragon team and it would be a seamless transition to continue the playground portion of the CFA Expansion Project with the existing GCCM.

The Town's purchasing policy allows for exemptions to the formal bidding process and states:

“Formal/informal bid exceptions. The following shall be exempt from formal or informal bidding: ...Purchases where use of any other than specific vendors would result in incompatible component parts or would otherwise disrupt or impair services being provided or single vendor availability. Justification for these exceptions to the bid process must be approved by the Town Manager or Finance Director. A sole source purchase (the designation of a manufacturer or “brand name only” for goods or a specific vendor for service) is permitted only when fully justified by the requester. Competitors’ deficiencies shall also be documented.”

Staff believes that hiring a contractor other than Black Dragon LLC would disrupt or impair services being provided for this project. Both the Town Manager and Finance Director approve of allowing for this exception.

Recommendation:

Staff recommends approving Resolution No. 16, Series 2018 approving the award of a Construction Agreement for the Town Park Playground Renovation Project to Black Dragon Development, LLC in an amount not to exceed \$450,000.00.

RESOLUTION NO. 16

SERIES 2018

A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL APPROVING THE AWARD OF A CONSTRUCTION AGREEMENT FOR THE TOWN PARK PLAYGROUND RENOVATION PROJECT TO BLACK DRAGON DEVELOPMENT, LLC IN AN AMOUNT NOT TO EXCEED \$450,000.00

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

WHEREAS, the Town staff recommends to award a construction agreement for renovating the Town Park playground in an amount not to exceed \$450,000.00 (the “**Project**”) to Black Dragon Development, LLC. (the “**Contractor**”);

WHEREAS, following the Town staff recommendation, the Town Council desires to award the construction agreement for the Project to Contractor pursuant to the terms and conditions for the performance of the Project set forth in the agreement attached to these Resolutions; and

WHEREAS, the Town Council finds hereby that approving a construction agreement with Black Dragon Development, LLC is in the best interest of the Town, Crested Butte residents and visitors.

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

1. **Findings.** The Town Council hereby finds that approving a construction agreement with Black Dragon Development, LLC is in the best interest of the Town, Crested Butte residents and visitors.
2. **Authorization of Town Manager.** Based on the foregoing, the Town Council hereby authorizes the Town Manager to execute the construction agreement with Black Dragon Development, LLC in substantially the same form as attached hereto as **Exhibit “A.”**

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS ____ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____

James A. Schmidt, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Construction Services Documents

[attach here]

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT is made this ___ day of _____, 2018 by and between _Black Dragon Development, LLC_ (hereinafter referred to as “Contractor”), and the Town of Crested Butte, Colorado, a Colorado municipal corporation (hereinafter the “Town”).

WITNESSETH:

WHEREAS, the Town desires that Contractor perform the duties of general contractor for the construction of certain improvements, namely the **Town Park Playground Renovation Project** (hereinafter the “Project”); and

WHEREAS, Contractor desires to perform such duties pursuant to the terms and conditions provided for in this Agreement; and

WHEREAS, the parties hereto desire to set forth certain understandings regarding the Project in writing.

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 is hereby acknowledged, the parties agree as follows:

1. **Statement of Work.** Contractor agrees to manage and supervise the construction of the project located in the Town of Crested Butte, Gunnison County, Colorado, as directed by the Town and pursuant to the Town of Crested Butte Design Standards and according to the plans and specifications approved by the Town. Contractor shall (a) furnish all tools, equipment, supplies, superintendence, transportation and other construction accessories, services and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and skillful manner and in accordance with the provisions of this Agreement; and (d) execute, construct and complete all work included in and covered by this Agreement.

2. **Time of Commencement and Completion.** Construction under this Agreement will begin no later than **November 1, 2018** and shall be completed by **June 1, 2019** (“Completion Date”). The Completion Date may, at the Town’s sole discretion, be extended if approved by the Town in writing, but in no event may the Completion Date extend beyond **June 23, 2019**. If, due to misconduct or neglect, Contractor fails to complete the Project on or before the Completion Date, the Town may deduct **liquidated damages in the amount of \$500 the first day and \$250.00 for each additional day** the Contractor works beyond this date. It is understood by Contractor and the Town that actual damages caused by Contractor’s failure to complete this Agreement on time are impracticable or extremely difficult to fix, and that the per diem deduction from the contract price will be retained by the Town as payment by Contractor of liquidated damages, and not as a penalty.

3. **Compensation.** Town shall pay and Contractor shall receive the contract price of **\$449,639.00** as stipulated in the Notice of Award, attached to this contract as **Exhibit A** and

incorporated herein by this reference, as FULL compensation for everything furnished and done by Contractor under this Agreement, and for well and faithfully completing the work as provided in this Agreement.

4. Draw Requests. Contractor agrees to perform all work on the Project according to the schedules set forth in the approved Bid Proposal attached hereto as **Exhibit B** and incorporated herein by this reference. Contractor shall submit monthly progress reports to the Parks and Recreation Director or designee showing actual costs incurred and work completed. Contractor shall also submit to the Town monthly draw requests for all authorized costs incurred up to that date for the Project, if the time for the work exceeds one month. Upon review and approval of the progress reports and draw request(s) by the Parks and Recreation Director or designee, the Town agrees to pay Contractor the amounts shown on all draw requests, minus a ten percent (10%) retainage for any payments other than the final payment, no later than the fifteenth (15th) business day following the date the draw request was submitted. Payments may be withheld if:

- A. Work is found defective and not remedied;
- B. Contractor fails to meet schedules shown on Exhibit B, as may be amended by the actual construction commencement date.
- C. Contractor does not make prompt and proper payments to subcontractors;
- D. Contractor does not make prompt and proper payments for labor, materials, or equipment furnished;
- E. Another contractor is damaged by an act for which Contractor is responsible;
- F. Claims or liens are filed on the job; or
- G. In the opinion of the Town, Contractor's work is not progressing satisfactorily.

The Town shall disburse the total retainage and the final draw request submitted by Contractor upon acceptance of the Project as described in Paragraph 12 below.

5. Liability for Damages. The Town its officers, agents or employees, shall not in any manner be answerable or responsible for any loss or damage to the work or to any part of the work; for any loss or damage to any materials, building, equipment or other property that may be used or employed in the work, or placed on the worksite during the progress of the work; for any injury done or damages or compensation required to be paid under any present or future law, to any person, whether an employee of Contractor or otherwise; or for any damage to any property occurring during or resulting from the work. Contractor shall indemnify the Town, its officers, agents and employees, against all such injuries, damages and compensation arising or resulting from causes other than the Town's neglect, or that of its officers, agents or employees in pursuit of the work to be executed by Town Personnel

6. Inspection of Work and Materials.

- A. The Town Manager or his designee may appoint and employ such persons as may be

necessary to act as inspectors or agents for the purpose of supervising in the interests of the Town materials furnished and work done as the work progresses.

- B. The Town shall at all times have unrestricted access to all parts of the work and to other places where or in which the preparation of materials and other integral parts of the work are being carried on and conducted.
- C. Contractor shall provide all facilities and assistance required or requested to carry out the work of supervision and inspection by the Town, including soil and material tests.
- D. Inspection of the work by the above-mentioned authorities or their representatives shall in no manner be presumed to relieve in any degree the responsibility or obligations of Contractor.
- E. No material of any kind shall be used in the work until it has been inspected and accepted by the Town. All rejected materials shall be immediately removed from the premises. Any materials or workmanship found at any time to be defective shall be replaced or remedied at once regardless of previous inspection. Inspection of materials shall be promptly made, and, where practicable, at the source of supply.
- F. Whenever the specifications, the instructions of the Town or the laws, ordinances or regulations of any public authority require work to be specially tested or approved, Contractor shall give the Town timely notice of its readiness for inspection, and if the inspection is by another authority, of the date fixed for the inspection.

7. Insurance. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this section and the insurance has been approved by the Town Manager or his designee. Similarly, Contractor shall not allow any approved subcontractor to commence work on his or her subcontract until all similar insurance required of subcontractor has been so obtained and approved. The following insurance shall be required:

- A. **Commercial General Liability Insurance:** At a minimum, combined single limits of \$1,000,000 per occurrence and \$1,000,000 for general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence.
- B. **Workers' Compensation and Employer's Liability:** Workers' compensation insurance for all of Contractor's employees engaged in work at the site of the project including occupational disease coverage in accordance with scope and limits as required by the State of Colorado.
- C. **Comprehensive Automobile Liability Insurance:** Including coverage for all owned, non-owned, and rented vehicles with \$1,000,000 combined single limit for each occurrence.

The Town of Crested Butte shall be named as an additional insured. All insurance policies must be written in a manner consistent with the requirements of the Standard Form Agreement. Certificates of insurance shall be issued prior to execution of the Notice to Proceed.

8. Performance Bond. To secure performance of Contractor's obligations under this Agreement, the Contractor shall provide the Town with a Performance Bond in the amount of the full contract price, or **\$449,639.00**. The Contractor shall use the form of the Performance Bond supplied by the Town. The Town shall be authorized to draw upon the Performance Bond to correct any default by Contractor under this Agreement, which default shall be determined and substantiated by an Affidavit of Default signed by the Town Manager. The Performance Bond shall be held by the Town through the one year warranty period specified in Paragraph 13 below.

9. Payment of Labor and Materials Bond. To secure performance of Contractor's obligations under this Agreement to its subcontractors and suppliers, Contractor shall provide the Town with a Payment of Labor and Materials Bond in the amount of the full contract price, or **\$449,639.00**. After the execution of this agreement and prior to the notice to proceed, the Contractor shall provide the Payment of Labor and Materials Bond to the Town in the form supplied by the Town. The Town shall be authorized to draw upon the Payment of Labor and Materials Bond to correct any default by Contractor under this Agreement, which default shall be determined and substantiated by an Affidavit of Default signed by the Town Manager.

10. Notice to Proceed. Notice to Proceed shall be issued within ten (10) calendar days of the execution of this Agreement by all parties. If the Town fails to issue such Notice to Proceed within that time limit, Contractor may terminate the Agreement without further liability on the part of either party. Such notice of termination must be tendered in writing to the Town. Additionally, the parties may mutually agree that the time for the Notice to Proceed may be extended.

11. Compliance with Laws. Contractor and every subcontractor or person doing or contracting to do any work contemplated by this contract shall keep himself or herself fully informed of all national and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of his or her contract or any extra work, and shall at all times observe and comply with such laws, ordinances and regulations, whether or not the laws, ordinances or regulations are mentioned in this contract, and shall indemnify the Town, its officers, agents and employees, against any claim or liability arising from or based on the violation of any such laws, ordinances or regulations.

12. Certificates and Permits. Contractor shall secure at Contractor's own expense all necessary certificates, licenses, and permits excluding building permits from municipal or other public authorities required in connection with the work contemplated by this Agreement or any part of this Agreement, and shall give all notices required by law, ordinance or regulation. Contractor shall pay all fees and charges incident to the due and lawful prosecution of the work contemplated by this Agreement, and any extra work performed by Contractor. The Town will be responsible for the cost of any building permit.

13. Termination. The Town may, at its sole discretion, terminate this Agreement without liability in the event that Contractor fails to provide the Performance Bond and/or Payment of Labor and Materials Bond, Certificates of Insurance required by Paragraph 7, or otherwise fails to meet the conditions precedent to issuance of the Notice to Proceed set forth in Paragraph 10 above. The Town may also, at its sole discretion, on one week's notice to Contractor, terminate this Agreement without liability before the completion date, and without prejudice to any other remedy the Town may have, when Contractor defaults in the performance of any provision, or fails to carry out the construction of

the Project in accordance with the provisions of this Agreement.

14. Substantial Completion / Acceptance. The date of substantial completion of the Project shall be a date mutually agreed upon by the Town and Contractor. In the event that the Town and Contractor do not reach an agreement as to the date of substantial completion, the Crested Butte Town Council shall determine such date. Upon the date of substantial completion, Contractor shall certify in writing that substantially all improvements described in the Statement of Work have been completed in conformance with the plans and specifications and submit to the Town a completed substantial completion list utilizing a form approved by the Town. Thereafter, and within five (5) business days after a request for final inspection by Builder, the Town shall inspect the Project and notify Builder in writing and with specificity of their conformity or lack thereof to the plans and specifications. Builder shall make all corrections necessary to bring the Project into conformity with the plans and specifications. Once any and all corrections are completed, the Town shall complete a Project Acceptance Form and promptly notify Builder in writing that the Project is in conformance with the approved plans and specifications, and the date of such notification shall be known as the Acceptance Date. The Acceptance Date shall coincide with the commencement of the one year warranty period described in Paragraph 15 below. Within thirty (30) days of the Acceptance Date, the Town shall pay Builder the amount shown on the final draw request; provided, however, that the amount of funds left from the contract price specified in the Notice of Award are sufficient to cover this amount.

15. Warranty. Contractor shall warrant any and all improvements constituting the Project constructed for the Town pursuant to this Construction Agreement for a period of twelve (12) months from the Acceptance Date as set forth in Paragraph 14 herein. Specifically, but not by way of limitation, Contractor shall warrant that:

- A. Any and all improvements constituting the Project shall be free from any security interest or other lien or encumbrance; and
- B. Any and all structures so conveyed shall be free of any defects in materials or workmanship for a period of one (1) year, as stated above.

16. Corrections to Project. If, within one (1) year after the date of substantial completion, any of Contractor's work on the Project is found to be not in accordance with the standards set forth in the preceding Paragraph 15, Contractor shall, at Contractor's expense, correct it promptly after receipt of a written notice from the Town to do so unless the Town has previously accepted such condition. Such notice shall be either delivered personally or by overnight express courier, or sent by registered or certified mail, postage prepaid, return receipt requested, and must be received by Contractor as soon as practicable after the Town discovers the defect or the loss or damage caused by such defect, but in no event later than the date that the warranty given hereby expires.

17. Modifications. The Town may modify this Agreement with respect to the arrangement, character, alignment, grade or size of the work or appurtenances whenever in its opinion it shall deem it necessary or advisable to do so. Contractor shall accept such modifications when ordered in writing by the Town Manager or his designee. Any such modifications shall not subject Contractor to increased expense without equitable compensation, which compensation may be approved by the Town pursuant to its Purchasing Policy. If any modification results in a decrease in the cost of work involved, an equitable deduction from the contract price shall be made. These

deductions shall be mutually agreed upon by the General Contractor and Town Manager or his designee. The determination of any such additional compensation or deduction shall be based on the bids submitted and accepted. No modifications in the work shown on the plans and described in the specifications shall be made, unless the nature and extent of the modifications has first been certified by the Town in writing and sent to Contractor.

18. Attorneys' Fees; Survival; Costs of Collection. Should this Agreement become the subject of legal action to resolve a claim of default in performance by any party, including the collection of past due amounts, the non-prevailing party shall pay the prevailing party's reasonable attorneys' fees, expenses, and court costs. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.

19. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement.

20. Assignment. This Agreement may not be assigned without the prior written consent of the non-assigning party.

21. Amendment. This Agreement shall not be amended, except by subsequent written agreement of the parties.

22. Entire Agreement. This Agreement, **along with any addendums and attachments hereto**, constitutes the entire agreement between the parties. The provisions of this Agreement may be amended at any time by the mutual consent of both parties. The parties shall not be bound by any other agreements, either written or oral, except as set forth in this Agreement.

23. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

24. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

25. Invalid Provision. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect. It is the intention of the parties hereto that, if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

26. Notices. Written notices required under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

To the Town:

Dara MacDonald, Town Manager
Town of Crested Butte
P.O. Box 39
Crested Butte, CO 81224

(970) 349-5338

Copy to: Sullivan Green Seavy
Attention: Barbara Green and John Sullivan
3223 Arapahoe Ave. Suite 300
Boulder, CO 80303
(303) 440-9101

To the Contractor: Black Dragon Development LLC.
Attention: Crockett Farnell
P.O. Box 579
Crested Butte, CO 81224
(720) 485-1111

27. Status. Contractor is an independent contractor and none of its employees or agents shall be considered an employee or agent of the Town for any purpose.

28. Insurance and Governmental Immunity Act. Nothing herein shall be interpreted as a waiver of governmental immunity, to which the other parties would otherwise be entitled under C.R.S. §24-6-101, et seq. as amended.

29. Work By Illegal Aliens Prohibited. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor warrants, represents, acknowledges, and agrees that:

- A. Contractor does not knowingly employ or contract with an illegal alien.
- B. Contractor does not knowingly employ or contract with an illegal alien to perform work or enter into a contract with a subcontractor that fails to verify to Town that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- C. Contractor has participated in or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the Department of Homeland Security (hereinafter, "E-Verify") in order to verify that Contractor does not employ illegal aliens. If Contractor is not accepted into E-Verify prior to entering into this Agreement, Contractor shall forthwith apply to participate in E-Verify and shall submit to the Town written verification of such application within five (5) days of the date of this Agreement. Contractor shall continue to apply to participate in E-Verify, and shall certify such application to the Town in writing, every three (3) months until Contractor is accepted or this Agreement is completed, whichever occurs first. This Paragraph shall be null and void if E-Verify is discontinued.
- D. Contractor shall not use E-Verify procedures to undertake pre-employment screening

of job applicants while this Agreement is being performed.

- E. If the Town obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:
- (a) notify the subcontractor and the Town within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) notify the subcontractor and the Town within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- F. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (“Department”) made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5-102(5), C.R.S.
- G. If Contractor violates this Paragraph, the Town may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of said violation.

30. Authority. Each person signing this Agreement represents and warrants that he is fully authorized to enter into and execute this Agreement, and to bind the party it represents to the terms and conditions hereof.

31. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

WHEREFORE, the parties hereto have executed duplicate originals of this Construction Agreement on the day and year first written above.

[CONTRACTOR]:

By _____
Name _____
Title _____

TOWN OF CRESTED BUTTE, COLORADO:

By _____
Dara MacDonald, Town Manager
Date _____

ATTEST:

Town Clerk

Exhibit A Notice of Award

Dated _____

Owner: Town of Crested Butte	Owner's Project Manager: Janna Hansen	Owner's Resolution No.: 16
Name of Project / Contract: Town Park Playground Renovation Project		Engineer: JVA
Contractor: Black Dragon Development, LLC		
Contractor's Address: (send Certified Mail, Return Receipt Requested) PO Box 579, Crested Butte, CO 81224		

You are notified that your Bid dated August 16, 2018 for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for the **Town Park Playground Renovation Project** contingent upon delivery of all conditions outlined in the Agreement or herein.

See the Bid Documents for details of the scope of work.

The Contract Price of your Contract is **\$449,639.00**
(written) Four Hundred Forty Nine Thousand Six Hundred Thirty Nine and no/100

Three (3) of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within five (5) days of the date you receive this Notice of Award.

1. Deliver to the Owner two (2) fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract Security [Bonds] as specified in the Instructions to Bidders (Article 20), [and] General Conditions (Paragraph 5.01) [and Supplementary Conditions (Paragraph SC-5.01).]

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award and declare your Bid security forfeited.

Town of Crested Butte
Owner

By: _____
Authorized Signature

EXHIBIT B
Town Park Playground
Contract Schedule of Values

Project: Town Park Playground - Contract Schedule of Values **Date:** 8/16/18
Architect: Mundus Bishop **Bldg SF:** N/A
Estimator: CF **Months:**

Id#	Description	Total	Division Totals	Comments
	GENERAL REQUIREMENTS		\$ 37,607	
10100	General Conditions	37,607		
17000	Close Out/Commissioning	-		
	EXISTING CONDITIONS		\$ -	
24000	Demolition - Town In Kind	-		Town In Kind
25000	Demolition - CFTA In Kind	-		CFTA In Kind
26000	Contaminated Material Abatement	-		
3	CONCRETE		\$ 89,257	
30000	Concrete - PIP Area	-		Deleted from scope
31100	Concrete Curbs	5,725		
31500	Concrete Cave	7,200		
32000	Concrete Reinforcing - Post Tension	-		Deleted from scope
33000	Concrete - IDS Structure	9,000		
36000	Basket Ball Slab	25,200		
38000	Concrete Stair	4,500		
39000	Concrete Sidewalks and Ramps	37,632		
4	MASONRY		\$ -	
42000	Unit Masonry	-		
5	METALS		\$ 1,500	
51000	Structural Steel Framing	-		
57000	Decorative Metal Railings	1,500		Stairway rails
59000	Metal Wall Panels	-		
6	WOOD & PLASTICS		\$ -	
61000	Rough Carpentry	-		Not required
61300	Heavy Timber	-		Not required
61500	Rough Lumber	-		Not required
7	THERMAL/MOISTURE PROT.		\$ 1,000	
71000	Waterproofing	-		Not required
79500	Expansion Control	1,000		
8	DOORS & WINDOWS		\$ -	
81000	Doors & Frames	-		Not required
9	FINISHES		\$ 57,848	
96200	Specialty Floor Treatment - PIP Coating	54,848		Variable thickness per manufacturer's specification
99000	Painting - Court Striping	3,000		Two half court linesets per plan
99700	Specialty Wall Coatings	-		Not required
10	SPECIALTIES		\$ -	
101400	Signage	-		Town In Kind
11	EQUIPMENT		\$ 26,616	
116000	Park Amenities	8,500		3 Hamocks and 3 horseshoe pits included. Town In Kind -
116500	Playground	14,116		Trash cans, benches, picnic tables
116600	Athletic - Basket Ball Goals	4,000		Drum set deleted from project
12	FURNISHINGS		\$ -	2 fixed units
121000	Art	-		Not required
126000	Seating	-		Not required
129000	Other	-		Not required
13	SPECIAL CONSTRUCTION		\$ 124,115	
131000	IDS Play Structures	124,115		IDS revised final pricing
131100	Other	-		
14	CONVEYING EQUIPMENT		\$ -	
141000	Dumbwaiters	-		Not required
142000	Elevators	-		Not required
21	FIRE SUPPRESSION		\$ -	
211000	Fire Sprinklers	-		Not required
22	PLUMBING		\$ -	
220000	Plumbing Subcontract	-		Not required
23	HVAC		\$ -	
230000	HVAC Subcontract	-		Not required
25	INTEGRATED AUTOMATION		\$ -	
251000	Building Automation	-		Not required
26	ELECTRICAL		\$ -	
260000	Electical Subcontract	-		Not required
27	COMMUNICATIONS		\$ -	
271500	Data Systems Wiring - Hot Spot	-		Not required
28	ELECTRONIC SECURITY & SAFETY		\$ -	
283000	Access Control	-		Not required
31	EARTHWORK		\$ 36,938	
311000	Site Clearing	-		Town In Kind
312000	Earth Moving	-		Town In Kind
313100	Boulder Walls	-		Town In Kind
314000	Top Soil	-		Town In Kind
315000	EFW Fill	6,750		
316200	Fibar Drainage Board	6,188		
317000	Play Sand & Surfacing Material	24,000		
32	EXTERIOR IMPROVEMENTS		\$ 4,350	

EXHIBIT B
Town Park Playground
Contract Schedule of Values

Project: Town Park Playground - Contract Schedule of Values **Date:** 8/16/18
Architect: Mundus Bishop **Bldg SF:** N/A
Estimator: CF **Months:**

Id#	Description	Total	Division Totals	Comments
321100	Paving - Asphalt	-		Not required
321300	Paving - Pavers	-		Not required
323100	Fences & Gates	4,350		
323500	Curb & Gutter	-		Not required
323700	Trees & Shrubs	-		CFTA In Kind - Allowance
327000	Sod	-		CFTA In Kind - Allowance
328000	Irrigation	-		CFTA In Kind
33	UTILITIES		\$ 15,800	
331000	Water	-		Not required
333000	Sanitary Sewage	-		Not required
				Under-drains connected to new drywell. CFTA In Kind -
334000	Storm Drainage	15,800		Drywell
SUBTOTAL HARD COSTS		395,031	\$ 395,031	
GENERAL LIABILITY INSURANCE		6,643		
BUILDERS RISK INSURANCE		\$0		By Others
PERMIT FEES		\$0		Town In Kind
CONTINGENCY		\$0		Not Included
OVERHEAD & PROFIT		34,869		
SUBTOTAL		436,543		
PAYMENT & PERFORMANCE BONDS		13,096		Actual cost to be determined
CONTRACT SCHEDULE OF VALUES TOTAL		\$ 449,639		

EXHIBIT B
TOWN PARK PLAYGROUND
Clarifications and Qualifications
21 August 2018

The purpose of this exhibit is to clarify the General Contractor's scope of work as it relates to this specific contract for construction of TOWN PARK PLAYGROUND. Any improvements beyond the scope of this exhibit are hereby specifically excluded. To the extent that the contents of this exhibit are in conflict with any other project documents including but not limited to the plans, specifications, permit documents or other prior correspondence or submittals the terms of this exhibit shall prevail.

GENERAL

This project generally consists of construction of new playground facility as summarized in the plans and specifications enumerated in Exhibit C - Document Log attached hereto. The overall management, scheduling and coordination of the project shall be the responsibility of the General Contractor shall include oversight of work indicated as performed by others – specifically “In Kind Contributions” by Town of Crested Butte and the Crested Butte Center for the Arts as indicated in the following scope summary and project budget.

ALTERNATES:

The following items are not included in the base scope of work but can be added at Owner's future discretion:

NONE

ALLOWANCES:

Landscaping: \$ 67,989.0 0

GENERAL CONTRACTOR'S WARRANTY:

General contractor shall warranty to work associated with this contract for a period of one year from the date of receipt of Temporary or Permanent Certificate of Occupancy from the Town of Mt. Crested Butte. Owner and Contractor hereby agree that Owner shall immediately advise Contractor of any warranty claims within 5 days of discovery and provide written notice to Contractor of specific issue. Contractor shall have 30 days to address and remedy such claim. Should Contractor require additional time to complete repairs due to unavailability of materials, accessibility to site, weather conditions or other issues beyond Contractor's control, Contractor shall so notify Owner in writing within 5 days and indicate a reasonable, specific time frame for remedy.

EXHIBIT B
TOWN PARK PLAYGROUND
Clarifications and Qualifications
21 August 2018

PROJECT QUALIFICATIONS:

General Contractor's scope of work is specifically qualified as enumerated below.

DIVISION 1 - GENERAL REQUIREMENTS

01-100 GENERAL CONDITIONS

- Full time on site Supervision throughout project
- Daily project cleanup
- Collection and removal of construction debris from site.
- Safety program, equipment, implementation and monitoring.
- One time final clean of site prior to turnover to Owner.
- Material handling equipment
- Crane for hoisting and facilitation of construction
- Tools and equipment for all personnel
- Plan reproduction for General Contractors use only. All plan reproduction that is required due to changes requested by the Owner or Building Department will be billed as an additional cost to the contract.
- Temporary protective fencing as necessary
- Portable toilets for construction use.
- Standard project identification sign.
- Snow removal if necessary to be billed based on an hourly basis
- Photographic documentation as required.
- Closeout documentation.
- Owner specifically acknowledges that timely response to RFI's and Submittals is critical to delivery of this project. As such Owner agrees to ensure that Project Architect and Engineer return submittals and RFI's within one week of receipt from Contractor. Schedule delays and expenses experienced due to extended response time will be the responsibility of the Owner.

01-571 DUMPSTERS/TRASH

- Furnish dumpster for collection of construction debris only.
- Permanent dumpsters and trash containers to be provided by Town and are specifically excluded from this scope of work.

DIVISION 2 - SITE CONSTRUCTION

02-100 SITE CLEARING

- Site clearing is specifically excluded from this scope of work.

02-110 DEMOLITION

- Demolition and hazardous material abatement, if any, to be provided by Town.

EXHIBIT B
TOWN PARK PLAYGROUND
Clarifications and Qualifications
21 August 2018

- CFTA to provide laborers to assist Town Staff with demolition

02-210 SUBSURFACE INVESTIGATION

- All subsurface investigation if required will be provided by Owner and is not included as part of this contract agreement. Any hazardous or unforeseen, unsuitable materials uncovered during site work or any other excavation operation will be reported to the Owner immediately upon discovery.

02-280 LANDSCAPING

- Landscape scope of work including all labor, materials and equipment necessary for installation of trees, sod and under-plantings, is included as an allowance of \$67,989.00 and shall be the responsibility of the CFTA.

02-300 EARTHWORK

- Specifically excluded from this scope of work – In Kind by Town

02-560 SITE UTILITIES

- Supply and install under-drains, piping and drywell as indicated in Civil plans.
- No other utility work is indicated or included.

02-610 PAVING

- None indicated in project plans - specifically excluded

02-750 IRRIGATION

- Irrigation to include pipe and controls as outlined in the project plans.
- Excludes control extensions to Stepping Stones zone controller

02-801 TREE RELOCATION AND REMOVAL

- Specifically excluded from this scope of work.

02-870 SITE FURNISHINGS

DIVISION 3 - CONCRETE

03-300 CAST-IN-PLACE CONCRETE

- Labor, materials and equipment as necessary for installation of concrete work for curbs, steps, play equipment foundations, basketball court and sidewalks.
- Alternate slab underneath PIP surfacing is specifically excluded

04-200 MASONRY

- Specifically excluded from this scope of work.

DIVISION 5 - METALS

EXHIBIT B
TOWN PARK PLAYGROUND
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05-120 STRUCTURAL STEEL

- Specifically excluded from this scope of work.

05-700 DECORATIVE METALS

- Bare steel hand rails for playground steps

DIVISION 6 - WOOD AND PLASTICS

06-600 ROUGH CARPENTRY - LABOR

- Specifically excluded from this scope of work.

06-601 ROUGH CARPENTRY - MATERIALS

- Specifically excluded from this scope of work.

DIVISION 7 - THERMAL AND MOISTURE PROTECTION

- Specifically excluded from this scope of work.

DIVISION 8 - DOORS AND WINDOWS

- Specifically excluded from this scope of work.

DIVISION 9 – INTERIOR FINISHES

- Specifically excluded from this scope of work.

09-900 PAINTING

- Specifically excluded from this scope of work.

DIVISION 10 - SPECIALTIES

10-431 SIGNAGE

- Specifically excluded from this scope of work – In Kind by Town

DIVISION 11 – EQUIPMENT

11-600 PARK AMENITIES

- Specifically excluded from this scope of work
- Trash receptacles, bike racks, picnic tables and signage specifically excluded from this scope of work – In Kind by Town

EXHIBIT B
TOWN PARK PLAYGROUND
Clarifications and Qualifications
21 August 2018

11-650 PLAYGROUND EQUIPMENT

- Supply and install (1) Little Digger ADAAG
- Supply and install (1) Little Digger
- Supply and install (1) Kid Spinner
- Supply and install (1) 2 Seat See-Saw
- Supply and install (1) 3 Bay Swing Set
- Supply and install (3) Hammocks with associated support poles
- Supply and installation of multi-colored PIP surfacing in manufacturer's specified depth as required for fall conditions
- Specifically excludes supply and installation of Tuned Drums

11-660 ATHLETIC EQUIPMENT

- Supply and install (2) fixed basketball goals – post, backboard and netting included
- Construct (3) new horseshoe pits per submitted design – layout to be provided by Town Park staff
- Supply and install decorative fence along east side of playground. Rope material to match play structure material

DIVISION 13 – SPECIAL CONSTRUCTION

13-100 IDS PLAY STRUCTURES

- Provide all labor, materials and equipment as necessary for installation of Pirate Play Structures as indicated in plans.
- Town Park Staff to be responsible for final sign off and acceptance of shop drawings prior to production of play structures to ensure compliance with design objectives.

DIVISION 15 - MECHANICAL

15-400 PLUMBING

- Specifically excluded from this scope of work.

15-510 FIRE SPRINKLERS

- Specifically excluded from this scope of work.

15-800 HVAC

- Specifically excluded from this scope of work.

DIVISION 16 - ELECTRICAL

16-100 ELECTRICAL

EXHIBIT B
TOWN PARK PLAYGROUND
Clarifications and Qualifications
21 August 2018

- Specifically excluded from this scope of work.

16-670 SECURITY & ACCESS CONTROL SYSTEM

- Specifically excluded from this scope of work.

EXHIBIT B
TOWN PARK PLAYGROUND
Clarifications and Qualifications
21 August 2018

EXCLUSIONS:

The Owner shall be responsible for the following services, materials, fees and other items all of which are specifically excluded from the General Contractor's scope of work:

- Any work outside the areas designated on the contract drawings
- Architectural and Engineering design fees
- Soil borings and related sub-surface engineering.
- Material testing, reporting and inspection.
- Telecommunications service to the building.
- Surveying for layout
- As built survey record documents
- Any work associated with undocumented subsurface conditions
- All items indicated as By Owner in this scope or schedule of values
- Utility Company service charges for installation or relocation of facilities.
- Hazardous material survey and mitigation.
- Maintenance equipment
- Lightning Protection
- Commissioning fees
- Project contingency
- Permanent trash and waste handling equipment and containers
- Supply and installation of play drums
- Demolition of existing bathroom facilities
- Supply and installation of items designated as “park amenities” – ie; trash receptacles, bike racks, picnic tables or interpretive signage
- Site clearing for all installations – By Town
- Rough grading and compaction of site in preparation for concrete – By Town
- Import, placement and compaction of fill material as necessary – By Town
- Supply, import and place boulder walls – By Town
- Import and place top soil for landscaped and sodded areas – By Town
- Identification and abatement of hazardous materials prior to implementation of demolition
- De-commissioning and removal of existing irrigation pump
- Existing pavilion area structure or slab



Staff Report September 4, 2018

To: Mayor Schmidt and Town Council

Thru: Dara MacDonald, Town Manager

From: Janna Hansen, Parks and Recreation Director

Subject: Resolution No. 17, Series 2018 - A Resolution of the Crested Butte Town Council Approving the Award of a Construction Agreement for the Bricks in the 100 Block of Elk Avenue Project to Beckwith Builders, Inc in the Amount of \$25,553.15.

Background:

The 100 block of Elk Avenue is not irrigated thereby making the grass in the right of way difficult to maintain, unattractive, and muddy. The grass is further affected by the storage of snow in the right of way, as well as increased foot traffic in that block of Elk Ave due to more events, more visitors, and more businesses located on the west end of Elk Ave. Town Council approved this project in the 2018 budget for the capital fund.

Summary:

The Project area includes the north side of Elk Ave. between the curb and sidewalk from 127 Elk Ave. west to the corner of 1st St., and on the south side of Elk Ave. from 114 Elk Ave. west to the corner of 1st St. Property owners have been notified.

Recommendation:

Staff recommends approving Resolution No. 17, Series 2018 authorizing the Town Manager to sign a Construction Agreement with Beckwith Builders, Inc. in the amount of \$25,553.15 for the Bricks in the 100 Block of Elk Ave Project.

RESOLUTION NO. 17

SERIES 2018

**A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL APPROVING
THE AWARD OF A CONSTRUCTION AGREEMENT FOR THE BRICKS IN
THE 100 BLOCK OF ELK AVENUE PROJECT TO BECKWITH BUILDERS,
INC IN THE AMOUNT OF \$25,553.15.**

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

WHEREAS, the Town staff recommends to award a construction agreement for installing bricks in the 100 Block of Elk Avenue in the amount of **\$25,553.15.** (the “**Project**”) to Beckwith Builders, Inc. (the “**Contractor**”);

WHEREAS, following the Town staff recommendation, the Town Council desires to award the construction agreement for the Project to the Contractor pursuant to the terms and conditions for the performance of the Project set forth in the agreement attached to these Resolutions; and

WHEREAS, the Town Council finds hereby that approving a construction agreement with Beckwith Builders, Inc. is in the best interest of the Town, Crested Butte residents and visitors.

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

1. **Findings.** The Town Council hereby finds that approving a construction agreement with Beckwith Builders, Inc. is in the best interest of the Town, Crested Butte residents and visitors.

2. **Authorization of Town Manager.** Based on the foregoing, the Town Council hereby authorizes the Town Manager to execute the construction agreement with Beckwith Builders, Inc. in substantially the same form as attached hereto as **Exhibit “A.”**

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS ____
DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____

James A. Schmidt, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Construction Agreement Documents

[attach here]

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT is made this ___ day of _____, 2018 by and between **Beckwith Builders, Inc.** (hereinafter referred to as “Contractor”), and the Town of Crested Butte, Colorado, a Colorado municipal corporation (hereinafter the “Town”).

WITNESSETH:

WHEREAS, the Town desires that Contractor perform the duties of general contractor for the construction of certain improvements, namely the **Bricks in 100 Block of Elk Ave. Project** (hereinafter the “Project”); and

WHEREAS, Contractor desires to perform such duties pursuant to the terms and conditions provided for in this Agreement; and

WHEREAS, the parties hereto desire to set forth certain understandings regarding the Project in writing.

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 is hereby acknowledged, the parties agree as follows:

1. **Statement of Work.** Contractor agrees to manage and supervise the construction of the project located in the Town of Crested Butte, Gunnison County, Colorado, as directed by the Town and pursuant to the Town of Crested Butte Design Standards and according to the plans and specifications approved by the Town. Contractor shall (a) furnish all tools, equipment, supplies, superintendence, transportation and other construction accessories, services and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and skillful manner and in accordance with the provisions of this Agreement; and (d) execute, construct and complete all work included in and covered by this Agreement.

2. **Time of Commencement and Completion.** Construction under this Agreement will begin no later than **October 1, 2018** and shall be completed by **October 31, 2018** (“Completion Date”). The Completion Date may, at the Town’s sole discretion, be extended if approved by the Town in writing, but in no event may the Completion Date extend beyond **November 8, 2018**. If, due to misconduct or neglect, Contractor fails to complete the Project on or before the Completion Date, the Town may deduct **liquidated damages in the amount of \$500.00 the first day and \$250.00 for each additional day** the Contractor works beyond this date. It is understood by Contractor and the Town that actual damages caused by Contractor’s failure to complete this Agreement on time are impracticable or extremely difficult to fix, and that the per diem deduction from the contract price will be retained by the Town as payment by Contractor of liquidated damages, and not as a penalty.

3. **Compensation.** Town shall pay and Contractor shall receive the contract price of **\$ 25,553.15** as stipulated in the Notice of Award, attached to this contract as **Exhibit A** and incorporated herein by this reference, as FULL compensation for everything furnished and done by

Contractor under this Agreement, including all loss or damage arising out of the work or from the action of the elements; for any unforeseen obstruction or difficulty encountered in the prosecution of the work, including increased prices for or shortages of materials for any reason, including natural disasters; for all risks of every description associated with the work; for all expenses incurred due to the suspension or discontinuation of the work; and for well and faithfully completing the work as provided in this Agreement.

4. Draw Requests. Contractor agrees to perform all work on the Project according to the schedules set forth in the approved Bid Proposal attached hereto as **Exhibit B** and incorporated herein by this reference. Contractor shall submit monthly progress reports to the Parks and Recreation Director or his designee showing actual costs incurred and work completed. Contractor shall also submit to the Town monthly draw requests for all authorized costs incurred up to that date for the Project, if the time for the work exceeds one month. Upon review and approval of the progress reports and draw request(s) by the Parks and Recreation Director or his designee, the Town agrees to pay Contractor the amounts shown on all draw requests, minus a ten percent (10%) retainage for any payments other than the final payment, no later than the fifteenth (15th) business day following the date the draw request was submitted. Payments may be withheld if:

- A. Work is found defective and not remedied;
- B. Contractor fails to meet schedules shown on Exhibit B, as may be amended by the actual construction commencement date.
- C. Contractor does not make prompt and proper payments to subcontractors;
- D. Contractor does not make prompt and proper payments for labor, materials, or equipment furnished;
- E. Another contractor is damaged by an act for which Contractor is responsible;
- F. Claims or liens are filed on the job; or
- G. In the opinion of the Town, Contractor's work is not progressing satisfactorily.

The Town shall disburse the total retainage and the final draw request submitted by Contractor upon acceptance of the Project as described in Paragraph 12 below.

5. Liability for Damages. The Town its officers, agents or employees, shall not in any manner be answerable or responsible for any loss or damage to the work or to any part of the work; for any loss or damage to any materials, building, equipment or other property that may be used or employed in the work, or placed on the worksite during the progress of the work; for any injury done or damages or compensation required to be paid under any present or future law, to any person, whether an employee of Contractor or otherwise; or for any damage to any property occurring during or resulting from the work. Contractor shall indemnify the Town, its officers, agents and employees, against all such injuries, damages and compensation arising or resulting from causes other than the Town's neglect, or that of its officers, agents or employees.

6. Inspection of Work and Materials.

- A. The Town Manager or his designee may appoint and employ such persons as may be necessary to act as inspectors or agents for the purpose of supervising in the interests of the Town materials furnished and work done as the work progresses.
- B. The Town shall at all times have unrestricted access to all parts of the work and to other places where or in which the preparation of materials and other integral parts of the work are being carried on and conducted.
- C. Contractor shall provide all facilities and assistance required or requested to carry out the work of supervision and inspection by the Town, including soil and material tests.
- D. Inspection of the work by the above-mentioned authorities or their representatives shall in no manner be presumed to relieve in any degree the responsibility or obligations of Contractor.
- E. No material of any kind shall be used in the work until it has been inspected and accepted by the Town. All rejected materials shall be immediately removed from the premises. Any materials or workmanship found at any time to be defective shall be replaced or remedied at once regardless of previous inspection. Inspection of materials shall be promptly made, and, where practicable, at the source of supply.
- F. Whenever the specifications, the instructions of the Town or the laws, ordinances or regulations of any public authority require work to be specially tested or approved, Contractor shall give the Town timely notice of its readiness for inspection, and if the inspection is by another authority, of the date fixed for the inspection.

7. Insurance. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this section and the insurance has been approved by the Town Manager or his designee. Similarly, Contractor shall not allow any approved subcontractor to commence work on his or her subcontract until all similar insurance required of subcontractor has been so obtained and approved. The following insurance shall be required:

- A. **Commercial General Liability Insurance:** At a minimum, combined single limits of \$1,000,000 per occurrence and \$1,000,000 for general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence.
- B. **Workers' Compensation and Employer's Liability:** Workers' compensation insurance for all of Contractor's employees engaged in work at the site of the project including occupational disease coverage in accordance with scope and limits as required by the State of Colorado.
- C. **Comprehensive Automobile Liability Insurance:** Including coverage for all owned, non-owned, and rented vehicles with \$1,000,000 combined single limit for each occurrence.

The Town of Crested Butte shall be named as an additional insured. All insurance policies must be written in a manner consistent with the requirements of the Standard Form Agreement. Certificates of insurance shall be issued prior to execution of the Notice to Proceed.

8. Notice to Proceed. Notice to Proceed shall be issued within ten (10) calendar days of the execution of this Agreement by all parties. If the Town fails to issue such Notice to Proceed within that time limit, Contractor may terminate the Agreement without further liability on the part of either party. Such notice of termination must be tendered in writing to the Town. Additionally, the parties may mutually agree that the time for the Notice to Proceed may be extended.

9. Compliance with Laws. Contractor and every subcontractor or person doing or contracting to do any work contemplated by this contract shall keep himself or herself fully informed of all national and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of his or her contract or any extra work, and shall at all times observe and comply with such laws, ordinances and regulations, whether or not the laws, ordinances or regulations are mentioned in this contract, and shall indemnify the Town, its officers, agents and employees, against any claim or liability arising from or based on the violation of any such laws, ordinances or regulations.

10. Certificates and Permits. Contractor shall secure at Contractor's own expense all necessary certificates, licenses and permits from municipal or other public authorities required in connection with the work contemplated by this Agreement or any part of this Agreement, and shall give all notices required by law, ordinance or regulation. Contractor shall pay all fees and charges incident to the due and lawful prosecution of the work contemplated by this Agreement, and any extra work performed by Contractor.

11. Termination. The Town may, at its sole discretion, terminate this Agreement without liability in the event that Contractor fails to provide Certificates of Insurance required by Paragraph 7, or otherwise fails to meet the conditions precedent to issuance of the Notice to Proceed set forth in Paragraph 10 above. The Town may also, at its sole discretion, on one week's notice to Contractor, terminate this Agreement without liability before the completion date, and without prejudice to any other remedy the Town may have, when Contractor defaults in the performance of any provision, or fails to carry out the construction of the Project in accordance with the provisions of this Agreement.

12. Substantial Completion / Acceptance. The date of substantial completion of the Project shall be a date mutually agreed upon by the Town and Contractor. In the event that the Town and Contractor do not reach an agreement as to the date of substantial completion, the Crested Butte Town Council shall determine such date. Upon the date of substantial completion, Contractor shall certify in writing that substantially all improvements described in the Statement of Work have been completed in conformance with the plans and specifications and submit to the Town a completed substantial completion list utilizing a form approved by the Town. Thereafter, and within thirty (30) business days after a request for final inspection by Builder, the Town shall inspect the Project and notify Builder in writing and with specificity of their conformity or lack thereof to the plans and specifications. Builder shall make all corrections necessary to bring the Project into conformity with the plans and specifications. Once any and all corrections are completed, the Town shall complete a Project Acceptance Form and promptly notify Builder in writing that the Project is in conformance with the approved plans and specifications, and the date of such notification shall be known as the Acceptance Date. The Acceptance Date shall coincide with the commencement of the one year

warranty period described in Paragraph 15 below. Within thirty (30) days of the Acceptance Date, the Town shall pay Builder the amount shown on the final draw request; provided, however, that the amount of funds left from the contract price specified in the Notice of Award are sufficient to cover this amount.

13. Warranty. Contractor shall warrant any and all improvements constituting the Project constructed for the Town pursuant to this Construction Agreement for a period of twenty four (24) months from the Acceptance Date as set forth in Paragraph 14 herein. Specifically, but not by way of limitation, Contractor shall warrant that:

- A. Any and all improvements constituting the Project shall be free from any security interest or other lien or encumbrance; and
- B. Any and all structures so conveyed shall be free of any defects in materials or workmanship for a period of two (2) years, as stated above.

14. Corrections to Project. If, within one (2) years after the date of substantial completion, any of Contractor's work on the Project is found to be not in accordance with the standards set forth in the preceding Paragraph 15, Contractor shall, at Contractor's expense, correct it promptly after receipt of a written notice from the Town to do so unless the Town has previously accepted such condition. Such notice shall be either delivered personally or by overnight express courier, or sent by registered or certified mail, postage prepaid, return receipt requested, and must be received by Contractor as soon as practicable after the Town discovers the defect or the loss or damage caused by such defect, but in no event later than the date that the warranty given hereby expires.

15. Modifications. The Town may modify this Agreement with respect to the arrangement, character, alignment, grade or size of the work or appurtenances whenever in its opinion it shall deem it necessary or advisable to do so. Contractor shall accept such modifications when ordered in writing by the Town Manager or his designee. Any such modifications shall not subject Contractor to increased expense without equitable compensation, which compensation may be approved by the Town pursuant to its Purchasing Policy. If any modification results in a decrease in the cost of work involved, an equitable deduction from the contract price shall be made. These deductions shall be determined by the Town Manager or his designee. The determination of any such additional compensation or deduction shall be based on the bids submitted and accepted. No modifications in the work shown on the plans and described in the specifications shall be made, unless the nature and extent of the modifications has first been certified by the Town in writing and sent to Contractor.

16. Attorneys' Fees; Survival; Costs of Collection. Should this Agreement become the subject of legal action to resolve a claim of default in performance by any party, including the collection of past due amounts, the non-prevailing party shall pay the prevailing party's reasonable attorneys' fees, expenses, and court costs. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.

17. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement.

25. Status. Contractor is an independent contractor and none of its employees or agents shall be considered an employee or agent of the Town for any purpose.

26. Insurance and Governmental Immunity Act. Nothing herein shall be interpreted as a waiver of governmental immunity, to which the other parties would otherwise be entitled under C.R.S. §24-6-101, et seq. as amended.

27. Work By Illegal Aliens Prohibited. Pursuant to Section 8-17.5-101, C.R.S., *et. seq.*, Contractor warrants, represents, acknowledges, and agrees that:

- A. Contractor does not knowingly employ or contract with an illegal alien.
- B. Contractor does not knowingly employ or contract with an illegal alien to perform work or enter into a contract with a subcontractor that fails to verify to Town that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- C. Contractor has participated in or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the Department of Homeland Security (hereinafter, “E-Verify”) in order to verify that Contractor does not employ illegal aliens. If Contractor is not accepted into E-Verify prior to entering into this Agreement, Contractor shall forthwith apply to participate in E-Verify and shall submit to the Town written verification of such application within five (5) days of the date of this Agreement. Contractor shall continue to apply to participate in E-Verify, and shall certify such application to the Town in writing, every three (3) months until Contractor is accepted or this Agreement is completed, whichever occurs first. This Paragraph shall be null and void if E-Verify is discontinued.
- D. Contractor shall not use E-Verify procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
- E. If the Town obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:
 - (a) notify the subcontractor and the Town within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) notify the subcontractor and the Town within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) terminate the subcontract with the subcontractor if within three (3) days of

receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

- F. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (“Department”) made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5-102(5), C.R.S.
- G. If Contractor violates this Paragraph, the Town may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of said violation.

28. Authority. Each person signing this Agreement represents and warrants that he is fully authorized to enter into and execute this Agreement, and to bind the party it represents to the terms and conditions hereof.

29. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

WHEREFORE, the parties hereto have executed duplicate originals of this Construction Agreement on the day and year first written above.

[CONTRACTOR]:

By _____
Name _____
Title _____

TOWN OF CRESTED BUTTE, COLORADO:

By _____
Dara MacDonald, Town Manager
Date _____

ATTEST:

Town Clerk

Exhibit A

Notice of Award

Dated _____

Owner: Town of Crested Butte	Owner's Project Manager: Janna Hansen	Owner's Resolution No.: 17, Series 2018
Name of Project / Contract: Bricks in 100 Block of Elk Ave. Project		Engineer: N/A
Contractor: Beckwith Builders, Inc.		
Contractor's Address: (send Certified Mail, Return Receipt Requested) P.O. Box 3213, 736 Riverland Dr. Crested Butte, CO 81224		

You are notified that your Bid dated 1/24/18 for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for the **Bricks in 100 Block of Elk Ave. Project** contingent upon delivery of all conditions outlined in the Agreement or herein.

See the Bid Documents for details of the scope of work.

The Contract Price of your Contract is \$25,553.15
(written) twenty five thousand five hundred fifty three dollars and fifteen cents

Three (3) of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within five (5) days of the date you receive this Notice of Award.

1. Deliver to the Owner two (2) fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the General Conditions (Paragraph 5.01) [and Supplementary Conditions (Paragraph SC-5.01).]

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award and declare your Bid security forfeited.

Town of Crested Butte
Owner

By: _____
Authorized Signature

Estimate

Beckwith Builders, Inc.

Beckwith Brick
P.O. Box 3213
736 Riverland Dr.
Crested Butte, CO 81224

Date	Estimate #
1/24/2018	907

Name / Address
Town of CB, CO 81224 100 Block Elk Ave Brick Paver Medians 81224

Description	Qty	Rate	Total
2170 sq/ft Brick Pavers . Interstate Brand, color "Cherry Red" 4" x 8" x 2-1/4" True Paver Delivery included : price quoted by Brickyard Montrose (see attached)	1	9,278.15	9,278.15
base material (500X Mirafy, road base, sand, etc.)	2,170	1.50	3,255.00
Labor to install	2,170	6.00	13,020.00
* Price is dependent that area is prepared / excavated to be 10" below finished grade height by others following proper sub base compaction to 95% compaction. Any disturbed soil must be compacted and raised in increments no taller than 4" lifts. If Beckwith Builders does the excavation , ADD \$4,340		0.00	0.00
Please Note: This estimate is based on our best interpretation of the plans at this time. All billing will reflect actual quantities, at the prices listed in this estimate. Both parties must approve change orders before work on them will commence. This estimate null and void after 90 days but may be withdrawn by Beckwith Builders, Inc after 30 days. A 1.5% per month, 18%annum finance charge will be added to any amount past 30 days, including costs of attorney fees.		0.00	0.00T
All material is guaranteed to be as specified. All work is to be completed in a workman like manner according to standard practices alteration or deviation from the estimate becomes an extra charge. Our workers are fully covered with workman's compensation insurance. This estimate is based upon the assumption of normal excavation techniques, jack hammering or blasting is not considered normal and will be charged on a time and material basis. Survey and vertical control by others. Soil / Density testing by others. Maintenance and upkeep to be done by owner.			
30% deposit due upon start up			
		Total	

Estimate

Beckwith Builders, Inc.

Beckwith Brick
 P.O. Box 3213
 736 Riverland Dr.
 Crested Butte, CO 81224

Date	Estimate #
1/24/2018	907

Name / Address
Town of CB, CO 81224 100 Block Elk Ave Brick Paver Medians 81224

Description	Qty	Rate	Total
Sales Tax		2.90%	0.00
		Total	\$25,553.15



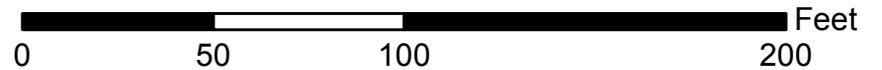
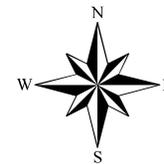
100 Block of Elk Avenue - Brick Project

Project Area:

North side of Elk Avenue = 1585 sq ft

South side of Elk Avenue = 585 sq ft

2170 sq ft





Memorandum

To: Town Council
From: Dara MacDonald, Town Manager
Subject: Manager's Report
Date: September 4, 2018

Town Manager

- 1) As part of the Kapushion Family's plans to develop their platted lands within Blocks 1, 2, 11 and 12 of the Town, they would like to realign and pipe the McCormick Ditch largely within the Town's right-of-ways.
 - o The Town Council approved a Ditch Relocation Agreement in June of 2017 that would have allowed the ditch relocation to proceed. However, the other ditch owner, Sheep Mountain Partners – Ryan and Wynn Martens - have not been able to reach agreement with the Kapushion Family – Wayne and Tina Meredith. Last year the Kapushion Family began court proceedings to try and have a judge settle the dispute. There have been ongoing negotiations but agreement remains elusive. There is a trial date set for April, 2019 and Wayne and Tina Meredith have stated that they are not planning to try and negotiate further but rather will wait and see what the judge determines in April.
 - o Town staff and water counsel recommend that the Town enter into a stipulation with the Kapushion Family stating the Town's approval of the Ditch Agreement last June and reserving the right to reengage if needed.
 - o Any stipulation will need to be approved by the Town Council. We will plan to have Scott Miller attend a Council meeting in the next few months to discuss this and other pending water rights issues.

- 2) We have begun interviewing candidates for the Public Works Director position.

- 3) CAST has released the Multi-Modal Best Practices study and a copy is attached. Please let me know if you would like a hard copy.

- 4) GRVHA One Valley Housing Plan - The Gunnison Valley Housing Authority is currently working to create a One Valley Housing Plan. This document will knit together the OVPP housing objectives and other housing discussions to create the housing authority's overall playbook for the next five years. They began this process with an open house on August 23rd in Almont. Their next step is reaching out to local government stakeholders. They would like to get on the schedule for a work session with the Council late September or early October to get your feedback. Unfortunately we have already set the regular work session agendas for September and October, so would the Council be willing in having a special work session for this discussion?

Public Works

- 1) Safe Routes to Schools
 - o The Belleview sidewalk was completed in time for the start of school and seems to be working well.

- Three crosswalks were painted in decorative designs to enhance the Safe Routes to School this fall.
 - In partnership between the Town and CBCS, the CBCS logo has been painted on the concrete in many locations along the Safe Routes to School
- 2) The new flume for the Lake Irwin outfall has been installed.
 - 3) Cypress will begin utilizing treated water for irrigation of the seeded area where the work was done to clean-up the dump so that the seed has a chance of taking root this fall. In exchange a tap has been made into the main within the Aperture Subdivision that will allow extension of a water service line to the cemetery. The existing water service line along Gothic Road failed last fall and will be abandoned once this new, much shorter, service line is installed. Subject to Council approval of the 2nd Amendment to the Pre-Annexation Agreement with Cypress, Public Works will install the new service line this fall.

Marshals

- 1) The active shooter drill at CBCS on August 15th went well and was helpful both for emergency service providers and CBCS staff.

Parks & Rec

- 1) Site prep for the Town Park playground has begun with our crews beginning to move things around. The basketball court is the first component and will be completed this fall. Completion deadline for the entire project is June 1, 2019.
- 2) Dumpsters will remain at the 4-Way and Judd Falls through September. We will continue to work with USFS and Waste Management to identify locations for dumpsters off Slate River Road and in Washington Gulch Rd if the Council wants to pursue for next year. Staff has not heard anything regarding Council's efforts to secure funding from other entities to assist with the cost.
- 3) Staff has met with CB Nordic and WEHA to reengage discussions regarding fundraising for a new Warming House and refrigerated ice. Staff will bring forward some initial resolutions regarding funding and support for the project for Council consideration in the next few months.

Community Development

- 1) The Slate River Working Group – There will be a public meeting regarding the Slate River Floating Management Plan on September 27th 6:00 p.m. at the Council Chambers.
- 2) Parking Plan – Outlined below is the schedule for the Phase 1-Parking Management Study. For the public outreach, we might have a similar format like we did with the Block 76 where we have an informal, open house from 4:30-6:00 pm so people can drop by, look at the maps/information, voice the opinions/concerns; and then 6:30-8:00 pm have a more formal presentation/PowerPoint by staff/Interstate Parking followed by questions/answers.

In terms of meetings, the following dates are confirmed with Interstate Parking:

- Sept. 13-Business Owners/employees
- Sept. 19-Residents/neighborhoods
- Oct. 1-Town Council; presentation, questions and direction (**no decision**)
- Oct. 15-Town Council decision* OR

Possible additional dates:

- Oct. 25-an additional public meeting if directed by Council at 10-1 meeting**
- Nov. 5-Summary presentation; Town Council decision**

* Interstate not required to attend

** Interstate may attend depending Council direction and additional scope/fee

- 3) Work will commence on Block 76 this fall with public works crews removing the berm and getting the overlot grading done.
- 4) We have received the draft BOZAR Commissioner Handbook. There will be additional training for BOZAR members and staff this fall.
- 5) The Town has reached the limit on unlimited vacation rental licenses. They are now being issued from the wait list as licenses are surrendered or properties transfer.
- 6) Wayfinding – The metal brackets have been installed on light posts around town. The sign panels will be installed in the coming weeks.

Town Clerk

- 1) The One Valley Community Walk by the American Foundation for Suicide Prevention Inc will be on Saturday, September 15th. The walk begins at 1PM at Rainbow Park. Walkers will proceed on 8th Street to Elk Avenue. They will travel west on Elk Avenue to 2nd Street and then head south on 2nd Street to Beckwith. From there, they go east to Belleview and then down 8th and back to Rainbow Park. There will be a rolling closure on Elk Avenue during the walk.
- 2) Staff will be meeting with the Vinotok event organizers on Thursday, September 6th. The event application will be on the agenda for September 17th. The Harvest Feast is planned for Friday, September 21st.
- 3) There will be another flurry of activity on the Master Records Project the second week in September.
- 4) New chairs for Council and staff have been ordered and will be available in a few weeks. We will now begin working on the new table for Council.
- 5) The Council work session is scheduled to begin at 5:00 on September 17th to allow time for presentations from the three developers responding to the RFP for the Block 76 affordable housing project. The regular meeting will then begin at 7:30.

Finance

- 1) New phones have been installed in most municipal locations. The system should be fully operational in the next week or so as some of the infrastructure changes are finalized and everyone gets trained on the operation.
- 2) July sales tax is up 7% over July, 2017 returns, excluding the vacation rental excise tax. See attached report for more information.

Intergovernmental

The next joint meeting with other elected officials in the County will be held on November 8th at the Avalanche in Mt. Crested Butte. Additional details will be provided as the meeting approaches.

Upcoming Meetings or Events

September 27th – Slate River Working Group public meeting, Council Chambers

November 8th – Intergovernmental Elected Officials meeting, Avalanche Restaurant

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



Staff Report

To: Mayor and Town Council

Thru: Dara MacDonald, Town Manager

From: Rob Zillioux, Finance and HR Director

Subject: July Sales Tax Update

Date: September 4, 2018

July Sales Tax grew 7% versus July 2017, excluding STR Excise. YTD, sales tax grew 8% versus 2017. (see below charts). May through July were all double-digit growth months, or near double-digit growth, offsetting the poor winter months. 2017 budget assumed 1.5% growth in sales tax revenue. Compared to YTD budget, we are roughly \$130,000 ahead.

Sales tax from out of state retailers grew 42%, as compared to 6% within Town. Notably, out of state (on-line) retailers include Amazon, Apple and Zappos. This growth is cutting into revenue potential for local retail and grocery.

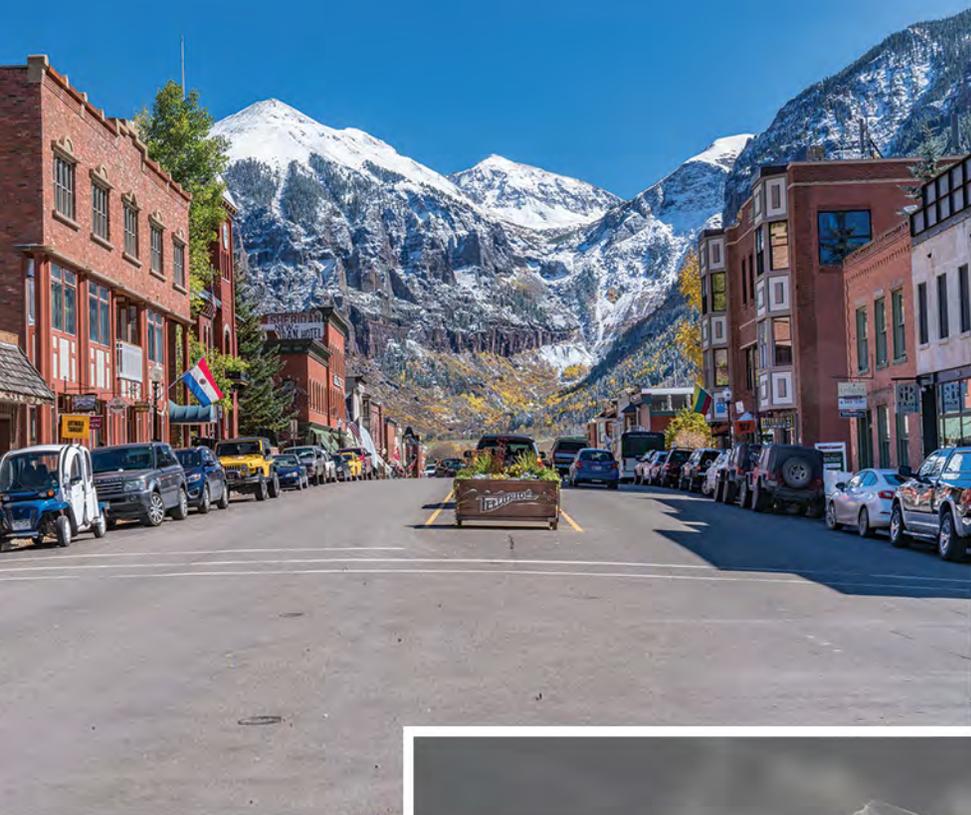
\$34,650 collected for STR Excise tax. YTD July collections were \$145,730 and roughly on plan.

Business Area Name	2018	2017	\$ Diff	% Diff
In Town	\$2,082,910	\$1,958,691	\$124,219	6%
County	\$122,789	\$114,861	\$7,928	7%
State	\$53,393	\$55,617	(\$2,224)	-4%
Out of State	\$142,433	\$100,174	\$42,259	42%
Grand Total	\$2,403,799	\$2,233,779	\$170,020	8%

Business Segment	2018	2017	\$ Diff	% Diff
BARS/REST	\$796,084	\$748,925	\$47,159	6%
GROCERY	\$281,814	\$266,255	\$15,560	6%
RETAIL	\$600,008	\$554,294	\$45,714	8%
RETAIL:MMJ	\$85,870	\$66,475	\$19,396	29%
LODGING	\$235,738	\$207,154	\$28,585	14%
CONST/HRDWR/AUTO	\$184,358	\$186,583	(\$2,225)	-1%
SERVICE	\$101,457	\$95,979	\$5,478	6%
OTHER	\$118,468	\$108,114	\$10,354	10%
Grand Total	\$2,403,799	\$2,233,779	\$170,020	8%

COLORADO ASSOCIATION OF SKI TOWNS

MULTI-MODAL TRANSPORTATION BEST PRACTICES AUGUST 2018





PREPARED FOR:

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APPENDICES

(in separate attachment)

PROJECT BACKGROUND

The Colorado Association of Ski Towns (CAST) is a non-profit membership organization comprised of representatives from 40 communities located in the resort areas of Colorado, Wyoming, Utah, Idaho, and British Columbia. CAST brings its members together to share their knowledge and experience about the unique challenges experienced by resort communities that largely depend on tourism. CAST is committed to helping member communities meet their goals and understands that smart, efficient, and sustainable multi-modal transportation is a critical component of a successful resort community.

CAST member communities experience transportation challenges unique to locations in and adjacent to popular recreation areas and visitor destinations, including:



- A wider variation in travel demand that is seasonal compared to typical communities. This demand can be highly directional with peaks inbound in the morning and outbound in the afternoon. This challenge makes it difficult to “right size” transportation solutions and requires balancing peak travel demand needs with congestion, capital investments, and land use/community impacts.
- A larger proportion of travelers who are visitors and unfamiliar with the road network, parking locations, and multi-modal alternatives.
- Resort employees who often locate further away from resorts to access affordable housing and have varying work shifts throughout the day, resulting in long commutes and travel times that do not always coincide with typical travel patterns.
- Peak parking demand that often exceeds supply. This can result in frustrated visitors, illegal parking, and additional traffic as people circulate for an open spot. Additionally, areas without time limits and parking policies sometimes find that employees park in the prime locations for long periods of the day.
- A desire to provide a positive, high-quality visitor experience, which includes transportation. Because the economic livelihood of resort communities relies on tourism, providing a great experience is imperative and supports repeat visitation.
- A desire to preserve the natural environment, including air quality and land development near sensitive environmental resources. CAST communities are located in beautiful areas surrounded by our nation’s natural treasures. Preserving these areas and providing context sensitive solutions are important.

Given the unique needs of resort communities and the ever-changing landscape of multi-modal transportation, CAST members identified the need to conduct a research study to better understand successful multi-modal transportation programs, services, technologies, and infrastructure being implemented that could be successfully replicated by CAST communities. This document provides the study results, including profiles of 11 successful and/or innovative multi-modal solutions that resort communities have implemented. Two additional profiles are included to provide ideas and lessons learned, with one highlighting solutions with opportunities for improvement and one summarizing partnership and funding ideas.

SURVEY & RESEARCH SUMMARY

CAST SURVEY SUMMARY

A survey distributed to CAST members solicited multi-modal solutions for consideration in this report. The survey also asked general ranking questions about community priorities, challenges, and mobility needs to ensure profiled solutions align with the needs of CAST communities. Survey results are displayed on the charts to the right, with written summaries provided below.

Community Priorities, Challenges, and Mobility Needs

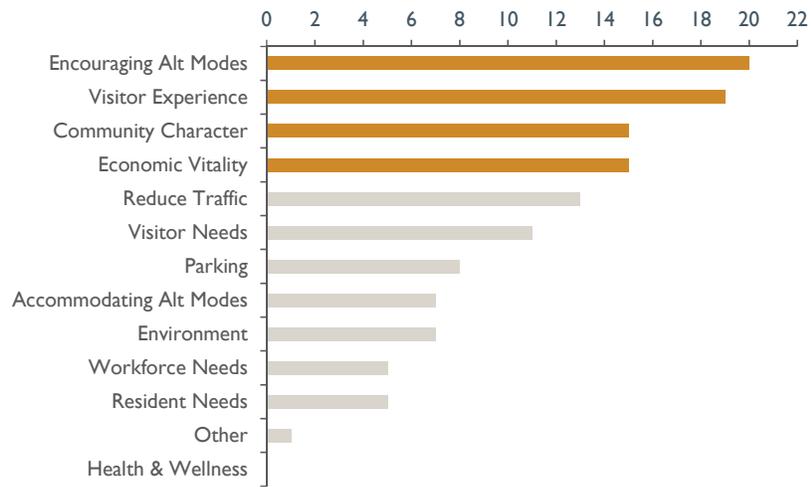
When asked to rank their community’s priorities from a transportation perspective, respondents ranked encouraging the use of alternative modes (walking, biking, and transit) as the top priority, followed by visitor experience, community character, and economic vitality.

Respondents most frequently ranked the seasonality of demand as the top challenge. This was followed by the availability of parking, mobility challenges influenced by land use (e.g. employee housing availability and location), and balancing the different needs of residents, employees, and visitors.

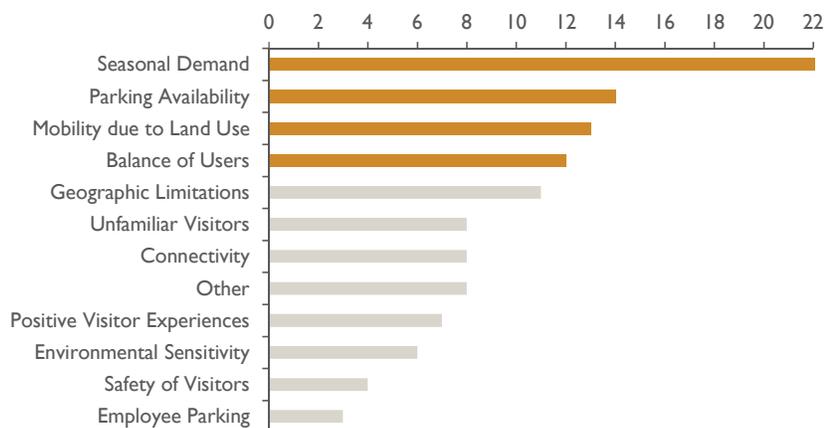
When presented with a list of top mobility solutions they might be interested in, respondents noted parking-related solutions were of the most interest, followed by funding and the collection/distribution of information. Summed together, solutions focused on alternative modes are also of great interest, but just in a more varied manner compared to the other categories.

A more detailed presentation of the survey and the summary data are available as part of the study process description in APPENDIX A. Solutions submitted are summarized as part of the IMPLEMENTED SOLUTIONS GUIDE matrix at the end of this section.

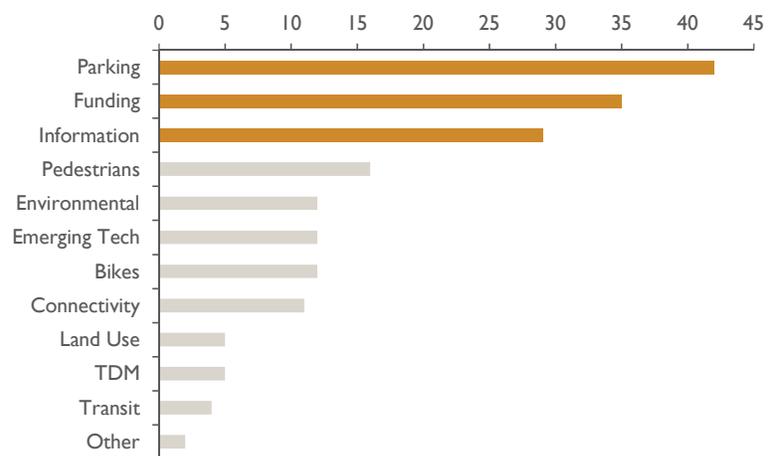
CAST Community Priorities - Rankings in the Top 3



CAST Community Challenges - Rankings in the Top 3



Top Mobility Solutions of Interest - Categorized



SURVEY & RESEARCH SUMMARY

(continued)



Credit: zermatt.ch

ZERMATT, SWITZERLAND

Zermatt, situated in the Swiss Alps, banned private and non-electric vehicles in the 1970s to prevent air pollution. To reach Zermatt, visitors must travel from nearby Täsch via train, taxi, or helicopter. Once in Zermatt, only small electric vehicles that operate like taxis or hotel shuttles are allowed with a permit, with personal use prohibited. Two traditional bus routes that use larger electric buses are provided, while bike rentals and horse-drawn carriages are also available.

NON-CAST RESEARCH SUMMARY

Other resort and tourism focused locations throughout North America and the rest of the world were investigated to uncover ideas for solutions to supplement those from CAST communities. A key difference for some of these locations is how the community is governed or located in respect to the resort. In some cases, the community is part of the resort and is not a traditional municipality. In other cases, the resort is not directly adjacent to supporting communities. Both of these situations exist in CAST areas but are more common outside CAST. These differences influence the types of solutions that are needed or can be implemented, as well as how they are implemented. In general, many North American locations are implementing solutions similar to those in CAST communities. Differences primarily result from how state laws differ or from population density.

Outside North America, information was difficult to obtain due to language barriers and a lack of materials online. In Europe – specifically the Alps – regional train service often links resort communities with major population areas from which visitors travel. In Asia – primarily Japan and South Korea – regional train service also often connects resort communities. Public and private bus options are popular as well, with ride/ski packages offering discounts to promote arrival without a personal vehicle. Technological innovations, such as visitor help robots and smart-screen windows on buses, were deployed as part of the Pyeongchang Winter Olympics but were more focused on demonstrating potential innovation. More information about the research of non-CAST communities can be found as part of the study process description in APPENDIX A.

OUTREACH SUMMARY

Phone interviews were conducted with CAST, non-CAST, and business representatives to learn more about the collected and prioritized solutions. The following provides a general overview of information learned from this outreach, organized by topical areas.

Parking

Parking cost, restrictions, enforcement, and communicating availability were all topics of the solutions discussed. Most communities contacted have parking restrictions and enforcement, with varying approaches and time limits. In communities where parking is free, problems with employees occupying prime spots were observed, even if time limits aimed to prevent this. Paid parking is being implemented in more places, but many communities have concerns over economic impacts and public reactions. Keys to successful implementation are how it is deployed and how the public is engaged. There is a desire to collect/distribute parking occupancy information to reduce traffic looking for spaces and to manage availability. Banff and Vail monitor occupancy in their lots, but no resort communities reviewed have implemented in-pavement sensors despite having interest.

Alternative Modes

Transit is the focus of most alternative mode solutions. Many CAST communities offer local transit service, often fare-free to promote its use and to improve the visitor experience. Several locations are interested in microtransit, but only Aspen has implemented a service. Bike facilities are primarily in the form of off-street paths/trails, with limited on-street facilities, and a few communities deploying temporary bike parking corrals in summer months. Bike shares exist in several communities but have yet to gain significant traction and are primarily available during summer months. The focus for pedestrians is safe crossings of roadways and making streets more active through sidewalk patios and other amenities.

Travel Demand Management / Employee Transportation

Most resort communities, especially those with transit, have some form of travel demand management (TDM) that is typically focused on resort employees. Solutions include free/discounted transit, free carpool parking and facilitation, land use policies and programs that promote denser employee housing near transit, commuter challenge programs, and the alternative mode solutions described above.

Information Collection / Distribution

Given geographical and financial constraints that limit large infrastructure projects, many communities are investing in better understanding how travelers access their transportation network to more effectively target their limited resources. Information such as travel patterns, mode use, parking behavior, system performance, and real-time bus locations is being tracked using technologies ranging from wireless monitors to in-bus GPS tracking. These collected data help communities plan more efficiently, target messages to the right areas and people, modify system operations in real time, and create robust performance measures that can be tracked and reported to the public.

This information is also distributed back to the public so that they can make smarter travel decisions. Several communities provide their transit information through Google Maps and/or through other smartphone apps incorporating real-time bus tracking. Some communities provide interactive maps and/or real-time travel information on their website. Many noted coordination with local hotels and resorts to distribute information about alternative modes. What is lacking is a universal app that brings together all the information streams. Breckenridge noted their transit app can incorporate other streams, such as parking availability, but requires each service to have an open interface to share data. Apps like GoDenver integrate multiple modes but lack single payment processing across services and require custom development, which can be costly.

TETON VILLAGE, WY

The Teton Village Association Improvement & Service District has been tasked with implementing and tracking TDM strategies for Teton Village, which was required by Teton County to implement TDM since its inception. With no on-street parking provided and limited off-street parking, a package of TDM strategies has been implemented to reduce traffic congestion and to allow efficient access to the resort for both visitors and employees who travel from outside of Teton Village. Strategies implemented include:

- Free and frequent in-town bus service
- Subsidized regional bus service, including passes for all Teton Village employees
- Paid parking to disincentivize private vehicle use
- Free carpool parking
- Commuter challenges promoting alternative modes
- Additional lodging and services to reduce the need to travel to/from Teton Village

The implementation of these strategies has resulted in traffic counts remaining at year 2000 levels despite an increase in resort visitors. And nearly 50% of surveyed employees arrived via transit in Winter 2016.

SURVEY & RESEARCH SUMMARY

(continued)

IMPLEMENTED SOLUTIONS GUIDE

This report highlights several of the most successful and innovative solutions found throughout the research process. body of information so that those interested in solutions not profiled in this report have a place from which to start.

LOCATION	SOLUTION														PARKING	CONGESTION	BICYCLES							
	Enforcement	Fees Fund Transit	Advisory Committee	Paid	Peak Pricing	Monitoring	Live Availability	Text Alerts	New Structured	Dedicated Employee	Park 'n Ride	Reserved Parking	Roundabouts	Wireless Monitoring				Regional Coordination	Live Dashboard	TDM Challenge	Traffic Alerts	Bike Share	Wayfinding/Mapping	Bike Lanes
CAST	Aspen (CO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Avon (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	Beaver Creek (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Breckenridge (CO)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Crested Butte (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	Denver (CO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Dillon (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	Estes Park (CO)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
	Gunnison (CO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Jackson/Teton County (WY)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Ketchum (ID)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pagosa Springs (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	Park City (UT)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>									
	Snowmass Village (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	Steamboat Springs (CO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Summit County (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	Telluride (CO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Teton Village (WY)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Vail (CO)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Whistler (BC)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
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NON-CAST	Banff (AB)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Bend (OR)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	Lake Tahoe area (CA/NV)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	Mammoth Lakes (CA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	Mt Hood area (OR)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>							
Stevens Pass (WA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	



SOLUTION PROFILES

This section contains profiles developed to highlight the selected solutions identified at the culmination of the research and outreach process. These solutions were selected based on what communities were interested in as a result of the CAST survey and how innovative and/or impactful the solution is in the communities where it has been implemented.

The solution profiles are meant to be a starting point in identifying new or next-step solutions to address the unique challenges experienced by resort communities. They are organized to provide high-level summary information, along with detailed lessons learned and key elements to keep in mind when deploying. Additional information available in the appendices is listed at the bottom of each profile (when available), as well as contact information and reference materials. Each profile is designed to be printed back-to-back on one sheet of paper, making them easy to distribute to interested parties.

Each profile highlights the community topic areas it addresses. Topic areas include:

- Congestion
- Connectivity/Access
- Parking
- Safety
- Visitor/User Experience
- Environmental Footprint
- Economic Vitality

To more easily locate solution profiles that are of the most interest, the matrix to the right lists each profile in alphabetical order (as organized within this report) with the topic areas addressed by each. Two profiles – Partnerships & Funding and Opportunities for Improvement – do not address any specific topics, with the first summarizing some of the partnerships observed in resort areas, while the second provides lessons learned from solutions that did not successfully address the transportation issues they were intended to solve.

SOLUTION	ADDRESSES						
	Congestion	Connectivity/Access	Parking	Safety	Visitor/User Experience	Environmental Footprint	Economic Vitality
Automated/Autonomous Shuttles	✓	✓	✓	✓	✓	✓	□
Electric Buses	□	□	□	□	✓	✓	□
Microtransit	✓	✓	✓	□	✓	✓	□
Paid Parking	✓	✓	✓	□	✓	□	□
Parking Monitoring	✓	□	✓	□	✓	□	□
Partnerships and Funding	■	■	■	■	■	■	■
Street Activation	□	✓	□	✓	✓	□	✓
Sustainable Land Use	✓	✓	□	□	✓	✓	□
Transit in Google Maps	□	✓	□	□	✓	□	□
Transit Smartphone App	□	✓	□	✓	✓	□	✓
VelociRFTA Bus Rapid Transit	✓	✓	✓	□	✓	✓	✓
Wireless Traffic Monitoring	✓	□	□	□	✓	□	□
Opportunities for Improvement	■	■	■	■	■	■	■

■ Multi-topic solution profile.

PROJECT: AUTOMATED/AUTONOMOUS SHUTTLES

ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Many CAST communities have a robust transit system, yet first/last mile connections with transit stops/stations remain challenging. Labor and capital required to expand service can be expensive, especially when deploying eco-friendly buses. Low unemployment rates and industries offering better pay can make hiring drivers with the necessary qualifications difficult. Demand for some first/last mile connections may not meet the service standards required to deploy a standard bus. Investing in improving non-motorized modes can help fill this gap, but adverse weather conditions, distances, and steep grades can deter travelers from consistently using these modes. Additionally, mobility challenged populations such as the elderly and disabled often cannot use these modes.



SOLUTION

Widespread use of automated/autonomous vehicles may be years away, but automated/autonomous shuttles are already being deployed in both public and private settings around the world. Several manufacturers have automated/autonomous shuttles for sale or lease including EasyMile, Navya, May Mobility, and Local Motors to name a few. These shuttles have been designed to operate in existing traffic environments with little to no upgrades in transportation infrastructure required. They are tailored to provide first/last mile connections and circulator service. They are typically electric, which supports community environmental sustainability goals.

DESIRED OUTCOMES

- Increase access to transit, especially for mobility-challenged populations
- Improve the public transit experience
- Reduce staffing needs
- Reduce emissions and dependence on oil

IMPLEMENTATION STEPS

- Must have secure storage with Level 2 electric charging stations
- Traffic signals require DSRC for communicating with vehicle

LESSONS LEARNED

- Can operate without an operator on private roads, but federal rules require an operator when using public roads
- Can be implemented in 2-3 months
- Future improvements will allow deployment with mixed-traffic that travel faster than 20mph

COST

EasyMile vehicles cost \$250,000-\$300,000 each to purchase, with leasing options also available.

FUNDING

- The Advanced Transportation and Congestion Management Technologies Deployment Initiative (ATCMTD) under FHWA has annual funding of \$60 million per year through 2020 to support deployments of new transportation technologies, with acceleration of connected and automated vehicle deployment being one of the primary program goals.
- EasyMile has been included in several federal grant applications, and was part of a successful state air quality grant in California.
- Ad revenue (in/on vehicles ads)



Winter weather test of EZ 10 vehicle for MnDOT



Did You Know: Automated vs Autonomous

Today, most people accept the terms “autonomous”, “automated”, “self-driving”, and “driverless” as interchangeable. However, FHWA provides definition for both automated and autonomous vehicles. Autonomous vehicles would operate without human intervention or assistance and without communication to other vehicles and/or roadside devices. Automated vehicles, on the other hand, would rely on a level of connectivity to complete automated driving functions. Current discussion regarding the distinction between the two indicates that the potential lack of connectivity associated with autonomous vehicles could mean that the traffic management, cooperative driving operations, and capacity improvements would be limited under this configuration. For example, automatic cruise control (currently available on multiple vehicles) is an example of a non-connected but semi-autonomous/automatic function on a car. Without the connected component, the vehicle is providing a programmed, automatic reactive response to the braking or acceleration of the vehicle ahead of it. Current automatic cruise control programming is such that it actually increases the spacing between vehicles, rather than decreasing it, effectively decreasing roadway capacity. Adding connectivity can allow vehicle platooning to occur, reducing headways and synchronizing acceleration and braking to increase roadway capacity. Connected automated vehicles (CAVs) make decisions based on data received from other connected vehicles and infrastructure, rather than as a singular entity. The connected component of an autonomous/automated future is therefore essential to bring about the capacity and transportation efficiency improvements.



OPERATION SPECIFICATIONS

- Average passenger capacity of 15
- 8-15 hours of operation on a single battery charge
- Handle grades of up to 15% at full passenger capacity
- Typical operating speeds of between 12-25mph
- Operate in all weather conditions
- Typical minimum operating temperature of -4°F for full battery efficiency
- Provide fixed-route or on-demand service
- Operate in mixed-traffic that travel up to 20mph
- Wheelchair accommodations



Winter weather test of EZ 10 vehicle for MnDOT

Considerations for Connected Automated Vehicles (CAVs)

How CAVs will impact the operations of our transportation systems is one of the most debated questions in the transportation industry. However, consensus is building around general assumptions regarding CAVs, and it is becoming more clear what considerations need to be made to plan for CAVs regardless of how they are deployed and when. The following are eight key considerations to keep in mind when planning for a future with CAVs:

- Prior to CAVs, communities need to prepare for an increased number of connected, electric vehicles (e.g. providing accessible and reliable charging infrastructure, and the supported connected vehicle infrastructure)
- CAVs will increase the vehicular carrying capacity of roads
- CAVs will impact parking demand, location and design - potentially decreasing space requirements, shifting parking supply to remote CAV parking locations (private ownership), or reducing demand (shared), etc.
- CAVs are expected to increase the number of vehicle trips being made and the vehicle miles of travel
- Connected, automated transit vehicles can allow for expanded service hours and service areas, increased frequency, reduced operational costs, and increased customer satisfaction and safety while moving more people.
- CAVs may change the narrative on private vehicle ownership as the auto manufacturers developing the technologies simultaneously invest in mobility-as-a-service platforms
- CAVs may increase the mobility of non-drivers (children, elderly, disabled)
- CAVs will increase the safety of all transportation system users



CONTACT INFORMATION

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 EasyMile
 415-815-8200
 lauren.isaac@easymile.com

Note: The majority of shuttle information was provided by Easy Mile and relates to their EZ10 vehicle.



PROJECT: ELECTRIC BUSES | Park City (UT)

ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Park City has one of the most ambitious climate action goals in North America; all City operations will utilize 100% renewable electricity to achieve a net zero carbon footprint by 2022. Park City's overall goal is to achieve net-zero community wide by 2032. Transportation and mobile sources are the largest share of Park City's municipal carbon footprint. As a City department, Park City Transit must support the achievement of this goal and the City Council's commitment to not purchase any additional diesel buses.

SOLUTION

Transition all Park City Transit vehicles to a zero emission, bus (ZEB) electric fleet. As of July 2018, Park City has transitioned six vehicles to ZEB and anticipates delivery of an additional seven ZEBs that will be operational for the 2018/2019 winter season. Park City has a total fleet of 43 vehicles and expects full transition to battery electric by 2032.

DESIRED OUTCOMES

- Support Park City's implementation of their Climate Action Plan
- Protect the environmental well-being of Park City
- Improve air quality by achieving a net zero carbon footprint
- Provide transit service to residents, employees, and visitors that is comfortable, clean, quiet, and efficient

IMPLEMENTATION STEPS

- Research and understand available ZEB options and supporting infrastructure requirements
- Identify potential funding sources and/or apply for grants to purchase vehicles and necessary charging stations (e.g., FTA 5339c)
- Conduct feasibility study and fleet transition strategy (needed vehicle range, charging requirements, and total cost of ownership)
- Work with energy providers to source electricity from renewable energy sources rather than fossil fuels
- Identify ZEB requirements and conduct technology assessment
- Develop technical specifications, draft and release RFP
- Select manufacturer and monitor all phases of production and ZEB/charging station acquisition (production oversight, Buy America Audits, Inspections, etc.)
- Conduct maintenance staff and operator training
- Conduct vehicle, charging, and data system testing
- Implement service
- Conduct ZEB benefits analysis and report on key performance indicators



INFRASTRUCTURE PLANNING CONSIDERATIONS

- Site selection
- Capacity planning and utility coordination
- Redundancy/contingency planning
- Scalability for fleet expansion
- Parking, staging, and yard operations
- Data networking and charge management requirements
- Planning, design, and permitting
- Construction, installation, and commissioning
- Coordination with vehicle delivery

COST

Vehicles: \$600,00-\$800,000 each (includes battery leasing, not purchase)

Charging Infrastructure: approximately \$200,000 per station

FUNDING SOURCES

- US DOT Federal Transit Administration (FTA) Capital and Low-No Emissions Grant (5339c)
- Park City Transit Fund (generated from Utah Mass Transit Tax and a Resort Tax)

LESSONS LEARNED

- Coordinate with local utility provider(s) early in the process to understand rate structure and opportunities for partnership.
- Identify champions - elected officials, staff, and community members - to support the transition to ZEBs.
- Engage the public, board, elected officials, etc. early and often throughout the process.
- Include maintenance staff in the entire process to garner buy-in of vehicle transition to ZEB.
- Use a comprehensive operator training program, as operator behavior can significantly affect vehicle efficiency and range and docking process at charging stations is complex at first.
- Consider leasing batteries to reduce vehicle acquisition costs and to maintain flexibility in making improvements to the vehicles as technology changes and improves.
- Implementation of ZEBs resulted in excitement from the community and has attracted more choice riders. Choice riders are attracted to the vehicle design and quality, the quietness of the vehicles, and the environmental benefits.

NEXT STEPS

- Continue to monitor emerging trends and technologies.
- Track development of battery electric cutaway buses as Park City will need to replace four cutaways with ZEBs, which are not currently available.
- Work with the Utah Transit Authority (UTA) to transition regional commuter buses to ZEBs.
- Monitor system performance including energy, capital, and operational cost savings.

Vail (CO) The Town of Vail has been in the process of testing different electric bus manufacturers (BYD, Gillig, New Flyer, and Proterra) and will conduct a competitive procurement process in late 2018. This process marks the beginning of transitioning Vail's fixed-route fleet of 10 buses to become fully electric to meet the Town's emission goals. The Town also chose to pursue electric buses over compressed natural gas (CNG) buses due to the cost of required infrastructure improvements to maintenance and storage facilities to safely accommodate CNG buses.

The Town has secured a \$600,000 FTA Low-No grant towards the roughly \$900,000 purchase of its first bus, which is anticipated to occur in 2019 with delivery in 2020. The remaining buses are estimated to be replaced by 2024. An additional \$300,000-\$400,000 will be necessary to purchase the appropriate charging stations (about \$60,000/station), which will utilize solar power for a portion of the electricity needed.

Vail is also working with ECO Transit - the regional transit service provided by Eagle County - to facilitate charging for their future electric bus fleet. This is part of the CDOT Intermountain Transportation Planning Region's (TPR) greater vision of incorporating electric buses throughout the TPR. The Vail Transit Center has been identified as the likely location for ECO electric buses to recharge before returning west along I-70.



Electric bus demo in Vail (CO)

CONTACT INFORMATION

Alfred Knotts – Transportation Planning Manager
Park City Municipal Corporation
alfred.knotts@parkcity.org
435-731-7218

REFERENCE MATERIALS

www.parkcitytransit.com
<https://youtu.be/bYxFyHww5I>



ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Parking demand in Aspen’s core exceeds parking supply with many visitors staying relatively close-in, opting to drive and park in downtown. This contributes to parking occupancy issues and congestion. The City was looking for first and last mile solutions to reduce the parking demand and congestion.

SOLUTION

Aspen Downtowner is an app-based, on-demand, door-to-door microtransit system that operates in Aspen’s core and nearby neighborhoods. The vehicles are electric, heated golf carts that hold seven passengers plus the driver. The service is free of charge and operates from 11 AM to 11 PM in spring, summer, and fall. It operates from 8 AM to 11 PM in winter.

The fleet consists of five vehicles (increasing to seven vehicles in winter 2018) that can carry skis but are not equipped for bicycles. Dogs are allowed on the service. Children must be five years or older to ride on the service with adults due to legal restraints requiring car seats.

The program has been in place for approximately two years and started as a pilot project. The City recently signed a five year contract with the Downtowner vendor and anticipates the service is on its way to becoming a permanent service as a result of the positive feedback from users and 47,000 one-way person trips recorded annually. Downtowner (the vendor) owns and maintains the vehicles, and hires and trains the drivers as well.



LESSONS LEARNED

- The City feels it may have been beneficial to involve the cab companies more comprehensively prior to initiating the service, as cab companies have expressed opposition to competing with a free service operated by the City.
- Customers outside the service area have requested service but Aspen is trying not to compete with transit services.
- The original pilot program was tip-based, but it was determined that it seemed awkward to request a tip for a free service, thus the City eliminated this option.
- The original pilot program had iPads in each of the vehicles but they were often not working and were not being put to their intended use by passengers to find menus, bus schedules, etc.
- Local businesses support the service.
- The City may scale back winter hours because the 8 AM to 11 AM period was slow.
- The City has opted to take a more active role in the promotion of the service to ensure compatibility of messaging with other services.
- Other vendors considered include The Gotcha Group and The Free Ride.
- Typical wait time is 4 to 6 minutes; when they exceed 10 minutes, the City will check in with the vendor.
- The service appears to primarily be used by visitors and second home owners, but not as much by commuters.

PROMOTION

The service is promoted similar to other public transportation services. Concierges also promote it and people learn about it through word of mouth.

COST

The program cost \$540,000 for 2018-2019, which includes vehicles, drivers, and insurance. Two new chargers for the two new vehicles have been funded separately.

FUNDING

The Downtowner is paid for through Aspen’s Transportation Fund, which is made up of funds from a lodging tax and a portion of the sales tax. Parking revenues generated also contribute to the City’s Transportation Fund.

CONTACT INFORMATION

Lynn Rumbaugh – Transportation Manager
 City of Aspen
 970-920-5038
 lynn.rumbaugh@cityofaspen.com

Travis Murray
 Downtowner
 travis@ridedowntowner.com

REFERENCE MATERIALS

www.cityofaspen.com/270/downtowner





PROJECT: PAID PARKING | Breckenridge (CO)

ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

During peak visitation periods, parking demand exceeds supply. As the parking supply approaches and exceeds capacity, people looking to park circulate and recirculate looking for an open spot increasing traffic and congestion, and causing visitor frustration. Employees and business owners often park for long periods of time in prime parking spaces. Other non-paid parking management strategies have not been effective enough in addressing this issue and improving parking availability.

SOLUTION

Implemented paid parking in 2016 after a long evaluation period. On-street parking and paid lots typically cost \$0.50/hour but can vary by time of day, day of week, and season. During the summer, the south gondola lot costs \$10 and the price is coordinated with Breckenridge Ski Area who owns a large surface parking area in town. Users can pay via a kiosk or Passport smartphone app, which also allows paying for the extensions.

DESIRED OUTCOME

- Reduce employee and business owner parking in town core
- Achieve parking occupancy in town core of approximately 85% of supply
- Reduce searching and recirculation
- Improve visitor experience



Passport smartphone app used by Breckenridge

OTHER LOCATIONS

Banff (AB) conducted a paid parking pilot project in 2014 where they charged for parking and collected data for four parking lots in the town core. Data from the trial showed the average parking duration increased by 25 minutes with paid parking implemented. Results from the trial will help inform Town Council decisions on future parking policy changes.

Teton Village (WY) charges for parking in surface lots and no on-street parking is allowed. They increased peak pricing for the busiest periods (Christmas to New Years, Presidents' Day) in the remote lot from \$10 per day to \$15 per day and the close-in lots from \$20 per day to \$30 per day. This resulted in 6% less parking occupancy, but a 6% increase in carpooling and an increase in revenue that was used towards funding their shuttle.

Jackson (WY) provides free on-street parking but restricts it to 3 hours from 9 AM to 6 PM. They have found that time limits alone are not effective. They are conducting a multi-phase parking study for downtown and are considering remote/intercept parking, paid parking, and shorter time limits to better manage parking.

COST

- Purchase and installation of 70 parking kiosks was approximately \$500,000
- Approximately \$700,000/year includes flat annual fee for management of parking program and actual expenses, which is similar to managing the program in-house.
- Transaction fees for the Passport smartphone app (enforcement is contracted with Interstate Parking)

FUNDING

- Program is self-funded, raising about \$1.5 million annually in revenue
- Extra revenue goes into Breckenridge's transit and parking fund



IMPLEMENTATION STEPS

- Conduct parking study to identify causes of parking issues, such as employees in prime spots
- Conduct a thorough evaluation of parking options
- Develop a public information and engagement process
- Evaluate potential parking equipment vendors
- Conduct marketing campaign to inform residents and visitors of the change
- Purchase and install equipment/smartphone app
- Monitor availability by sub area and adjust rates to maintain 85% availability



NEXT STEPS

- Integrate with real-time transit info into traveler app to provide real-time parking information
- Real-time parking availability signs
- Regularly monitor parking demand versus supply and adjust parking fees annually to achieve demand of 85% of supply



LESSONS LEARNED

- Time limits alone were not effective because there was no restriction on “reparking” (moving a vehicle)
- Price of parking can be used in place of time limits to manage turnover rate
- Coordinate parking cost with adjacent parking owners, such as resorts
- People stay longer with paid parking than time-restricted parking
- Reverting back to free parking during non-peak seasons resulted in return of previous parking behaviors and associated issues
- Having tried many non-paid options previously helped community realize paid parking was the next logical step
- Worked with Interstate Parking to modify their cost-recovery process to be actual costs to avoid public perception that company tickets more to boost revenue
- Negotiated a lower transaction fee for Passport due to large volume of small transactions
- People without the Passport app usually use kiosks to pay, while residents and regulars normally use the app, so marketing is necessary to boost usage

PRICE MANAGEMENT

The price of parking can be changed at any time to meet occupancy and turnover goals. The Town of Breckenridge will be reviewing their rates after observing parking behaviors over the first 2 years of implementation.

Ketchum (ID) recently implemented paid parking in two City-owned lots within the city core with little public engagement or study. Although this has moved employees out of the lots, the lots are receiving little use by others, as the community has been slow to accept paid parking in this limited application. The City hopes to conduct a parking plan to more effectively implement paid parking.



Parking kiosk similar to those used in Breckenridge



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REFERENCE MATERIALS

www.townofbreckenridge.com/paid-parking



ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Banff is a popular resort area with substantial seasonal visitation. Most visitors arrive by private auto and require parking. During peak summer periods, parking demand exceeds supply resulting in searching and recirculation and visitor frustration.

SOLUTION

Banff tracks parking availability at 10 parking lots throughout the town core. Information on availability is disseminated to travelers through a website <https://banffparking.ca> and a traffic dashboard website <http://dashboard.banff.ca/>. Parking availability is tracked using sensors at the entry and exit points. Wireless communication sends information to town hall for inclusion on the website. Availability is also sent to a real-time message board at the town entrance. The company currently used to deploy the infrastructure is TCS.

DESIRED OUTCOMES

- Provide users information on parking availability to reduce traffic by tempering the need to search and recirculate.
- Encourage people to park in the remote/intercept lot and use alternative modes to access town.
- Improve visitor experience.

COST

Installation cost was approximately \$300,000 for all 10 lots. This includes the counter, power supply to the counter, delineation, and bollards so people do not exit out the back of the lot.

Annual operating cost is approximately \$200 per year per lot. This includes the data plan, IT support, and daily calibration of each lot counter by staff.

In-house IT staff developed and maintains the live data websites as part of their normal operations.

FUNDING

General fund

IMPLEMENTATION STEPS

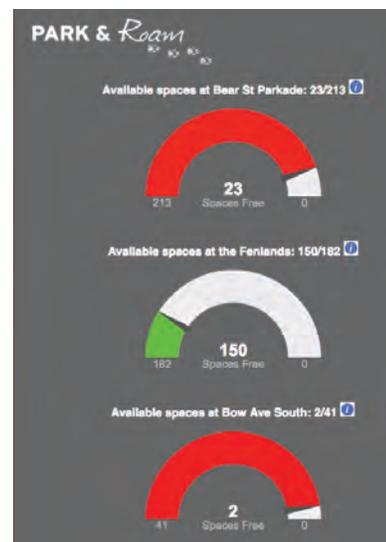
- Identify town core area for monitoring.
- Solicit and evaluate proposals for sensor equipment and installation.
- Develop visitor website and/or app to display information.
- Purchase and install sensors and real-time signing.
- Use social media, Town website, printed brochures, and newspaper ads to drive people to live parking websites.

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Vail (CO) The Town of Vail monitors five of its Town-owned parking lots using entry/exit counters. Live availability is displayed on the Town's website, within the Town's smartphone app, and through Vail Resort's website.



Banff live parking website and available spaces sign

LESSONS LEARNED

- TCS uses separate vendors for the various aspects of the infrastructure supplied. It would be easier to coordinate with a single supplier for all aspects.
- Calibration is required daily; video sensors would be more accurate.
- About 15% fewer people entered monitored lots when real-time parking signs were on and displayed a lot was full, compared to when signs were off.
- The parking page is heavily used; second most visited page on town website.

NEXT STEPS

- Implement overhead video monitoring to increase accuracy.
- Evaluate paid parking to further incentivize a mode shift.
- Increase awareness through signage and online communication.
- Develop visitor app.

REFERENCE MATERIALS

banffparking.ca
dashboard.banff.ca
 Banff Transportation Master Plan
www.vailgov.com/parking-counts





PROGRAMS: PARTNERSHIPS AND FUNDING



PROBLEM STATEMENT

Funding projects and programs to address mobility concerns is an issue for most communities. Usually the mobility concerns communities face are also a problem for other organizations and jurisdictions.



SOLUTION

This profile provides an overview of the partnerships and funding sources discussed with the communities interviewed.



DESIRED OUTCOMES

- Coordinated shared responsibilities, solutions, and costs
- Sustainable funding to support mobility solutions

PARTNERSHIPS

Public / Public

- Teton County, Teton Village, and Jackson (WY) work collaboratively on numerous mobility projects including:
 - Sharing funding of transit service and path construction connecting Jackson, Teton Village, and nearby areas
 - Complementary changes to land use and zoning (down-zoning in rural unincorporated areas and commensurate up-zoning in urbanized areas)
- Banff (AB) partners with Calgary (AB), Canmore (AB), and Parks Canada to provide weekend and holiday regional transit service from May to September
- Estes Park (CO) and Rocky Mountain National Park partner to provide transit service between the town and park
- The Colorado Department of Transportation (CDOT) convenes weekly traffic management meetings with jurisdictions along the I-70 mountain corridor during the winter months (and as needed during summer months) to coordinate needs for anticipated weather events, construction activity, and large events
- Summit County (CO) converted their work submitted for CDOT's statewide bike map – which involved working with municipalities within the County – into an interactive web map for the County and as a template for the rest of the Intermountain Transportation Planning Region members
- Vail (CO) is partnering with a local school and Vail Resorts to develop a new parking structure for school and visitor use
- Park City (UT) has a formal agreement with the Utah Department of Transportation (UDOT) to allow shoulder running transit year-round

Public / Non-Profit

- Teton County, Teton Village, and Jackson (WY) work with a non-profit called Friends of Pathways to run alt-mode commuter challenges and run Jackson's bikeshare program

Public / Private

- Jackson (WY) and Telluride (CO) partner with local business owners to identify where seasonal bike parking would be most beneficial to the community
- Banff (AB) worked closely with its local business community when testing and implementing their Woonerff (shared street)
- Ketchum (ID) partnered with a local hospital as a public health initiative to fund their new bikeshare program, while a healthcare provider and the Park City Chamber sponsor the Park City/Summit County (UT) e-bike share
- Hotels in Banff (AB) contribute financially to the area's transit system; in exchange, their guests can ride the service for free
- Clackamas County (OR) partners with Mt Hood area ski resorts and the Oregon Department of Transportation (ODOT) to offer regional bus service from the outer boundaries of Portland (OR)
- Breckenridge (CO) and the Breckenridge Ski Area (Vail Resorts) partner on many projects including:
 - Parking pricing policy
 - Coordinated transit services and bus tracking, connecting the town with the base of the mountain
- Vail (CO) includes business and resort representatives on its Parking and Transportation Task Force
- Park City and Summit County (UT) help fund the Salt Lake City/ Park City regional commuter bus service

FUNDING

- Transit-specific sales and use taxes (Summit County (UT) recently passed several sales and other taxes to fund transit)
- The San Miguel Authority for Regional Transportation (Telluride area) supplements their sales tax with a transit-specific property tax to evenly spread the funding burden
- Tourism-based taxes (pillow tax, lift ticket tax, etc.)
- Breckenridge (CO), Teton Village (WY), and Whistler (BC) use parking fee revenues to support transit and active mode transportation projects
- FTA grant funding including Small Starts, Low and No Emission Vehicles, Bus and Bus Facilities, etc.
- Mammoth Lakes (CA) has been considering a fee in-lieu of parking policy to allow developers to pay into a fund to support transit rather than add more parking (the policy has not been implemented)
- Federal Lands Access Program (FLAP) for access to, adjacent to, or in Federal lands
- Park City (UT) has a real estate transfer tax to fund transit



ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Banff Avenue – the main arterial through Banff – received a refreshed design in 2001 and attracts in excess of 20,000 pedestrians per day during the peak summer months. Meanwhile, Bear Street has been recognized as an important pedestrian link in the downtown core to relieve demand along Banff Avenue, but it is used by a fraction of the pedestrians that use Banff Avenue.

SOLUTION

Banff’s Transportation Master Plan recommended a reconfiguration of the 200 block of Bear Street into a Woonerff – a shared/living street where pedestrians, cars and cyclists all share the road. Shared streets prioritize pedestrians by giving them the right-of-way for the entire street, while vehicles drive at very slow speeds and cyclists travel through the area at a leisurely pace. Non-transportation activities, such as restaurant patios, are used to help foster the pedestrian-first nature of the street.

DESIRED OUTCOMES

- Foster more sustainable, active modes of transportation
- Enhance the vibrancy of downtown spaces
- Be a catalyst to encouraging commercial uses along streets adjacent to the main street

COST

- The project was initially implemented as a four-year pilot project for a capital cost of approximately \$200,000.
- A permanent design is currently underway; the anticipated capital cost is \$6 million for the one block stretch. The project scope will include a new roadway surface as well as full reconstruction of the deep services (water, sewer and storm). Construction is anticipated in 2019.
- Annual operating/maintenance cost, including amenities such as landscaping, is expected to be around \$50,000.

FUNDING

General fund

IMPLEMENTATION STEPS

- Identification of need in local transportation plan
- Planning of shared street components and conceptual design for pilot project
- Stakeholder and public engagement process, including adjacent businesses
- Identification of funds for implementation of multi-year pilot project
- Assessment of value and success of project
- Issue request for proposals for preliminary and final design
- Identify funding and construct

COMPLEMENTARY IDEAS

Crosswalk Treatments Estes Park and Banff implemented scramble crosswalks providing an all pedestrian phase at signalized intersections. Other communities implemented raised crosswalks (Telluride), automated pedestrian-actuated lit crosswalks (Bernalillo, NM), and rectangular rapid flashing beacons (Keystone).

Seasonal On-Street Bike Parking

Jackson replaces one or two on-street parking spaces in six locations downtown with bike parking corrals from May through October. Each corral includes a four-space U rack and space delineators that cost about \$1,000 each. Telluride has been implementing a similar system using larger bike racks in 10 parking spaces around town for a cost of \$500/space. The Town reports that businesses appreciate the sidewalk space these systems clear, as the racks are heavily used during the summer. Implementation and disassembly require two days per year for both locations and are funded out of the agency’s annual budget.

Seasonal Boardwalk Patios Similarly, some communities seasonally replace a few select parking spaces with a temporary boardwalk-style sidewalk to create space for restaurant patios and other amenities within the street to slow traffic and attract pedestrian activity.

LESSONS LEARNED

- Adjacent businesses have been a driving force in implementing the Woonerff on Bear Street, recognizing that activating the street is more beneficial than maintaining adjacent on-street parking.
- Project has been very successful in achieving the identified goals.
- Keep in mind ADA detectable surfaces.
- Consider drainage needs without curb and gutter.



Seasonal bike parking in Telluride



Woonerff patio in Banff



Raised crosswalk in Telluride



Seasonal bike parking in Jackson



Example lit crosswalk



Example seasonal boardwalk patio

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REFERENCE MATERIALS

www.banff.ca/index.aspx?NID=969
FHWA-HEP-17-096: Accessible Shared Streets

ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Available land for development in resort communities is often scarce and expensive. Developers prefer to build on land already owned or where least expensive, which is usually outside of existing developed areas. This results in an increase in congestion from a lack of access to alternative modes such as transit or bicycle facilities. Resort communities are in need of workforce housing and often prefer that this type of development occur where transit and non-motorized modes can serve trips to/from the resorts.

SOLUTION

Teton County (WY) - in coordination with the Town of Jackson - and Summit County (CO) have both undertaken land use policy changes to move development from locations without services outside of developed areas to locations with transit and other services. They have combined these changes with incentives for new development to be workforce housing.

Teton County/Jackson (WY)

Teton County’s comprehensive plan aims to increase the use of alternative modes, protect the environment, and house more of the area’s workforce locally. The plan led to the down-zoning of rural lands to remove the ability to subdivide, resulting in a reduction of 2,300 potential housing units from these areas. The plan also defined transitional neighborhoods that are suitable for increased development due to proximity of existing services and attractions, including transit. The County is working with the Town of Jackson to implement this up-zoning, which will use incentives such as square-footage bonuses and residency requirements in an effort to promote the construction of affordable housing.

Summit County (CO)

Summit County’s comprehensive plan included a GIS suitability analysis that reviewed potential greenfield and infill properties to identify which parcels are suitable for workforce housing based on the availability of existing services. One of the requirements was the availability of transit. Parcels identified as suitable are eligible for a transfer of development rights (TDR) program, which allows holders of rural parcels eligible for private development to swap development rights to suitable-identified parcels. In exchange, the TDR allows for density bonuses and the ability to develop workforce housing, even if the suitable parcel is not zoned for workforce housing – a variance supported by the comprehensive plan.

Telluride

The Telluride Affordable Housing Strategic Plan identifies potential sites where the Town could construct deed-restricted affordable housing. These sites are prioritized based on a weighting system that considers 10 criteria, one of which is proximity to transit.

Teton County Comprehensive Plan Land Use Correction Process



 **DESIRED OUTCOMES**

- Reduce congestion associated with sprawl
- Preserve rural, environmentally sensitive surroundings and the visitor experiences that are associated with the natural beauty of these areas
- Maximize existing services, specifically transit availability
- Increase in affordable workforce housing that is not dependent on using passenger vehicles

 **LESSONS LEARNED**

- Substantial public and stakeholder outreach going beyond the typical groups is required throughout the process, with tailored messaging depending on the group.
- One-on-one meetings with elected officials fosters understanding and avoids false assumptions.
- Communicate the bigger-picture issues being addressed beyond just the land use changes, including how moving workforce housing into town can minimize congestion.
- Down-zoning was not seen as a taking by Teton County because the land value remained unchanged whether subdividing was allowed or not.

 **IMPLEMENTATION STEPS**

- Establish goals and criteria, including requirement that transit be accessible
- Conduct analyses to identify where up-zoning is suitable/desirable
- Engage the public and stakeholders, including elected officials
- Update comprehensive plan and zoning allowances

 **NEXT STEPS**

Teton County and Jackson considered changing their parking requirements for new developments to reduce the presence and use of passenger vehicles and promote transit use. Although this was not implemented, parking maximums rather than minimums can be the next step in land use policy changes.



New development near the Frisco Transit Center in Frisco (CO)

Vail (CO) The Town of Vail's InDEED program provides funds to homeowners and developers to deed-restrict residential properties for occupation by only Eagle County employees working at least 30 hours/week. The program is a tool used to help achieve the Town's Housing Strategic Plan goal of adding employee housing. Applications and payment amounts are assessed on a case-by-case basis by the housing authority board and are funded by the Town's capital fund. No rent or resale maximums are applied; however, the employment hours requirement helps alter the market value to be more affordable. The program has been seen as successful; however, applicants experience difficulty obtaining financing from banks outside the Vail area who are not familiar with the program.

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 **REFERENCE MATERIALS**

Teton County Comprehensive Plan Elements (Appendix B1)
Telluride Regional Housing Strategy Matrix Memo (Appendix B2)



ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Resort communities play host to visitors from around the world, all with varying levels of familiarity with navigating transit systems. Visitors might feel overwhelmed in interpreting a new transit system in an unfamiliar place, while language barriers can amplify this issue. Some communities may offer their transit information through a local smartphone app, but visitors may not know it exists or be unwilling to add yet another app that will be utilized only for the duration of their stay.

SOLUTION

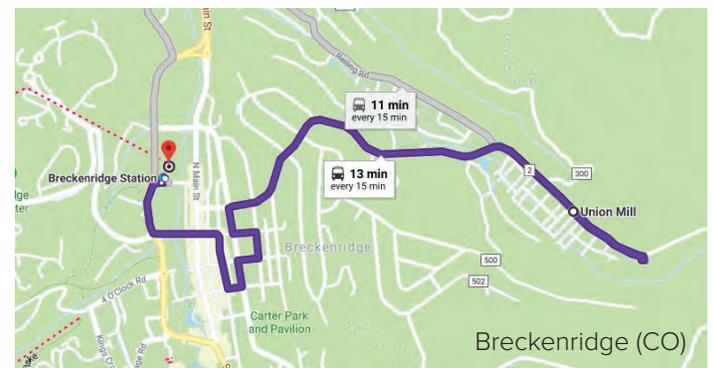
Google Maps is one of the most universal smartphone navigation apps that is used by millions of people across all smartphone platforms across the world. It provides navigation for all modes, including transit. Google has created the Google Transit API to enable local transit agencies to upload their transit routes and schedules for use in the travel planning function of Google Maps. Staff from Breckenridge and Steamboat Springs have recently uploaded their systems into Google Maps using Google’s Transit API.

DESIRED OUTCOMES

- Make transit routes and schedules easier to access and interpret by users through a universal medium
- Incorporate local transit as a modal option for trip planning
- Increase transit visibility and use
- Enhance the visitor experience
- Integrate transit systems for seamless trip planning across service areas

IMPLEMENTATION STEPS

- Ensure transit maps and schedules on your transit website are current and accurate
- Sign-up for a National Rural Transit Assistance Program (RTAP) account to use their General Transit Feed Specification (GTFS) Builder and watch how-to videos
- Use RTAP spreadsheets to develop GTFS files
- Create a Google Partner Dash account, upload feed, use validation tool, and approve feed for Google review
- Make necessary changes as requested by Google and alert Google team lead via email with a list of changes made (may require several rounds of review)
- Once approved by Google, the feed will be live



Snowmass Village (CO) is working with Studio Six to update their transit maps and information distribution into a more user and mobile friendly format. In doing so, Snowmass Village also saw this update as an opportunity to import their transit information into Google Maps. Rather than conducting this process in-house, they hired Trillium Solutions as a subconsultant of the map update to produce and integrate their GTFS data into Google Maps for a cost of about \$3,500 for their system of 6-7 routes during peak seasons. This integration will help users more easily trip plan transfers with the Roaring Fork Transportation Authority’s regional transit system, which also used Trillium to import their system into Google Maps.

COST

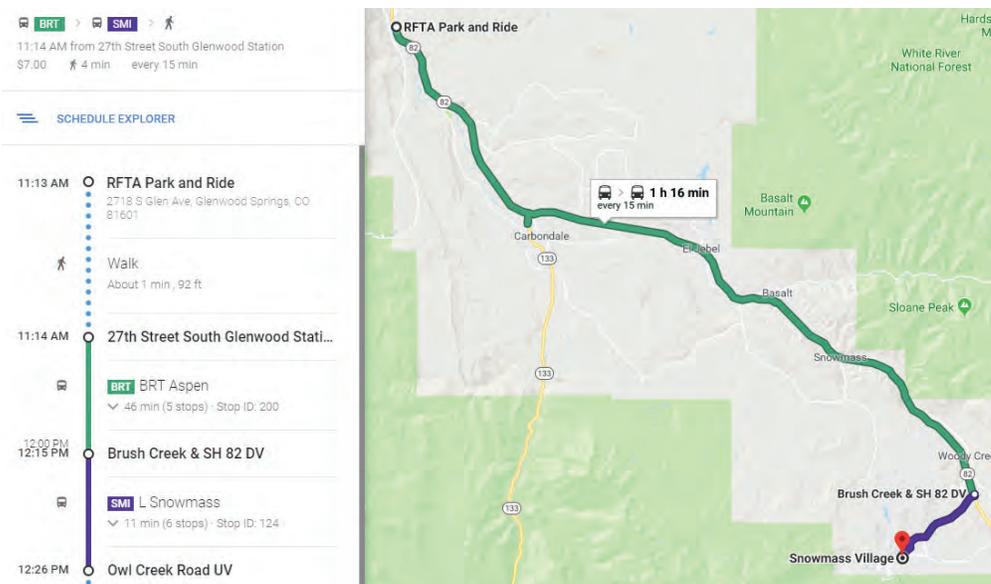
Breckenridge and Steamboat Springs both completed the process in-house, which took approximately four months and seven months to complete, respectively. However, actual employee resource allocation was approximately 40-80 hours. Using a third party, such as Trillium Solutions, was estimated to cost \$500/route.

FUNDING

In-house implementation was absorbed by the local agency's budget.

LESSONS LEARNED

- Conducting process in-house is tedious, but serves as a good review and refinement of schedules and maps, and updates/changes can be implemented in a more timely manner. Once the system is in place, it is fairly easy to maintain.
- Familiarity with Excel and the daily operations and schedules is important for the process to be executed smoothly. It is also best if someone on staff is familiar with GTFS.
- GTFS is designed to handle fixed routes, and seasonal schedules are more challenging as they require updates to the feed throughout the year.
- Locate stops using Google Maps, as Google validates locations in Google Maps.
- Focus on programming data that is necessary for display in Google Maps when using guide spreadsheets, as extraneous data can extend the Google review process. Additional information can always be added later.
- Only build in the current schedule.
- Have patience and be prepared for several rounds of comments from Google. Google is most concerned with the consistency of what you upload compared to published materials. The review is very detailed, down to the consistency of route colors used.
- Stay up-to-date with the uploaded data, refresh as needed, and prepare upcoming feeds before service changes to allow for Google review time.



Example integration between RFTA and Snowmass Village transit systems when trip planning

NEXT STEPS

Transit agencies can integrate into Google Transit's GTFS Realtime, allowing for the sharing of real-time bus locations and arrival times in Google Maps. Steamboat Springs uses a separate service (RouteMatch) to convey this information to users, while Breckenridge has its own personalized transit app (My Free Ride) that displays real-time information.

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REFERENCE MATERIALS

RTAP: www.nationalrtap.org/Web-Apps/GTFS-Builder
Google Transit API: <https://developers.google.com/transit>
Helpful tips from Kenneth Symank of Breckenridge (Appendix B3)



PROJECT: TRANSIT SMARTPHONE APP | Breckenridge (CO) | Steamboat Springs (CO)

ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

One of the primary complaints from transit riders is they arrive at a stop on time only to find no bus as scheduled, at which point they are unsure when the bus will eventually arrive or if it arrived early and they missed it. Riders also may not have easy access to route and schedule information when not at a stop or at a computer, as this information can be difficult to review on a transit provider's website using a phone. These issues are magnified in inclement weather, as the willingness of riders to wait at a stop for the next bus diminishes and so does their visitor experience. Additionally, transit providers are interested in obtaining more data about how their system is operating and how riders are using their system.

SOLUTION

Breckenridge (CO) and Steamboat Springs (CO) have both outfitted their fleets with GPS technologies to provide real-time bus tracking to riders via smartphone app and mobile website. These technology packages also enable both operators to collect advanced and more reliable system and rider data.

DESIRED OUTCOMES

- Communicate location of buses in real-time
- Improve rider experience and confidence in the system
- Boost ridership and reduce use of private vehicles to minimize congestion
- Provide system information accessible by mobile devices
- Collect more accurate passenger data
- Track system performance more reliably (on-time performance, buses off route, etc.)
- Reduce customer complaint calls and calls to drivers for location identification, especially in adverse driving conditions to improve safety

IMPLEMENTATION STEPS

- Identify desired tracking data and features, and determine priorities (e.g. customization or ease of implementation)
- Review and select appropriate technology provider (Example: Syncromatics, RouteMatch, DoubleMap, NextBus, etc.)
- Purchase and install automatic vehicle location (AVL) tracking modules for fleet and data management server
- Develop app (if customizable)
- Test tracking, counting, and/or on-board automated announcement features
- Market release of app, including at bus stops and at resorts

TECHNOLOGY PACKAGES

Breckenridge (CO) The Town purchased a suite of products from Syncromatics to track system performance, more accurately count ridership, and automate stop announcements. The suite allowed Breckenridge to create a real-time bus smartphone app (My Free Ride) for their Free Ride transit system. The Town worked to implement the system on both their Free Ride buses and Breckenridge Resort shuttles. The app provides route information, scheduled and projected stop times, and real-time bus location.

Steamboat Springs (CO) The City purchased a program package from RouteMatch primarily for real-time bus location information for use by both riders and the agency. This information is provided through the smartphone app RouteMatch2, which is a universal transit tracking app from which the rider can select the transit system they want to use. Users can also visit the City's website for route, schedule, and real-time bus information or use text messaging to receive information on the next bus arrival.

COST

Breckenridge's system cost \$500,000 to implement, which included digital message boards that display next bus arrival information at select bus stops. There is also an annual \$10,000 service fee, which includes data plans for communications with buses. Approximately \$5,000 was spent on marketing.

Steamboat Springs spent about \$160,000 to implement their system, and pays about \$20,000 annually for their service package, which includes their data plan for communications. They are currently testing their automated passenger counters (APC), which cost \$100,000 to implement and \$12,000 annually. Implementation of automatic stop announcements costs \$6,000 per bus, with on-going support in-house.

FUNDING

Breckenridge funded their implementation and ongoing costs from the general fund. Steamboat Springs has implemented their system in phases by applying and receiving small 5311 grant funds. This was a factor in their product selection process, as most all-at-once systems cost over \$300,000. They are continuing to use this approach to implement future improvements/additions.

 **LESSONS LEARNED**

Breckenridge (CO)

- Google Maps must be installed on a phone for the app to work
- Warranty on in-bus hardware is valuable due to expense
- Syncromatics specializes in bus prediction, contracts out for other services, so can be challenging to coordinate depending on issue
- The more features and data provided, the more complex the system is to manage and may require an IT staff person to maintain, especially the in-bus modules (more connections is more complex)
- Android platform is easier to work with, as Apple platform requires a secure connection
- APC helps drivers focus on driving and providing service, and is more accurate, especially for large group boardings

Steamboat Springs (CO)

- Found RouteShout less intensive to implement and maintain than other packages
- Preferred that RouteMatch is located in Denver and provides good customer service
- Real-time information and web apps reduce the number of bus location request calls received
- Real-time tracking provides a safety benefit by allowing drivers to focus on the road, especially during adverse weather conditions, rather than responding to radio requests for location
- APC is challenging when riders have sports equipment
- Automated stop announcement helps with consistency and is available in multiple languages, which enhances visitor experience

Both operators noted their automated stop announcement systems have been unreliable and are still actively working out the issues to fully implement.

 **PERFORMANCE MEASURES**

- Number of downloads / website hits / text requests
- Complaint calls received regarding bus locations
- Track which routes are viewed
- Ridership when APC is implemented

 **NEXT STEPS**

Breckenridge (CO)

- Integrate real-time parking availability into app
- Deploy real-time information displays in buses
- Increase marketing at lodging sites and resorts
- Implement more real-time digital message boards at bus stops
- Provide live tracking information on TVs in lodging lobbies

Steamboat Springs (CO)

- Fully implement APC system
- Collect and provide real-time bus occupancy information
- Implement automatic stop announcement system on all buses (currently only on one bus)

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 **REFERENCE MATERIALS**

Breckenridge RFP (Appendix B4)



OTHER LOCATIONS

Vail (CO) The Town of Vail uses the NextBus app to provide real-time bus tracking. The service costs approximately \$50,000/year, which is structured as a per-bus fee and includes real-time information for several digital display boards. NextBus also tracks and maintains historical real-time performance data, which will populate the newly acquired CSched software. CSched uses NextBus historical data to develop optimized transit schedules. Tracking data is also used to validate complaints received from riders. In addition to NextBus, the Town is working with ECO Transit - the regional transit provider for Eagle County - to create a more robust trip planning website that focuses on alternative modes, particularly transit service.

Summit County (CO) The Summit Stage, a regional transit service provided by Summit County, uses DoubleMap for data collection and distribution through a smartphone app and mobile website – a similar system to the one implemented in Breckenridge, but also available through a universal app like RouteShout2. The system cost \$500,000 to implement and was funded by the County’s transit tax. The County hopes to implement a notification feature in their app that allows users to ask for alerts when a bus is a certain time away.



ADDRESSES: Congestion Connectivity/Access Parking Safety
Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

A majority of Roaring Fork Valley local commuters and visitors use private autos for some portion of their trips. State Highway (SH) 82 - the roadway that links Valley communities between Glenwood Springs and Aspen - is at capacity during peak travel times, causing delays and creating environmental concerns.

SOLUTION

The Roaring Fork Transportation Authority (RFTA) has become the primary regional transportation alternative by offering safe, affordable, convenient, and sustainable transit and trail services year-round for the Roaring Fork Valley. To further address congestion and environmental issues associated with the capacity constraints of SH 82, RFTA deployed the VelociRFTA BRT – the first rural bus rapid transit system in the United States. The service runs along the 42-mile SH 82 corridor serving the City of Glenwood Springs, the Town of Carbondale, the Town of Basalt, the City of Aspen, and is connected to nearby communities and other areas by local transit services and other RFTA routes. VelociRFTA provides rail amenities on rubber tires, including reduced capital costs, on-street operations, and comfortable passenger stations. Intelligent transportation systems provide passenger counting, real-time bus tracking, onboard Wi-Fi, and speedy fare collection. VelociRFTA travel times are competitive with the private auto by using strategically placed queue bypasses and limiting the number of stops between the beginning and end points of the route. Buses for the service are fueled by compressed natural gas (CNG), providing operational efficiencies, decreased tailpipe emissions, and reduced noise.

COST

RFTA bonding authority: \$21.23 million
Federal Transit Administration Very Small Starts grant: \$24.97 million

IMPLEMENTATION STEPS

- Identify current and future needs in the corridor
- Design and evaluate alternatives to achieve goals
- Apply for Very Small Starts grant
- Begin project development
- Gain voter support
- Complete advanced project planning
- Receive planning and building approvals
- Finalize design
- Construct the system
- Test the new system and begin operation
- Update the system with necessary improvements

PERFORMANCE MEASURES

- RFTA ridership
- Public support
- Environmental impact
- Relationship with state/federal funding partners

DESIRED OUTCOMES

- Increase popularity of public transportation
- Improve the public transit experience through improved facilities and services, better reliability, and increased frequency
- Contribute to the reduction of regional greenhouse gas emissions
- Reduce dependence on oil

FUNDING

- Residents and visitors via a dedicated regional sales and use tax
- FTA Very Small Starts Grant
- CDOT grants for IT upgrades to the existing non-BRT fleet that support VelociRFTA
- CDOT right-of-way lease agreements along SH 82

LESSONS LEARNED

- Expect park and ride capacity strain during peak hours and in peak seasons
- Create long-term capital replacement plan
- Prepare for intensified competition for bus operators, skilled mechanics, and facilities workers
- Organize a Facilities Master Plan
- Need for additional coordination with local systems connecting to BRT



NEXT STEPS

- Continue community outreach, including increased public awareness of the Destination 2040 Plan
- Create a Bus Operator/Passenger Security Plan
- Negotiate agreements with Aspen Skiing Company
- Expand on Google Transit use, such as utilizing real-time bus location
- Conduct a fare study
- Update the RFTA 5-Year Strategic Plan
- Complete the Integrated Transportation System Plan
- Identify and secure grants to fund capital construction projects
- Finish construction of highway improvements and pedestrian crossings for better travel reliability and access
- Pursue a potential property tax ballot initiative in November 2018



Snowmass Village (CO) recently implemented a high-frequency regional service to better connect the Town and its local services to the VelociRFTA BRT service to leverage its frequency and reliability. The previous Snowmass Village service had a frequency of 30 minutes. This left riders connecting from VelociRFTA with long transfer wait times, diminishing the purpose of the BRT service. The new service has a frequency of 15 minutes, making the connection more convenient. The route saw a 6 percent increase in ridership in May 2018 compared to May 2017 when the less-frequent service was in place. The more frequent service will cost \$300,000 to operate during the spring, summer, and fall of 2018.



CONTACT INFORMATION

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ADDRESSES: Congestion Connectivity/Access Parking Safety
 Visitor/User Experience Environmental Footprint Economic Vitality

PROBLEM STATEMENT

Banff plays host to a variety of visitors, with some staying for several days, while others make their visit a day trip. Different visitors have different needs, such as where to park and their willingness to use alternative modes based on how much time they have to spend in Banff. Congestion has been increasing, yet visitors may not realize how much time they are spending in traffic.

SOLUTION

Banff has deployed 12 BluFax devices along several major travel corridors to collect travel information. BluFax is a wireless monitoring technology that anonymously tracks wireless-enabled devices to measure origin/destination trends, travel time, length of stay, and repeat visit frequency. This information is used to better identify transportation needs and solutions to meet the unique needs of the different types of visitors, such as aiding in traffic forecasts and where/how to market alternative modes. It is also used to feed a live traffic website (dashboard.banff.ca) that provides travel times to visitors and is used by City staff to preemptively trigger green lights to clear severely congested roadways at specific locations.

DESIRED OUTCOMES

- Provide travel times to visitors
- Identify travel patterns of different visitor types
- Use to inform when to preempt green signals
- Focus marketing efforts
- Compare how travel patterns/behaviors change over time
- Monitor transportation goals and objectives, such as mode share targets

IMPLEMENTATION STEPS

- Identify metrics to collect
- Select locations to monitor in order to make desired conclusions from data collected, such as mode share at entrance points or travel time from highway to downtown
- Review and select best product to meet needs (Blynscy and TrafficCast - which makes BlueTOAD and acquired BluFax - are other makers of similar products)
- Acquire additional data analytics applications, if not done in-house
- Develop information distribution products (website, smartphone app, dynamic message boards, etc.), if desired
- Deploy wireless monitors

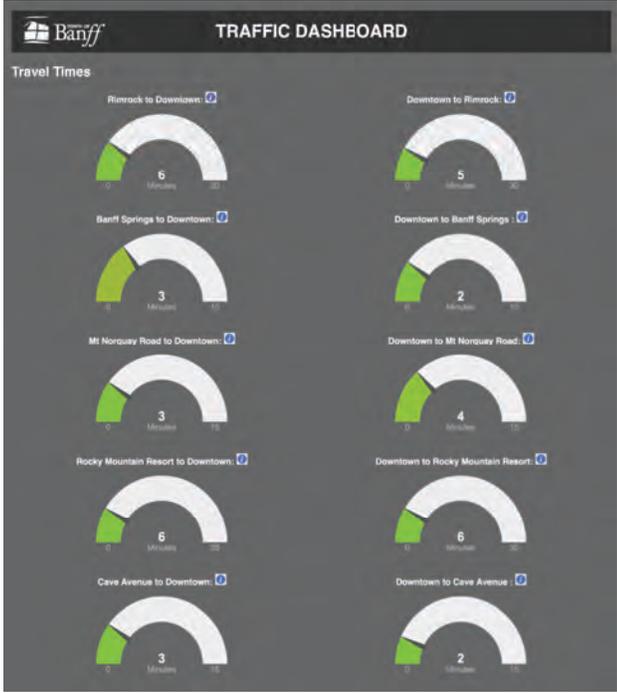
COST

About \$3,200 per wireless monitor, which does not include installation or operational costs.

FUNDING

General fund

Ft Collins (CO) has been using BlueTOAD technology to collect travel time and speed information. This information is used by equipped traffic signals to select a predetermined signal timing plan to best accommodate live traffic conditions.



Banff live travel times <http://dashboard.banff.ca/>

 **LESSONS LEARNED**

- Deployment and maintenance, including the website, are IT intensive.
- Congestion can reach a certain severity where green light preemption creates long waiting times for pedestrians to cross streets.
- Demonstrating the data collected and the direct benefits of having this information about visitors helped sell the project to residents.
- Important to have consistent deployment spacing for some comparing reporting metrics.
- Potential for latency issues on a combined fiber/cellular network.

 **PERFORMANCE MEASURES**

- Reduced delays from implementing green light preemptions
- Mode share by location (93% arrive by personal vehicle; more people using private vehicles and transit compared to last year)
- Average travel times by origin/destination
- Traffic counts
- Length of stay and visit frequency (51% are day visitors, 62% are repeat visitors)

 **NEXT STEPS**

The Town is actively pursuing the deployment of BluFax monitors outside the Town's boundaries to better understand where visitors are coming from and when they are traveling to improve regional transit connections. This type of technology could also be used to help implement congestion pricing.



Blynscy wireless monitor deployed in Park City (UT)

Park City (UT) | Summit County (UT) | Utah Department of Transportation (UDOT)

Park City is in the middle of a 3-year pilot project implementing Blynscy - a wireless traffic monitoring provider who offers the infrastructure as a service. Monitors are owned and deployed by Blynscy in order to avoid privacy concerns of a government agency collecting travel pattern data of citizens. Like the system in Banff, Blynscy anonymizes the data it collects. Unlike Banff who owns the infrastructure and processes the data for display, Blynscy offers it through a portal that Park City accesses to obtain information such as travel times, travel trends including origin and destination information, heat maps, and more. Monitors cost about \$2,500 per location per year, which can vary based on service agreement length and power supply type (hard-wired or solar). The service also allows for unlimited licenses for data access.

Blynscy also shares data from customers within the same state with each other, allowing Park City to view Summit County and UDOT data, both of which are customers of Blynscy as well. Specifically, Park City utilizes information collected at the Salt Lake City Airport and along I-80, as well as coordinating traffic signal cycle changes remotely with UDOT based on traffic conditions. Park City also uses the data it accesses to communicate travel times, send text alerts regarding traffic conditions, populate variable message signs, and deploy extra buses during peak use periods. Resorts are also customers, receiving a waiver of some impact fees for implementing Blynscy.

Summit County offers a publicly-accessible visualization of its Blynscy data that allows visitors to track travel trends and compare them against real-time current conditions and County performance measures - a feature that may be deployed in Park City in the future. Blynscy is also being deployed to better track festival attendance, such as the Sundance Film Festival in Park City. And Blynscy recently received a Utah Science Technology and Research (USTAR) grant to integrate connected vehicles technology into its system to deploy signal prioritization for snow plows.

 **CONTACT INFORMATION**

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Carlee McFarland - People & Projects Manager
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 **REFERENCE MATERIALS**

Sample analyses using this data
(Appendix B5)



KETCHUM (ID) - Bikeshare



ATTEMPTED SOLUTION

The City of Ketchum has had a form of bikeshare in place since 2013. The initial program used a grant to deploy 40 dock-based bikes throughout the city that used a credit card payment system and contained GPS tracking. The program cost approximately \$8 a month per bike, which the City broke even on. With the bikes receiving less use than expected and some sustaining damage, the City cut back the program in 2017 to 14 bikes, removing the hardware on each bike and making them free to use without docking requirements.



LESSONS LEARNED

- Initial bikeshare was primarily used by visitors, as most Ketchum residents own bikes. However, there are six bike shops in town that offer rentals, so even visitors did not use the service frequently, as bikeshare bikes were heavy and more cumbersome to use.
- Once bikes were made free and dockless, qualitative observations suggested that use increased, but there was no way to collect data on how the bikes were being used and their positioning could not be controlled.



CORRECTIVE STEPS

Recognizing that making the bikes easier to use increased demand, the City has partnered with a local hospital to bring 28 formal hub-based dockless bikes into operation in 2018. The hospital is covering the \$8/month/bike fee as part of its public health initiative. The bikes will be equipped with GPS tracking, allowing the City to focus the placement of the bikes to facilitate first/last mile connections with transit. The City plans to supplement these bikes with electric pedal assist bikes (e-bikes) to generate interest in bicycling and encourage longer-distance bike trips in place of using a passenger vehicle.



JACKSON (WY) - Parking Enforcement



ATTEMPTED SOLUTION

The Town of Jackson currently has a 3-hour parking limit in its downtown core and has been experiencing parking supply issues. However, license plate monitoring has shown that parking is frequently used by employees who have learned how enforcement is conducted. This was a common issue noted by many resort-based communities.

Jackson (WY) The Town of Jackson has also recently implemented a hub-based dockless bikeshare program. They conducted a feasibility study, implemented a pilot program to gather data, and worked with local bike shops to complement their services when rolling out the formal program by pricing the bikeshare to promote short trips (< 30 minutes). Jackson also reported an increase in e-bike use and is considering them for their bikeshare as well.



LESSONS LEARNED

- Drivers who park daily in the time-restricted area learn how to bypass enforcement through understanding the amount of time it takes to fully validate how long each car has been parked and reshuffling spaces to reset their time limit.
- Businesses still believe more parking is needed.



CORRECTIVE STEPS

The Town noted that they are looking into reducing time limits, creating a satellite parking lot with shuttle for employees, and paid parking – all solutions that can help alleviate this issue. Other ideas could include instituting a “no re-parking” policy to avoid reshuffling, mixing up enforcement schedules, and increasing enforcement.

TETON VILLAGE (WY) - Ridesharing Service



ATTEMPTED SOLUTION

Teton Village has successfully implemented several transportation demand management strategies (TDM), having had a TDM program in place since its inception. In an effort to add to its TDM offerings, it partnered with Duet, which packages carpooling as a rideshare smartphone app that pairs drivers and riders. Despite having 200 registered users and committing \$5,000 in incentives to entice commuters to use the service, few have participated regularly.



LESSONS LEARNED

- Duet is designed primarily for traditional work schedules that are consistent. However, most employees in Teton Village work varied schedules, making it difficult for the app to find commuting pairs.



CORRECTIVE STEPS

Carpooling can be a great TDM tool to combat congestion, especially when the workforce of an area is focused around specific industries and employment centers. Additionally, facilitating carpooling through a smartphone app makes it much easier for users. However, this technological advancement alone cannot make carpooling a more viable option for employees. Complementary steps from employers might be necessary, such as increased coordination of employee schedules, to make carpooling more impactful.



CONTACT INFORMATION

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Memorandum

To: Town Council
From: Dara MacDonald, Town Manager
Subject: Feb 6, 2018 and August 27th retreat follow-up
Date: September 4, 2018

Priorities identified on February 6th

The Town Council, senior staff and Town Attorney spent the day together on February 6th. The primary purpose was to bring the newly seated Council together to discuss the values and priorities for the coming two years.

Throughout the afternoon, Council members identified priorities that they would like to focus on in the coming months and years. Some of these are underway, while others will need to be worked into future work plans. Following is a status update on each of the fifteen priorities identified by the Council in February.

1. Climate Action

- Work is currently underway to create a new Energy and Greenhouse Gas (“GHG”) Emissions Inventory and Emissions Reduction Action Plan. The Town has contracted with Western State to lead this project. The 2030 GHG forecast has been completed and presented to the Council. The next step will be to develop a list of energy and GHG abatement pathways. We are awaiting a proposal from Western State to assist with this step in 2019.

2. Affordable Housing

- Density
 - i. The 2019 affordable housing priority is development of Block 76 and some of the lots on Block 80 in Paradise Park. This has been an opportunity for the Council and the community to explore thoughts on appropriate density within Town and what the tolerance level is for density in exchange for the benefits of providing affordable housing.
- Housing on Elk
 - i. Staff and BOZAR are monitoring the proposed design of residential units within the commercial zones. The intention is that these units will be used as long-term rentals or occupied by those who own businesses in the building. Some creative interpretations of this have been floating around and, if

appropriate, BOZAR may recommend amending the ordinance around the uses of these types of residential units.

- ‘Whole help’
 - i. Council expressed the desire to investigate ways to make sure that once people have gotten into deed-restricted housing units that they are able to stay there should the experience unexpected hardships. The Housing Foundation does have funds available to assist in times of unexpected crisis.
- 2018 Build – Construction of three duplexes (6 units) is underway with completion expected in the fall of 2019
- 2019 Build – Three developers have been selected to participate in the RFP process with proposals to be presented to the Council on September 17th. This should result in the construction of 20+ units in Paradise Park beginning in spring of 2019.
- One Valley Housing Plan – The GVRHA is kicking off the creation of a regional housing plan. The Town will be participating in this effort.

3. Mt Emmons

- The Town Attorney and Manager remain in contact with MEMC, DRMS, County Attorney and MEMC regarding efforts to find a permanent solution to the mine as well as participating in discussions about remediation efforts. MEMC is undertaking some remediation work at the site in 2018. The Council was able to participate in a site tour and work session to receive an update on the proposed remediation work. A public open house has also taken place in August.

4. Improving intergovernmental relationships

- The Town Council has held joint meetings with Councils or the Town of Mt. Crested Butte and the City of Gunnison. The Town hosted a dinner with the municipalities and Gunnison County in June. The next joint meeting of the elected bodies is scheduled for November.

5. Protecting the natural environment

- The Town has partnered with the Land Trust to convene a stakeholder conversation around uses on the Upper Slate River this summer. Funding has been provided by the municipality, the Land Trust and through a grant from the Upper Gunnison Water Conservancy District. This project should be completed in October.
- The Council has continued to provide funding for the water quality monitoring efforts of the Coal Creek Coalition. Gunnison County has also provided funding for this effort in 2018.
- The Town has awarded \$15,000 to the Crested Butte Conservation Corps to continue their stewardship efforts this year.
- Staff and members of the Council are participating in an effort to create a foundation through the National Forest Foundation that would allow community dollars for infrastructure projects and stewardship to be leveraged with federal and private foundation funding.
- The Town has committed \$1,000,000 to the Long Lake land trade to secure the protection and access to Long Lake.

6. Solidifying the Deli Trail easements

- Due to the increased sensitivity around this trail in context of the Brush Creek development proposal, staff recommends postponing this effort until we know what is going to happen regarding Brush Creek.
7. Posting the Town's property at Irwin so people know it is public property
 - Completed.
 8. Camping at Avalanche Park
 - Planning for the site is budgeted in 2018, however, due to unanticipated staff workload demands this has been postponed.
 9. Creating a community comprehensive plan
 - This multi-year project has kicked-off in 2018 with a community-wide survey to assess both demographics as well as sentiments of the community on a variety of issues. Results of this survey will be presented to the Council in October. Results of the survey will help inform the process for developing a community comprehensive plan.
 10. Updating the 3-mile plan in partnership with Mt. Crested Butte and Gunnison County
 - This will follow development of the community plan – likely 2020.
 11. Consider increase to Council compensation
 - If Council wishes to pursue, this should be revisited well before the next Council election in November 2019.
 12. Host a home efficiency day – in conjunction with Town Picnic
 - Local non-profits who are connected with efforts to increase home efficiency have were contacted and invited to participate in the Town Picnic on June 8th.
 - There has not been much interest in the GV-HEAT program in the North Valley. Staff is working with GVRHA to see if we can encourage more participation.
 13. Explore ways to increase utilization of solar panel program at WWTP
 - Gunnison County Electric Association is going to build out the solar panel installation in 2018.
 14. Diversify and improve employment opportunities
 - Utilize the Creative District
 - i. The Creative District has created a new strategic plan for 2018 and is beginning to turn its attention to how they can address issues of long-term economic sustainability for that broadly defined employment sector.
 - Explore partnerships and collaboration with ICELab and Chamber
 - i. Town staff continue to meet with Delaney and Ashley from the Chamber to seek ways to collaborate.
 15. Routinely issue proclamations honoring community members
 - This is ongoing with four members of the public having been honored so far in 2018.

August 27th Vision, Goals and Priorities for 2019

The Town Council met on August 27th to discuss their vision for the community as well as 5-year goals and priorities for 2019. Now that the Council has had time to reflect on those discussions, staff is seeking feedback on what, if any, changes the Council would like to see to the following:

Vision Statement

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 our Valley.

Five Year Goals

- Increase percentage of residents living in Town by achieving a 75% housing full-time occupancy.
- 30% of units in Town are deed restricted.
- Permanent removal of mining claims by Mt. Emmons Mining Company on Red Lady.
- Maintain at least one year of operating reserves in Town's funds.
- Reduce greenhouse gas emissions footprint of Town's operations by 50% versus 2017 levels. And, reduce Town of Crested Butte community emissions footprint by 25%.
- Ban new formula/franchise retail and restaurant businesses on Elk Ave.
- Implement traffic and parking plan.
- Complete (modified) recommended capital projects in Parks & Recreation master plan.
- Upgrade Marshal Office facilities.

2019 Goals / Priorities

- Block 76 Paradise Park housing project under construction.
- Long Lake conservation project funded and closed.
- Greenhouse Gas Emissions Action Plan implemented toward five year greenhouse gas reduction goals.
- Water Plant upgrade funded and under construction.
- Implement ban on new formula/franchise retail and restaurant businesses on Elk Ave.
- Town Park Playground completed.
- Architectural plans and cost estimates completed for Marshals' facility

- Capital planning begun for carbon neutral Big Mine / Warming House expansion and refrigerated ice arena.

Crested Butte 2018 Capital Project Schedule

PROJECT	PROJECT LEAD	NOTES	January	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Equipment/Projects 2018														
Marshals Capital Equipment:														
Zero Motorcycles (2) 39,000	Mike & Kevin	completed												
Patrol Car 62,030	Mike & Kevin	completed												
Capital Equipment:														
Facilities Vehicle (with tool boxes) 42,000	Kevin	Vehicle purchased, waiting on tool boxes												
Fixed post speed alert signs, 8th Street (2) 9,000	Michael w/ PW assistance	Complete				Order				Install				
Barricade truck replacement 40,000	Kevin	complete												
Park Capital Equipment:														
Z-turn mower 52,000	Janna w/ Kevin	Purchased												
Irrigation smart clocks 33,000	Janna										Purchase	Install		
Electric vehicle (trash truck) 25,000	Kevin	Purchased												
Bike Racks/Benches/Bleachers 5,000	Janna	Completed						Purchase						
Pickup Truck (light duty) 32,000	Kevin	Purchased												
Park Capital Projects:														
Town Park playground 453,591	Janna	Completion June 1, 2019											Construction	
Skate Park Repairs 5,000	Janna	Scheduled for September												
Pedestrian Bridge assessment 5,000	Janna/w Rodney	REG is working on final report												
Building Capital Projects:														
Library Furnace Replacement 14,000	Dale	complete												
ADA Lift in Old Town Hall 196,000	Dale	awaiting structural drawings												
Old Town Hall flooring (Mtn Theatre) 21,000	Dale	completed												
Mallardi Theatre public art 4,000	Michael	completed												
Town Hall Community Room floor 9,000	Dale	completed												
Town Hall Snow Fence 63,000	Dale	completed												
3rd St Shed (behind Pita's) 15,000	Dale w/CDD coordination													
Trail Kiosks 10,000	Michael w/ help from P&R													
Baxter Gulch Trail Bridges 5,000	Michael	completed												
Tommy V Restroom Solar Panels 24,000	Janna w/ Dale	Completed												
Bike Park/Dirt Jump Project 14,127	Janna	Landscaping awaiting Pitsker pump - 2019												
Cypress -- land purchase 350,000	Michael	pending annexation												
Public Works Yard fencing 50,000	Rodney	completed												
Public Works Retaining Wall 125,000	Rodney	completed - scheduling repair work												
Wayfinding Signage 77,500	Michael w/ help from PW	for removal of old signs												
Destination signs	Michael w/ help from P&R	complete												
Replace winter parking signs	Rodney													
Miscellaneous Projects:														
Purchase new Plotter/scanner	Michael	completed												
Implement new Town Hall phone system	Rob	currently seeking proposals. Hope to have project complete by end of May												

PROJECT	PROJECT LEAD	NOTES	January	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Purchase new Council table/chairs	Lynelle	chairs ordered, working on table												
Energy Action Plan update	Michael	Inventory complete, action plan in 2019												
Warming House fundraising	Janna	Change in scope delayed fundraising												
Town Census	Michael	Ongoing, completion end of October												
Records Management	Lynelle	Major 2018 push completed												
Bricks on 100 block of Elk	Janna	contractor selected, work scheduled for Sept/Oct												
Parking Management plan	Michael	Plan development underway, Present to Council Oct 1												
Red Lady Roundabout design	Rodney w/ Michael	Waiting for school facility master plan to be completed before proceeding with design.												
Slate River Annexation	Michael	Ongoing												
BOZAR Training Materials	Michael	Draft received												
Avalanche Park planning and annexation 15,000	Michael	Will not happen in 2018 due to work load												
ADU biannual survey	Michael	Underway												
Plastic Bag Ban implementation	Michael	Implementation Sept 1												
New timeclock system & integration with AccuFund	Rob	Online. Training nearly complete												
Employee Handbook	Rob	Underway												
New Performance Evaluation system	Rob/Dara													

**Water/Wastewater:
Capital Equipment:**

Loader 225,000	Kevin	Purchased												
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Water Plant:

Water plant expansion engineering 100,000	David	engineer selected, DOLA funding awarded												
Water filer skid replacement 55,000	David	Complete												
Water line bank stabilization 100,000	David	Complete												
Irwin gate valve recorder/engineering 20,000	David	Complete												

Wastewater Plant:

Main building renovations 20,000	Shea													
SCADA - Lift Stations 75,000	Shea													
WWTP Upgrade - Construction 1,070,000	Shea	Complete by end of September												
Man Hole Rehab 8,000	Shea													
Perimeter Fence 50,000	Rodney	Complete												

ATAD - Solids Handling:

Solids Handling - Tanks A & B 120,000	Shea													
Backup Centrifuge Installation 50,000	Shea	Underway												
Biofilter Replacement 2,750	Shea													

Streets/Paving Projects:

Pave & increase size of 4-way lot \$225,000	Rodney coordinate w/Mic	Complete												
4th Street ROW (head in parking) 37,500	Rodney	Complete												

Affordable Housing:

GVRHA Duplex Builds 260,000	Michael	BOZAR approved, contractor selected, construction underway												
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PROJECT	PROJECT LEAD	NOTES	January	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Center for the Arts Expansion:														
Design process oversight	Michael	ongoing	[Blue bar]											
Various agreements	Dara	on hold until new lease & next phase	[Purple bar]											
Funding oversight	Dara and Rob		[Purple bar]											
installation of new irrigation pump	Janna	Pump is installed. Will come online in spring 2019												
tree planting	Janna	2019												
playground grading	Rodney & Janna	2018												
bathroom demolition	Rodney	2019												
prep work along 7th Street	Rodney	2018												
grading & prep for walkways	Rodney	2018 & 2019												
Other Projects not included in original 2018 budget:														
Emergency Services facility planning	Mike R.	Underway	[Red bar]											
Mt Express Bus Barn	Michael	Ongoing assistance in facility planning												
Development of Block 76,79 & 80	Michael	Underway	[Blue bar: Issue RFQ, Issue RFP, Select developer, BOZAR review]											
Slate River Working Group	Michael	Underway	[Blue bar]											
Belleview Sidewalk	Rodney	completed	[Orange bar]											



Staff Report

September 4, 2018

To: Mayor and Town Council

Thru: Dara MacDonald, Town Manager

From: Lynelle Stanford, Town Clerk

Subject: **Resolution No. 18, Series 2018 - A Resolution of the Crested Butte Town Council Allowing Alcohol Beverages in Non-breakable Containers in Town Parks.**

Date: August 29, 2018

Background:

Historically, the Town has permitted the consumption of 3.2% beer in the parks as long as the beer is in a non-breakable container. Effective January 1, 2019, the definition of fermented malt beverage will no longer contain an alcohol content limit, thereby eliminating the 3.2% classification of beer. The Council directed that a resolution be drafted to allow beer, wine, and spirituous beverages in parks in Town, provided the beverages are not in glass or other breakable containers.

Summary:

Resolution No. 18, Series 2018 formalizes the intent of the Council to allow beer, wine, and spirituous beverages in the parks in Town, on condition that the beverages are only in non-breakable containers.

Recommendation:

Staff recommends approval of Resolution No. 18, Series 2018.

Recommended Motion:

Motion to approve Resolution No. 18, Series 2018.

RESOLUTION NO. 18**SERIES 2018****A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL ALLOWING ALCOHOL BEVERAGES IN NON-BREAKABLE CONTAINERS IN TOWN PARKS.**

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

WHEREAS, the Colorado General Assemble amended the Colorado Liquor Laws to eliminate the 3.2% beer category; and

WHEREAS, the Town wishes to allow the consumption of full-strength beer, wine, and other alcohol beverages in Town parks subject to certain terms and conditions.

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

1. Definitions. For purposes of this Resolution, the following terms are hereby defined.

Alcohol Beverage shall mean fermented malt beverage or malt, vinous, or spirituous liquors or as that term is defined in the future by the Colorado Liquor Code, Article 47 of Title 12 of the Colorado Revised Statutes, as amended. The term "alcohol beverage" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410(1)(i)(II), C.R.S

Town park. This term shall mean an area designated as a park or any other area in the Town owned or used by the Town for active or passive recreation other than a playground.

2. The consumption of alcohol beverages pursuant to this Resolution shall be allowed in Town parks by persons over the age of 21 years. Such consumption shall not be deemed to be prohibited "public drinking" under Section 10-7-50 of the Town of Crested Butte Municipal Code.

3. All alcohol beverages consumed in Town parks must be contained in non-breakable containers.

4. The sale, service or consumption of alcohol beverages in Town parks shall not be allowed before or after the hours that any Town park is open to the public.

5. Effective date. The effective date of this Resolution shall be the date that this Resolution is adopted by the Town Council.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL
THIS 4th DAY OF SEPTEMBER, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)



Staff Report

September 4, 2018

To: Mayor Schmidt and Town Council

From: Mel Yemma, Open Space/Creative District Coordinator

Thru: Michael Yerman, Community Development Director

Subject: **Open Space and Trails Funding Updates**

GOCO Youth Corps Crews Grant:

For the past several years, the Town of Crested Butte has partnered with the Crested Butte Land Trust to host a youth corps group for four weeks during the summer to work on open space and trails projects. The Baxter Gulch trail was primarily completed by the efforts of the Western Colorado Conservation Corps, and this group has also been instrumental in helping to work on noxious weeds mitigation and fencing installation and maintenance on Town and Land Trust open space parcels.

The youth corps help has been made possible because of funding from Great Outdoors Colorado's (GOCO) Youth Corps Crews for Local Government & Open Space Projects grant. The Town and Land Trust are currently finalizing a new grant submission for the summer of 2019 to host the Western Colorado Conservation Corps for five weeks to work on noxious weeds mitigation, fencing installation and maintenance, and trail maintenance on Town and Land Trust open space parcels and trails (see map attached). In the past, the Town has contributed between \$5,000-\$8,000 from the \$20,000 open space stewardship budget to match the funds received through this grant to cover costs of fencing materials, herbicides, tool use, and more. Town staff is requesting that the council allocates \$7,000 from the open space stewardship budget for 2019 to provide matching funds for this grant application.

Recommendation:

A Council member followed by a second make a motion to allocate \$7,000 in the 2019 open space stewardship budget as matching funds for the GOCO Youth Corps Crews for Local Government & Open Space Projects Grant, subject to the annual appropriation in the 2019 Budget.

Other Open Space and Trails Funding Potentials and Updates:

Now that the Baxter Gulch Trail is complete, the next major trail project on the horizon for the Town is the Crested Butte to Carbondale Trail. The Gunnison Valley community has worked on building the Carbondale to Crested Butte Trail since the early 1990s. In 2016, Governor Hickenlooper named the Carbondale to Crested Butte Trail as one of the sixteen priority trails to complete around the state (Known as the "16 in '16", part of the Colorado the Beautiful Initiative). Later that year, Pitkin County Open Space and Trails received a \$100,000 grant from Great Outdoors Colorado (GOCO), matched by \$200,000 of their own funding, for planning and National Environmental Policy Act (NEPA) approval.

Pitkin County Open Space and Trails has worked closely with the Town of Crested Butte, the (former) Gunnison County Trails Commission, and the US Forest Service's Paonia Ranger District to finalize the trail alignment from the top of McClure Pass to the Town of Crested Butte over the past two years.

The first section of trail is the wagon trail (section J on map attached). The second section of trail and next phase of trail to be built on the Gunnison County side will be the Kebler Pass Trail East Central section (section I on map attached). This section of trail will run from the Anthracite Creek Bridge to Horse Ranch Park. Not only will this section be a major connection for the Crested Butte to Carbondale Trail, but it will additionally be a great immediate benefit to the community by providing a new way to connect to and create a singletrack loop with the Dyke Trail without having to bike or hike on Kebler Pass Road. This section of trail is almost finished being reviewed by the US Forest Service and could be ready to be constructed in 2019.

The next sections of trail alignment from Horse Ranch Park to Erikson Springs are still being planned and under review by the US Forest Service. Once the trail hits Erikson Springs, the new trail will connect to the existing Munsey Creek Connector and Raggeds Trail, which will bring the trail near the top of McClure Pass.

Town staff are currently coordinating logistics to host an open house with Pitkin County Open Space and the Paonia Ranger District in October 2018 to update the public on the current status of the trail and provide an opportunity for the public to review and provide feedback on the proposed trail alignment.

The Town is hoping to start construction on the Kebler Pass Trail East Central section with the help of a youth corps crew and/or the Crested Butte Mountain Bike Association (CBMBA). Town staff is currently looking into potential funding opportunities to construct this section. Thus far, one possible funding opportunity has arisen from the Trust for Public Land's (TPL) new Colorado Community Trails program.

Earlier this year, the Trust for Public Land launched its new Community Trails Program, which is a new statewide initiative designed to "accelerate the planning, design, construction and stewardship of trails that connect communities". This program is currently looking to create a name for itself and its beginning its search for major trail projects in Colorado to fund. TPL has asked the Colorado Youth Corps Association to submit a statewide "project wish list" for TPL's consideration for funding. The Western Colorado Conservation Corps, in turn, reached out to Town staff to encourage the Town to work with its local partners to submit a "wish list" of up to 4 "trail system-size" projects and up to 4 "individual trail" projects. TPL is retaining maximum flexibility with the current funding pot, which means that guidance is very minimal on what to submit. However, they are looking for shovel ready projects that are focused on trail construction.

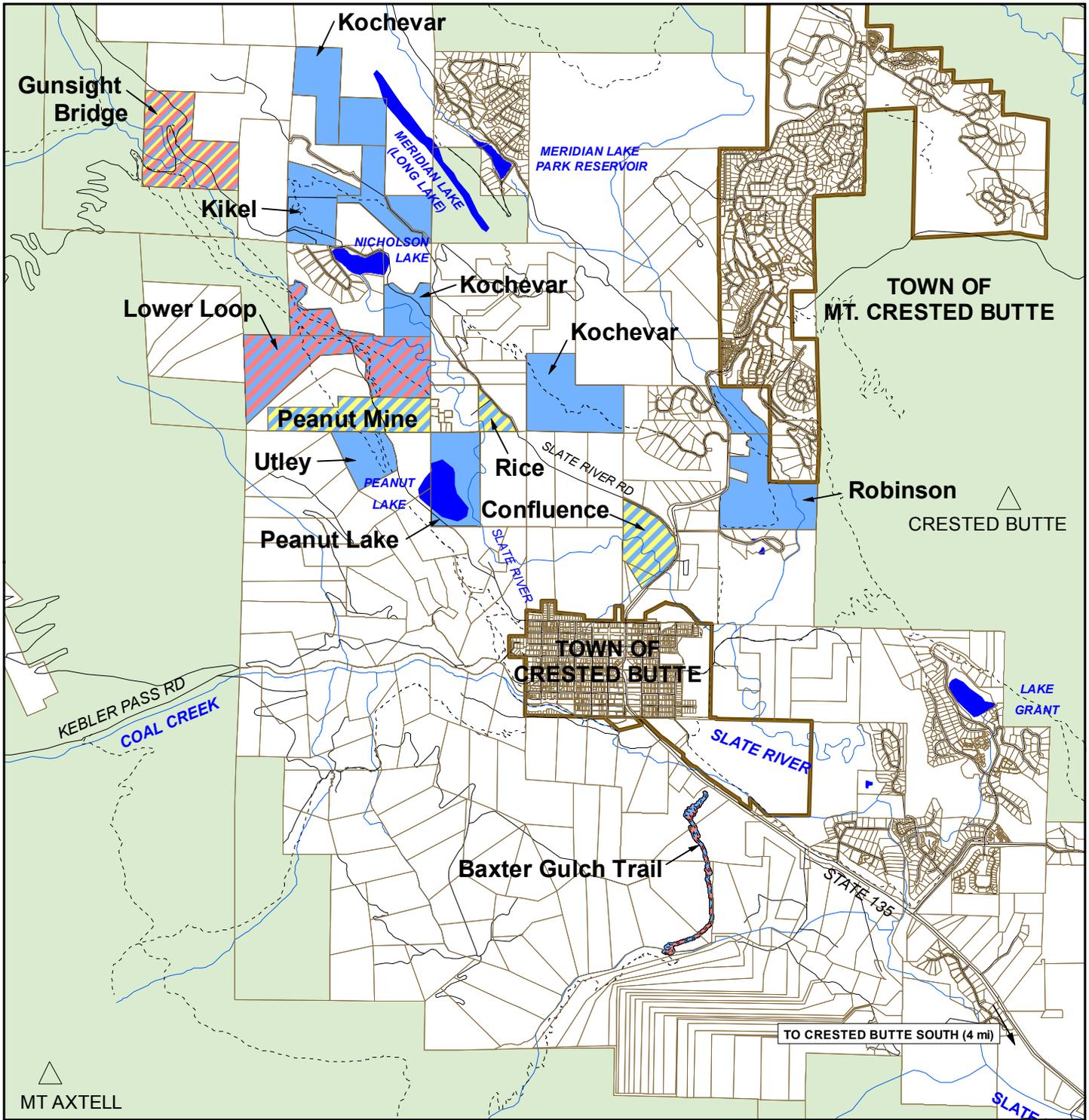
Town staff is currently working with the Land Trust, CBMBA, and the Gunnison County Sustainable Tourism and Outdoor Recreation Committee (STORC) to put together a comprehensive valley-wide trail project "wish list" to submit. There are numerous trails throughout the valley being considered, and the list will be narrowed down at the September STORC meeting and then submitted to the Colorado Youth Corps Association, which will then be submitted to TPL.

The Town has planned \$25,000 in 2019 in the 5 year capital plan to put towards the Crested Butte to Carbondale Trail. Town staff is requesting that this funding be allocated to be used in 2019 to either (1) match this funding potential from TPL's new Colorado Community Trails Program, (2) match

future potential grant funding for trail construction, or (3) put towards hiring a Youth Corps Crew to construct the Kebler Pass Trail East Central section of trail in Summer 2019.

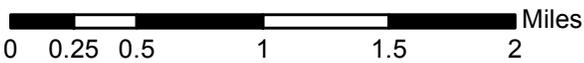
Recommendation:

A Council member followed by a second make a motion to allocate \$25,000 in the 2019 budget for matching funds for trail construction including the Kebler Pass Trail East Central section of the Crested Butte to Carbondale Trail, subject to the annual appropriation in the 2019 Budget

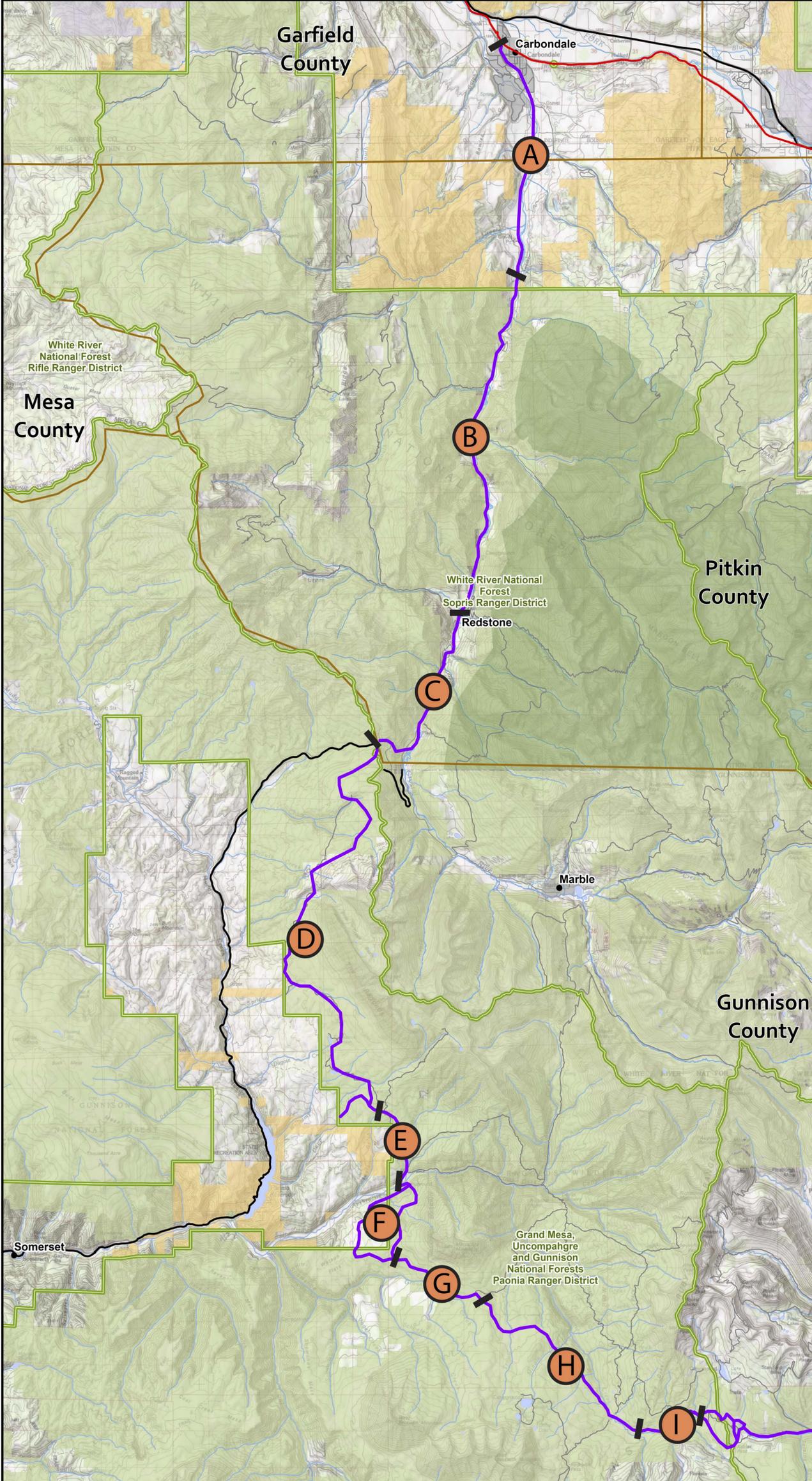


GOCO Youth Corps Projects 2018

- | | | |
|--|---|--|
|  Weed Treatment | Parcel Boundaries |  Government Lands |
|  Trail + Weed | Roads | |
|  Trail + Fencing + Weed | Streams | |
|  Fencing + Weed |  Lakes | |
| Trails |  Town Boundaries | |



Date: August 30, 2018
 Filename: ~/BaxterGulch/GOCOYouthCorps2018.mxd



Trail Segment	Status
A Crystal Trail Phase I 8.5 miles Paved, multi-use trail	Completed 2010
B Redstone 13 miles Proposed multi-use trail	Planning
C McClure Pass North 7 miles Proposed single track	Planning
D Raggeds Trail 16.5 miles Existing trail, may need reroutes	Existing, Reroutes may occur
E Williams Creek Connector 3 miles Existing trail, may need reroutes	Existing, Reroutes may occur
F Marcellina Mountain 3.5 - 5 miles Proposed single track, two alignment alts.	Planning
G Kebler Pass Trail - West 3 miles Proposed single track	Planning
H Kebler Pass Trail - West Central 9 miles Proposed single track	Planning
I Kebler Pass Trail - East Central 5 miles Proposed single track	Planning
J Kebler Pass Trail - East Wagon Trail - 6 miles of single track Approx. 8 miles of trail gaps	6 miles existing, Planning for 8 miles

Proposed Crystal Valley to Crested Butte Trail
 Rio Grande Trail
 Regional Trails
 USFS Ranger Districts
 County Boundaries
 Cities & Towns
 State Highways
 Road Centerline
 Rivers, Lakes, Ponds
 Rivers and Streams

Public Lands
 BLM
 CDOW
 CO STATE
 CO STATE PARKS
 USFS

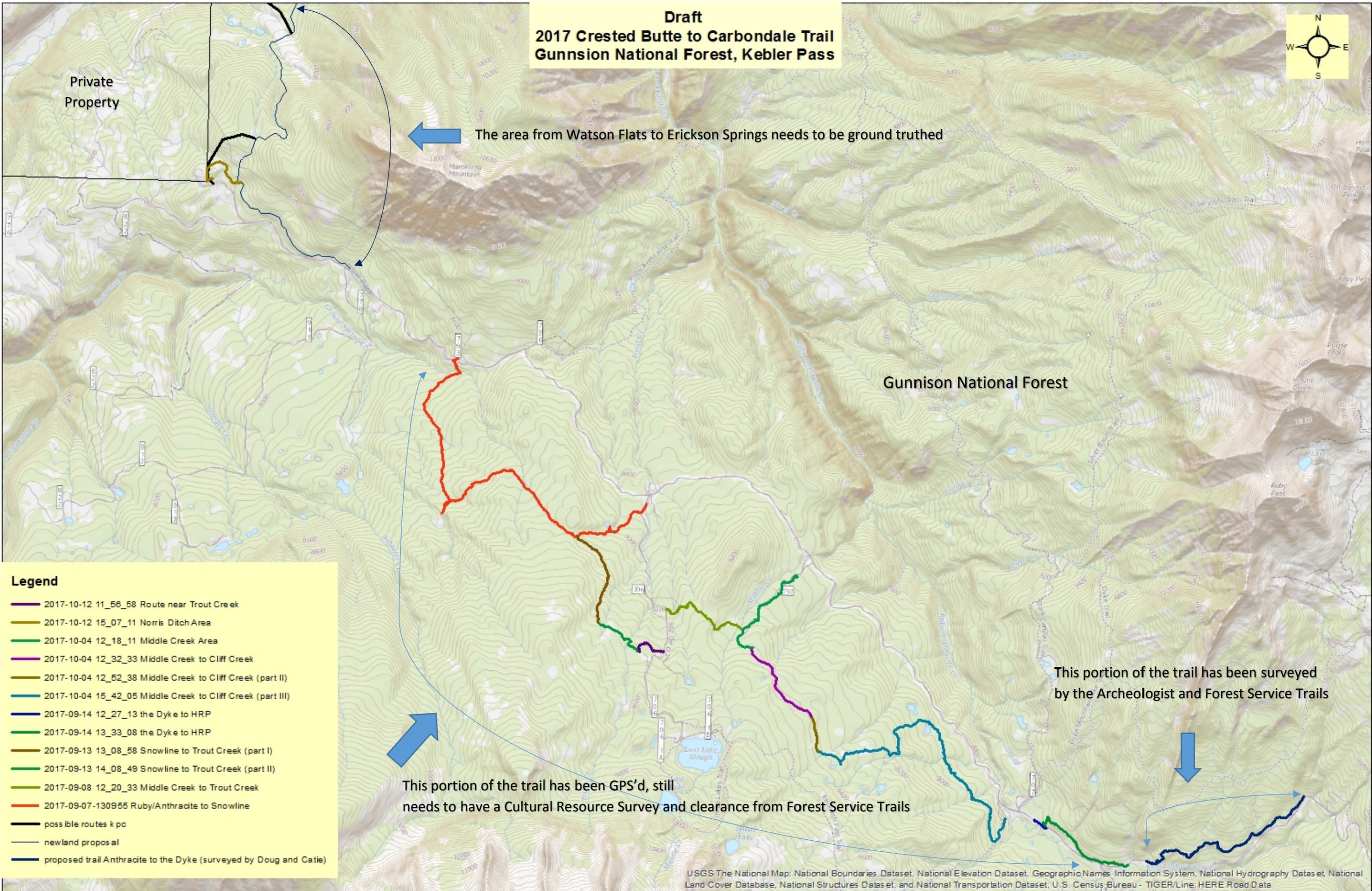
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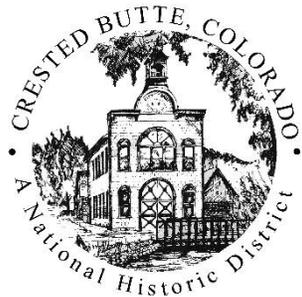
N

PITKIN COUNTY
 GEOGRAPHIC INFORMATION SYSTEM
 Map Produced by Pitkin County GIS, August 30, 2016
 This map/drawing is a graphical representation of the features depicted and is not a legal representation. The accuracy may change depending on the enlargement or reduction.

Carbondale to Crested Butte Trail System

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Staff Report

September 4, 2018

To: Mayor Schmidt and Town Council

Thru: Dara MacDonald, Town Manager

From: Michael Yerman, Community Development Director

Subject: **Resolution 14, Series 2018- Cypress Foothills, LP 2nd Amendment to Pre-Annexation Agreement**

Date: September 4, 2018

Background:

The Slate River Development Project 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 two pre-annexation agreements. The first 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, followed by the annexation of the remaining property into the Town. The west bank of Slate River would serve as the dividing line between the Town and unincorporated development. In exchange for sewer service, the developer dedicated four parcels to the Town on the western portion of the development to serve as public uses, affordable housing, passive park space, and open space.

The second agreement was developed 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, an 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 Town staff will present full details of deal point to both agreements at the Council meeting.

Both Pre-Annexation Agreements were bound to the County's approval of the Major Subdivision of 23 residential lots on the eastern portion of the site. The County has approved the Major Subdivision which has set in motion the need for the execution of several agreements. The Pre-Annexation Agreements are attached to this memo for the Council and public's review.

The approval of the County Major Subdivision also sets in motion the Town's annexation process and landfill voluntary clean up (VCUP). Prior to the Town receiving the four dedicated parcels on the western portion of the development, the Developer was responsible for completing the VCUP. The VCUP process is nearing completion and an annexation petition and subdivision application is being prepared to begin the process of deeding the Town parcels to the Town.

2nd Amendment to the Pre-Annexation Agreement:

Through the VCUP process and the installation of infrastructure several additional items have surface that will need to be addressed prior to the completion of the VCUP and the annexation and subdivision of the Town Parcels. The following items were not addressed in the original Pre-Annexation Agreements:

- Lands located along right-of-ways and wetland areas along Slate River
 - Due to the irregular shape of the Town shop parcel, several areas of the developer lands fall into areas not identified on the original plan for the annexation. These lands will be transferred into the Town yard or incorporated into Town dedicated rights-of-way. There is also a .9 acre parcel of land adjacent to both the developer retained lands and Slate River that contain the 100' buffer from the high quality wetlands. This area is now identified as Town Parcel 6. This area will be dedicated to the Town and serve two functional uses. First there will be a boater access located adjacent to the bridge. The area north of the boater access is high quality wetlands and will be protected open space for wildlife.
- Landscaping and maintenance agreements for fencing and landscaping located along the Slate River Trail
 - The original Pre-Annexation Agreements allowed the developer to install fencing and other buffer between the Slate River Trail and Public Works Yard. However, the agreements failed to specify responsibilities for the maintenance of the landscaping and fencing. Under the agreement, the future HOA located in the county will be responsible for the maintenance and upkeep of the fencing and landscaping located next to the trail.
- Issuance for building permits for homes located on the County portion of the development prior to conveyance of Town Parcels
 - Under the previous Pre-Annexation Agreements, the issuance of building permits for new homes located in on County retained lands were not contemplated. The Developer has requested that building permits be allowed to proceed prior to the conveyance of lands to the Town. This agreement will allow the developer or purchasers of lots to proceed with building permits in the County. However, no issuance of occupancy will be granted until for any new homes until all the water and sewer infrastructure is accepted by the Town and the Town Parcels are conveyed to the Town.
- Treatment of low quality wetland areas next to applicant retained lands
 - Prior to the submittal of the annexation and subdivision application by the developer, direction is needed on the treatment of the low quality wetland area west of the 6 developer retained residential lots. The extension of 8th street north would require 8th to cut into portions of this wetland area. Both the Town and developer consulted with wetland consultants on the possibility of mitigation of the wetland areas that would be impacted by the extension of 8th Street. While it is feasible to mitigate and relocate this wetland area, it will inevitably effect the ecology of the wetlands. The other option is to work within the parameters of existing Town zoning to create a new zone district

that will allow the developer to create the 6 developer retained lots while maintaining a 25' buffer from this wetland area. Both options will be present to the Council. Direction is needed prior to proceeding with a formal annexation and subdivision application.

- Water Service Line Easement from Developer Property to Cemetery
 - Last fall the existing Cemetery service broke in the Gothic Road Corridor. Since this time the Cemetery has been without irrigation water. Cypress is granting the Town an easement through the eastern parcel to allow for a new service line to be installed. In exchange for the cost of the tap and piping, the Town is providing the reseeded VCUP area with water.
- Future use of VCUP capped lands and No Further Action Determination
 - The previous Pre-Annexation Agreements permitted the Town to clean up the capped areas of the old town landfill. However, only one additional acre could be used for affordable housing and the orientation and size would have to be the same as the Town Parcel 3. There was also a 10 year covenant that restricted this land being used for affordable housing. Through the process of cleaning up the old town landfill, the portions of the land fill next to Gothic road contained considerably less trash than areas closer to Poverty Gulch. The developer has agreed to a reorientation and the deletion of the 10 year covenant restricting the use of this additional acre for housing. This additional acre will still have cleanup costs, however, they will be reduced due to the amount of debris located in the new Town Parcel 5 area.

Staff Recommendation:

A council person should make a motion to approve Resolution 14, Series 2018 for the 2nd Amendment to the Pre-Annexation Agreement with Cypress Foothills, LP.

RESOLUTION NO. 14**SERIES NO. 2018****A RESOLUTION OF THE CRESTED BUTTE TOWN
COUNCIL ADOPTING THE SECOND AMENDMENT
TO THE PRE-ANNEXATION AGREEMENT
BETWEEN THE TOWN OF CRESTED BUTTE AND
CYPRESS FOOTHILLS, LP**

WHEREAS, the Town of Crested Butte (“Town”) and Cypress Foothills, LP (“Applicant”) entered into a Pre-Annexation Agreement dated February 16, 2016 and an Amendment to the Pre-Annexation Agreement dated December 7, 2016; and

WHEREAS, the Town and Applicant wish to amend the Pre-Annexation Agreement and the Amendment to the Pre-Annexation Agreement to incorporate their understanding regarding the construction of fencing and landscaping on Town property on the West Parcel.

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

1. The Town and Applicant have agreed to the terms necessary to amend the Annexation Agreement as provided in the Second Amendment to the Pre-Annexation Agreement attached to this Resolution.

2. The Town Council hereby authorizes the Mayor to execute the Second Amended Pre-Annexation Agreement and to record the Second Amended Pre-Annexation Agreement with the Gunnison County Clerk and Recorder.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL
THIS ____ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

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

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

SECOND AMENDMENT TO PRE-ANNEXATION AGREEMENT

THIS SECOND AMENDMENT TO PRE-ANNEXATION AGREEMENT (this "**Second Amendment**") is made and entered into this ___ day of _____, 2018 (the "**Effective Date**"), by and between the **TOWN OF CRESTED BUTTE, COLORADO** (the "**Town**"), a Colorado home rule municipality and **CYPRESS FOOTHILLS, LP** ("**Applicant**"), a Texas limited partnership.

RECITALS:

A. The Town and Applicant entered into a Pre-Annexation Agreement (the "Agreement") dated February 16, 2016 and recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on March 14, 2016 at Reception No. 638399 whereby the Town gave the right and approval to Applicant to connect the Subject Property (as defined in the Agreement) to the Town's sewer service system pursuant to §13-1-280 of the Crested Butte Municipal Code (the "Code").

B. The Town and applicant entered into an Amendment to the Pre-Annexation Agreement ("Amendment") dated December 7, 2016 and recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on December 13, 2016 at Reception No. 643828 whereby the Town gave the right and approval to Applicant to connect the Subject Property (as defined in the Agreement) to the Town's water service system pursuant to §13-1-280 of the Code.

C. The Town and Applicant wish to amend the Pre-Annexation Agreement and the Amendment to address the subject matters set forth below, and accordingly enter into this Second Amendment to the Pre-Annexation Agreement and Amendment ("Second Amendment").

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 Applicant agree as follows:

1. **Amendments to Agreement and Amendment.**

1.1 Section 5.3 of the Agreement, **Exhibit B** shall be replaced by the new **Exhibit B**, attached hereto and incorporated by reference.

1.2 Section 6.4 of the Agreement shall be revised to read as follows:

“1.2.1. Upon Applicant’s receipt of the No Action Determination, Applicant shall be obligated to convey by quitclaim deed, on an “as is where is” basis, made without representations or warranties as to the physical or environmental conditions (the “**Deed of Conveyance**”) “**Town Parcel 1,**” “**Town Parcel 2,**” “**Town Parcel 3,**” “**Town Parcel 4,**” “**Town Parcel 5,**” and “**Town Parcel 6**” (each a “**Town Parcel**”; together collectively, the “**Town Parcels**”) on the West Parcel.

1.2.2. The Town Parcels are generally depicted on the revised **Exhibit B** attached to this Second Amendment. The Parties are in the process of developing the precise legal descriptions of the Town Parcels. The Town Parcels are subject to the encumbrances and exceptions set forth on **Exhibit C**, which shall be updated with the most recent title work immediately prior to the conveyance of the Town Parcels to the Town.

1.2.3. The Deed of Conveyance also shall be subject to the terms and conditions of this Agreement, and expressly set forth the restrictions and obligations contained in paragraphs 6.4.4 (as amended in the Amendment) and 6.4.5 hereof. Other than any conditions, limitations, restrictions, and controls contained in the No Action Determination by the State of Colorado Department of Public Health and Environment (“CDPHE”) Applicant agrees not to further encumber the Town Parcels. Applicant’s obligation to convey the Town Parcels shall be subject to the following express conditions precedent:”

1.3 Section 6.4.1.1, 6.4.1.2, 6.4.1.3, 6.4.1.4, and 6.4.1.5 of the Agreement shall be deleted in their entirety and replaced with the following:

“6.4.1.1. The Applicant Retained Lands shall be subdivided into no less than six lots. The Applicant Retained Lands are unique and located adjacent to wetlands. As such, the subdivision of the Applicant Retained Lands into six usable lots cannot be done within one of the Town’s existing zoning 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 lots, as well as the design flexibility of the lot layouts, while maintaining FAR limits consistent with the existing R1D 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.

6.4.1.2. The Town shall make best efforts to zone the Town Parcels as set forth below. The Town Parcels shall only be used for the purposes set forth below.

6.4.1.2.A. The Town shall make best efforts to zone Town Parcel 1 as “P.” The uses of Town Parcel 1 shall be limited to uses allowed in the “P” zone district, 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 development shall be allowed within the pond wetlands other than as necessary to accommodate the extension of Road B. No building constructed on Town Parcel 1 shall exceed 30 feet in height.

6.4.1.2.B. The Town shall make best efforts to zone Town Parcel 2 “P” and subject to paragraph 6.3.1 above, Town Parcel 2 shall only be used for open use recreational facilities, parks, or playfields, libraries or museums, art centers, schools, essential governmental uses (but not public facilities), a bus stop, and parking ancillary to the foregoing uses.

6.4.1.2.C. The Town shall make best efforts to zone Town Parcel 3 as “A-O” “R2A” and/or “R4”; provided however, that if Town Parcel 3 is zoned for residential uses, such residential uses shall be limited to affordable housing. If Town Parcel 3 is not zoned for residential uses, it shall only be used as open space, parks, and snow storage.

6.4.1.2.D. Town shall make best efforts to zone Town Parcel 4 as “A-O” or “P”; provided however, that Town Parcel 4 shall be used only for open space, parks, snow storage and/or additional storage for the public works yard. 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. No other structures, except for fencing or screening may be installed on Town Parcel 4.

6.4.1.2.E. The Town shall make best efforts to zone Town Parcel 5 as “A-O” “R2A” and/or “R4”; provided however, that if Town Parcel 5 is zoned for residential uses, such residential uses shall be limited to affordable housing. If Town Parcel 5 is not zoned for residential uses, it shall only be used as open space, parks, and snow storage. Prior to the development of any housing, on Town Parcel 5, the Town shall file a VCUP application with CDPHE and obtain a No Action Determination confirming that the Town has achieved the cleanup levels necessary for the development of affordable housing. The Town shall be responsible for the costs of the VCUP application and the required cleanup of Town Parcel 5.

6.4.1.2.F. Town Parcel 6 is located within the 100-foot buffer for the high-quality wetlands of the Slate River. Town shall make best efforts to zone Town Parcel 6 as “A-O,” provided however that it shall be used only as protected open space for wildlife, except that the Town shall allow public access through Town Parcel 6 only within the Boat Launch, which is depicted on revised **Exhibit B**. The Town’s access to Town Parcel 6 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 other than signage deemed necessary by the Town to ensure the preservation of the high-quality wetlands and to prevent trespassing.

6.4.1.2.G. The Deed of Conveyance shall restrict the Town Parcels to the uses set forth in this section 6.4.1.2”

1.4 The Applicant shall be permitted to apply to the County for building permits for primary residences and accessory dwellings on the East Parcel once the water service serving the East Parcel has been completed by the Applicant and accepted by the Town in accordance with the Development Improvements Agreement for Slate River Development dated August 8, 2017 and recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on August 31, 2016 at Reception No. 648730 (the Town “DIA”). However, prior to any occupancy including temporary occupancy on the East Parcel, sewer service improvements serving the East Parcel must be completed by the Applicant and accepted by the Town in accordance with the Town DIA. At the time that any person submits a building permit application to the County for construction on a lot in the East Parcel, it shall submit architectural plans to the Town. The Town shall review such plans expeditiously only to: (i) confirm that the plans are consistent with the size limitations contained in section 6.4.8 of the Agreement; (ii) confirm compliance with the Town Code’s provisions regarding solid-fuel burning devices pursuant to section 8.3 of the Amendment; and (iii) determine the amount of water and sewer Tap Fees owed to the Town pursuant to section 9.7 of the Amendment. The Town shall promptly provide notice, in writing, to the building permit applicant of the amount of water and sewer Tap Fees owed by the applicant and of compliance or noncompliance with (i) and (ii) of this section. Once the applicant has paid the Tap Fees and is in compliance with (i) and (ii) of this section, the Town shall promptly provide notice, in writing, to the applicant and Gunnison County that the Tap Fees have been paid in full and that the applicant has complied with (i) and (ii) of this section.

1.5 Section 9.1 of the Amendment shall be revised to read as follows:

“6.4.3 Town Parcel 1, Town Parcel 2, Town Parcel 4, Town Parcel 5, and Town Parcel 6 shall be conveyed to the Town without any financial consideration. Town Parcel 3 shall be conveyed to the Town in exchange for \$350,000, which amount is a portion of the anticipated cost of obtaining the No Action Determination.”

1.6 Section 9.5 of the Amendment shall be deleted in its entirety and Section 6.4.1.6 of the Agreement shall be revised to read as follows:

“6.4.1.6 Prior to or within two years of annexation, Applicant shall construct a river trail along with west bank of the Slate River through the West Parcel as shown on the revised **Exhibit B** (the “River Trail”) in order to provide connectivity to the existing Rec Path south and east of the Subject Property. Concurrently, with the construction of the River Trail, or sooner if Applicant so desires, Applicant will construct fencing between the River Trail and the Town’s Public Works Yard. Applicant shall choose the design, style, and material for such fencing, provided that the design of the fencing shall conform to the Fence, Berm, and Trail Plans attached hereto as **Exhibit D**.

6.4.1.6.A. The Town shall permit the installation of berms, retaining walls, buffers and other mitigation measures at the Applicant’s expense on the West Parcel and Town property around the Public Works Yard that is substantially similar to the style, location, and height of the berms, buffers, and other mitigation measures shown on **Exhibit D**, or as otherwise agreed to by the Town Manager. Prior to the installation of such berms, retaining

walls, buffers or other mitigation measures the Town and Applicant shall enter into a “Landscape Maintenance Agreement,” which shall be assignable by Applicant in Applicant’s sole discretion to the Aperture Homeowners Association, Inc (the “HOA”). The Landscape Maintenance Agreement shall describe the Applicant’s future responsibilities for assuming responsibility for maintenance and repair of any landscaping and irrigation along the River Trail. The parties agree, and the Landscape Maintenance Agreement shall provide, that (i) landscaping shall be limited to native plant species; (ii) the Town shall have no responsibility to maintain or repair the irrigation or landscaping; (iii) the Applicant or HOA will be responsible for fees related to an irrigation tap; and (iv) the Town will grant an easement to the Applicant or its successor for access to that portion of the Town Public Works Yard located north and east of the fence to be constructed pursuant to this paragraph for the purpose of allowing Applicant to perform its obligations under the Landscape Maintenance Agreement. The Applicant and Town will endeavor to use raw or non-potable water for the irrigation of the landscaping. If water rights for irrigation cannot be obtained by the Town, the Town will permit the Applicant to purchase an irrigation tap to be used for irrigation of plantings along the River Trail on the Town’s property, subject to the applicable fees as set forth in the Town Code at the time of purchase. The Landscape Maintenance Agreement is the only remaining condition precedent to Applicant’s right to commence construction on the River Trail and the landscaping and fencing associated therewith. Accordingly, once the Applicant and the Town have entered into the Landscape Maintenance Agreement, Applicant shall be entitled to commence construction on the River Trail and the landscaping and fencing associated therewith consistent with the Town’s construction season limitations.

6.4.1.6.B. Maintenance and repair of the River Trail itself shall be the sole responsibility of the Town and shall be maintained for the same duration as the remainder of the Rec Path. Maintenance and repair of the fence between the River Trail and the Town’s Public Works Yard shall be responsibility of the Applicant or its successor where such maintenance is attributable to normal wear and tear. The Town shall use its best efforts to avoid damaging the fence between the River Trail and the Town’s Public Works Yard.

6.4.1.6.C. Applicant and the Town shall enter into a “Boater Access Easement Agreement” concurrently with the annexation and conveyance of the Town Parcels memorializing such access in perpetuity. This easement agreement will address the terms and conditions for boater access to the Slate River, and as it flows through the East Parcel, as well as associated uses of the Boat Launch, including but not necessarily limited to, other permissible recreational uses of the Boat Launch and vehicular access to and from the Boat Launch. The areas of the “Boat Launch” and “Boater Access Easement” are depicted on revised **Exhibit B** to this Second Amendment. The public shall access the Boater Access Easement exclusively from the Boat Launch.

6.4.1.6.D. Applicant 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.

1.7 Section 6.4.1.8 of the Agreement shall be revised to read as follows:

“6.4.1.8 Prior to the conveyance of the Town Parcels to the Town, and following reasonable diligence, the Town shall release Applicant, its partners, affiliates, lenders, agents, employees, and all predecessor owners of the Town Parcels in connection with the transfer of the Town Parcels, including all portions of the Old Town Landfill located on Town Parcel 2, Town Parcel 3, Town Parcel 4, and Town Parcel 5. The release shall include a release of all claims and a covenant not to sue with respect to any site conditions and or any responsibilities or liabilities, including without limitations any environmental liabilities related to the Town Parcels. The Town shall record such release against Town Parcel 2, Town Parcel 3, Town Parcel 4 and Town Parcel 5 which shall be a condition of any transfer to any future purchaser of any portion of these Town Parcels, and to which any future purchaser of any portion of such Town Parcels must agree.

1.8 The first sentence of section 6.4.4 of the Agreement shall be as set forth in section 9.2 of the First Amendment. The remainder of section 6.4.4 shall be revised to read as follows:

“6.4.4 The Deed of Conveyance shall require the Town to refrain from any uses of the Town Parcels affected by the Old Town Landfill that may disturb any cap associated with the VCUP, and abide by any other controls and conditions contained in the No Action Determination. However, the Town may apply for a VCUP for Affordable Housing on Town Parcel 5 which VCUP shall not cause any interference with the No Action Determination. The Deed of Conveyance shall also include: (i) the right of Applicant to enforce, through injunctive relief, the terms of this Agreement and the controls and conditions contained in the No Action Determination; and (ii) the obligation of the Town to obtain Applicant’s consent to any amendment or modification to the terms of this Agreement or the controls and conditions contained in the No Action Determination.

1.9 Section 6.4.5 of the Agreement is hereby deleted in its entirety.

1.10 The Notice provisions of Section 25 of the Amendment and Section 20 of the Agreement shall be amended to strike the references to John Belkin and substitute the following contact information for all copies sent to the Town Attorney:

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

2. **Easement Agreement for Cemetery Water Line.** Concurrently with the execution of this Second Amendment, Applicant and the Town shall enter into an Easement Agreement for Cemetery Water Line substantially in the form attached hereto as **Exhibit E**.

3. **Scope of Second Amendment; Conflict of Terms.** This Second Amendment amends and modifies the Agreement and Amendment, however only to the extent provided herein. In the event of any conflict or inconsistency between any term or condition of this Second Amendment and any term or condition of the Agreement or Amendment, this Second Amendment and the terms hereof shall in all cases prevail, govern and control. This Second Amendment is supported by the same consideration as the Agreement and Amendment and the additional consideration as provided herein. Reference herein to the Second Amendment shall include the Agreement and Amendment, *mutatis mutandi*, as amended hereby.
4. **Capitalized Terms.** Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement and Amendment.
5. **Purpose.** The purpose of this Second Amendment is to set forth certain binding terms and conditions upon which the Town and Applicant agree as respects the discrete subject matters addressed herein.
6. **No Vested Right.** Any rights created by this Second Amendment are contractual rights. This Second Amendment does not create and shall not be construed to create or convey any vested rights.
7. **Preservation of Governmental Powers.** Except as specifically provided in this Second Amendment, nothing in this Agreement constitutes a limitation on or waiver of any review, approval, or permit authority, or a predetermination of any action taken hereafter by the Town.
8. **Term; Termination.** This Second Amendment shall amend the term set forth in Section 4 of the Agreement: the term of the Agreement is hereby extended through February 16th, 2021 with any termination of this Second Amendment occurring pursuant to the terms of the Agreement. In addition, in the event that the Agreement is terminated, or otherwise becomes null and void pursuant to the Agreement, this Second Amendment shall automatically terminate (or become null and void) therewith.
9. **Compliance with Law.** When fulfilling its obligations under this Second Amendment, Applicant shall comply with all relevant laws, ordinances and regulations in effect as of the Effective Date. In addition, Applicant shall be subject to all laws, ordinances and regulations of general applicability that become effective after the Effective Date.
10. **Costs and Expenses.** Except where the responsibility is otherwise assigned to a party in this Second Amendment, all costs and expenses associated with a particular performance item shall be the sole and absolute responsibility of Applicant.
11. **Enforcement.** The parties, their assigns or successors in interest, in whole or in part, to this Second Amendment recognize and agree that the damages flowing from any violation of the Second Amendment 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 the Second Amendment 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.

12. **TABOR; Colorado Constitution, Article X, Section 20.** Notwithstanding any other provision in this Second Amendment 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 Second Amendment. (b) It is understood and agreed that this Second Amendment does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Second Amendment 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 Second Amendment 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 Applicant 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 of the cost of remediation for Town Parcel 3, and (ii) Applicant shall not be obligated to convey Town Parcel 3.

13. **Cooperation; Other Documentation; Instruments.** The parties shall reasonably cooperate with each other in order effect the transactions contemplated in this Second Amendment. 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.

14. **Authority.** The person executing this Second Amendment on behalf of Applicant does hereby covenant and warrant that as to Applicant, such person is duly authorized and has full right and authority to enter into this Second Amendment and that the person signing on behalf of Applicant is authorized to do so.

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

16. **Entire Agreement.** This Second Amendment supersedes and controls all prior written and oral agreements and representations of the parties with respect to the subject matters addressed herein and represents the total integrated agreement between the parties with respect to such subject matters.

17. **Modification.** This Second Amendment shall not be amended or modified, except by subsequent written agreement of the parties approved by resolutions of the Town Council.

18. **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.

19. **General Release.** It is expressly understood that the Town cannot be legally bound by the representations of any of its elected officials, officers, employees, agents, representatives and attorneys or their designees, except in accordance with Town ordinances, the Code and the laws of the State of Colorado, and that Applicant, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town, its elected officials, officers, employees, agents, representatives, and attorneys or their designees, which is subsequently held unlawful by a court of law; provided, however, this paragraph shall not be construed to limit the rights and remedies of the parties otherwise provided by law, including under equitable doctrines such as estoppel.

20. **Notices.** Any notice or other information required by this Amendment 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
 Gunnison, Colorado 81230
 Facsimile: 970-641-1943
mlock@lawoftherockies.com

Town of Crested Butte
 Attention: Michael Yerman

507 Maroon Avenue
 P.O. Box 39
 Crested Butte, Colorado 81224
 Facsimile: 970-349-6626
myerman@crestedbutte-co.gov

with a copy to:

Town Attorney
 Sullivan Green Seavy
 Barbara J. B. Green and John Sullivan
 3223 Arapahoe Ave. Suite 300
 Boulder, Colorado 80303

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

21. **Voluntary Agreement.** Applicant's continued compliance with all of the terms and conditions of this Second Amendment on a voluntary and contractual basis is a condition of its right to connect to the Town's water and sewer systems.

22. **Attorneys' Fees; Costs.** Should this Second Amendment 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.

23. **Governing Law; Venue.** This Second Amendment 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.

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

25. **Recording.** Upon execution, Applicant shall record this Second Amendment in the Office of the Gunnison County Clerk and Recorder. The benefits and burdens of this Second Amendment shall run with the Subject Property and be binding upon the parties' successors and assigns. In the event this Second Amendment becomes null and void for any of the reasons set forth herein, the parties agree to execute and record a notice of termination of this Second Amendment and, in addition, if necessary to remove this Second Amendment as an exception to title to the Subject Property.

26. **Electronic Reproductions; Counterparts.** For purposes of enforcement of terms of this Second Amendment, electronic reproductions of this Second Amendment shall be deemed to be originals. This Second Amendment 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 Second Amendment by their duly authorized officers as of the Effective Date.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schimdt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

(SEAL)

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

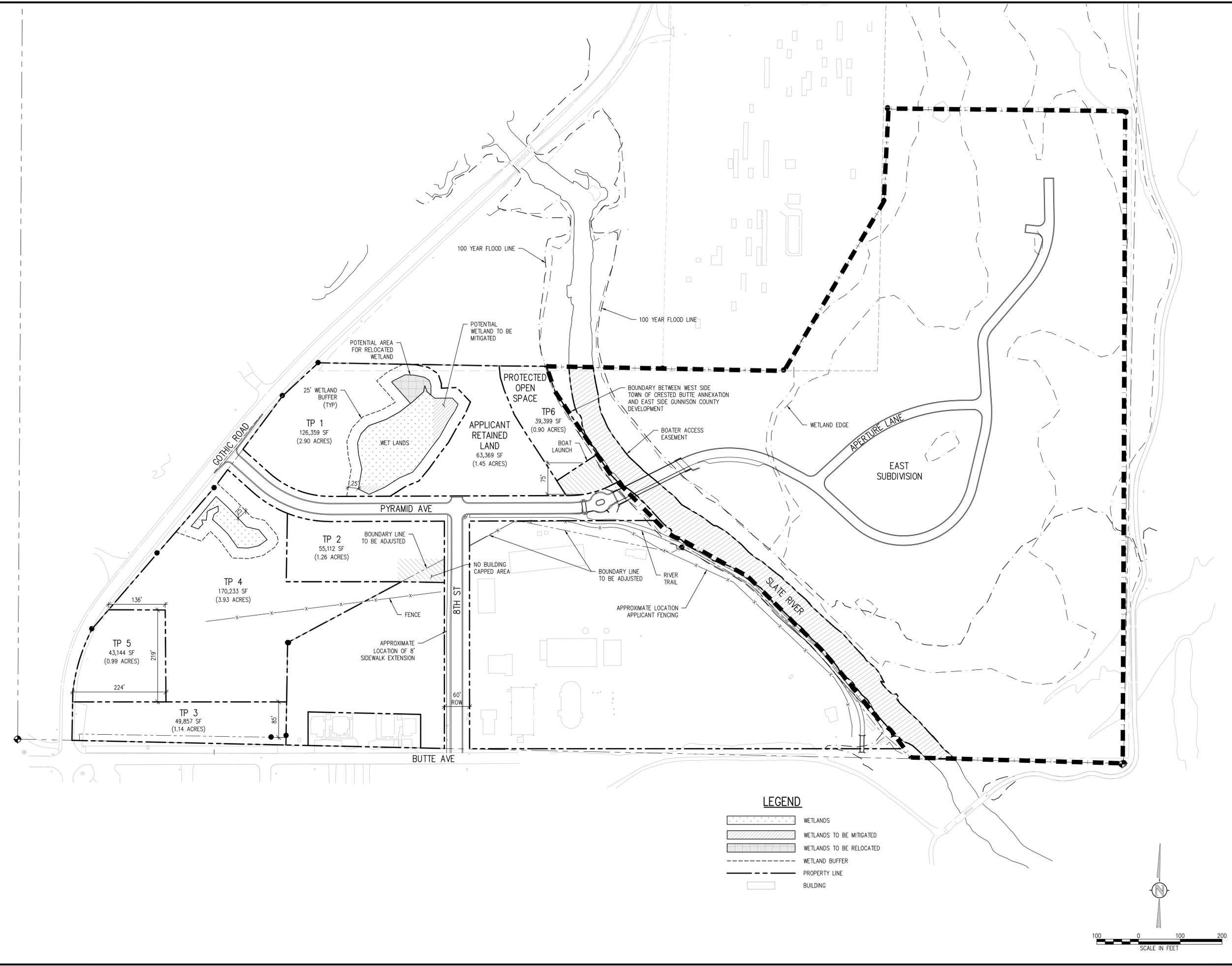
The foregoing Second Amendment to Pre-Annexation Agreement was acknowledged before me this _____ day of _____, 20__ by James A. Schimdt, Mayor of the Town of Crested Butte, Colorado, a Colorado home rule municipality, on behalf of said entity.

Notary Public

My commission expires:_____

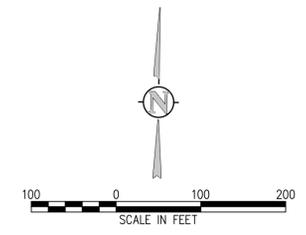
**EXHIBIT A IS ATTACHED TO THE ORIGINAL PRE-ANNEXATION AGREEMENT
DATED FEBRUARY 16TH, 2016, AND RECORDED IN THE RECORDS OF THE
GUNNISON COUNTY CLERK AND RECORDER ON MARCH 14, 2016 AT RECEPTION
NUMBER 638399**

EXHIBIT B



LEGEND

	WETLANDS
	WETLANDS TO BE MITIGATED
	WETLANDS TO BE RELOCATED
	WETLAND BUFFER
	PROPERTY LINE
	BUILDING



NO.	DATE	DES'D	DWN	REVISION DESCRIPTION

DESIGNED BY:	BLM
DRAWN BY:	JCD
CHECKED BY:	KAT
JOB #:	2387.6c
DATE:	AUG 18
© JVA, INC.	

SLATE RIVER ANNEXATION
CRESTED BUTTE, CO

EXHIBIT B

SHEET NO.
EX-B

**EXHIBIT C IS ATTACHED TO THE ORIGINAL PRE-ANNEXATION AGREEMENT
DATED FEBRUARY 16TH, 2016, AND RECORDED IN THE RECORDS OF THE
GUNNISON COUNTY CLERK AND RECORDER ON MARCH 14, 2016 AT RECEPTION
NUMBER 638399**

EXHIBIT D



NORTH

IF THE ABOVE DIMENSION DOES NOT MEASURE
ON INCH (1) EXACTLY, THIS DRAWING HAS
BEEN ENLARGED OR REDUCED.

**APERTURE
SLATE RIVER TRAIL**

GUNNISON COUNTY

LANDSCAPE ARCHITECT
SPROUT STUDIO
241 GILLESPIE AVE. PO BOX 4184
CRESTED BUTTE, CO 81224

CIVIL ENGINEER
SGM
103 W. TOMICHI AVE, STE A
GUNNISON, CO 81230

FOR
REVIEW
ONLY.
NOT FOR
CONSTRUCTION
August 29, 2018

LV PROJECT NO. _____
DRAWN BY _____
APPROVED BY _____
ISSUE DATE _____

PLAN REVISIONS

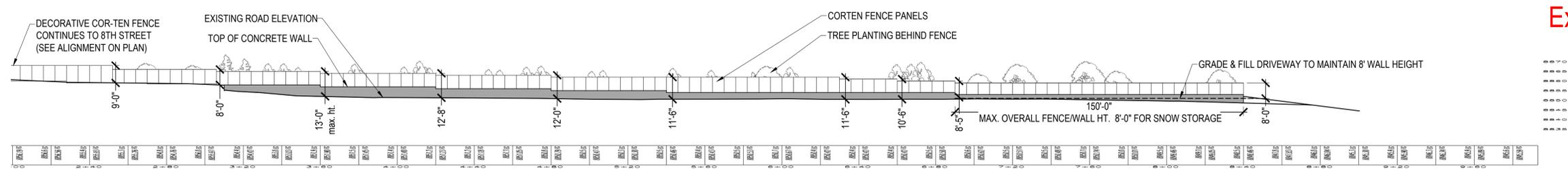
NO.	DESCRIPTION	DATE

CONSTRUCTION REVISIONS

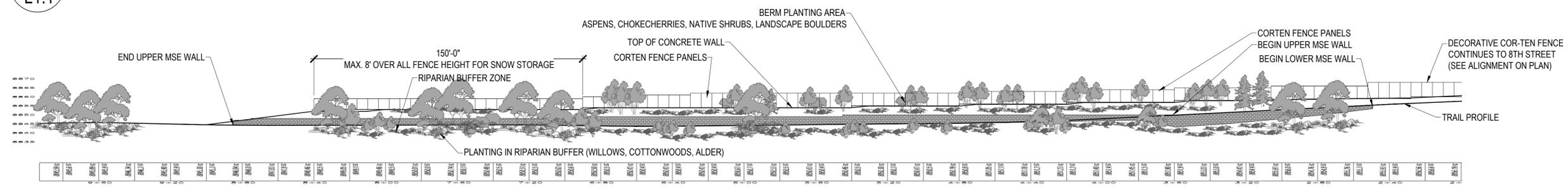
NO.	DESCRIPTION	DATE

**TRAIL
PLAN & ELEVATION
L1.1**

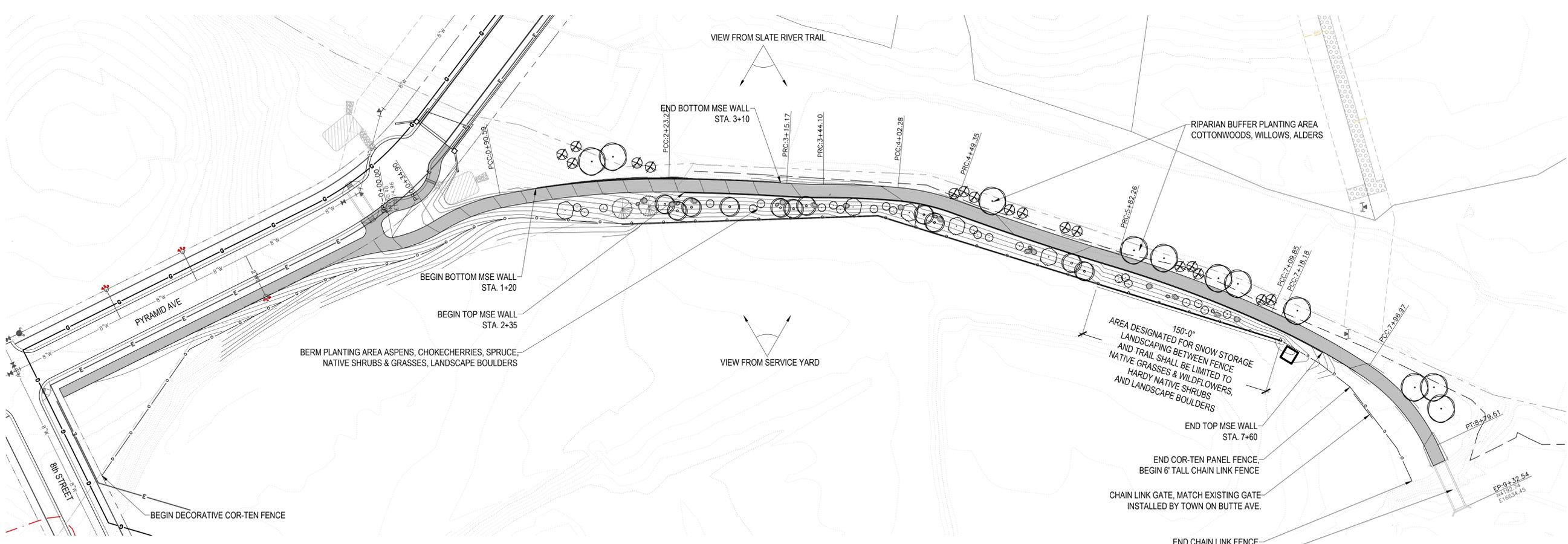
Exhibit D



1 COR-TEN FENCE ELEVATION - VIEW FROM PUBLIC WORKS YARD
L1.1 SCALE: 1" = 30'



2 COR-TEN FENCE ELEVATION - VIEW FROM RIVER
L1.1 SCALE: 1" = 30'



3 TRAIL PLAN AND CONCEPTUAL PLANTING
L1.1 SCALE: 1" = 40'

NOTE: VEGETATION SHOWN IN THESE ELEVATIONS IS CONCEPTUAL.
PLANTING PLANS WILL BE DEVELOPED IN DETAIL AND MAY VARY FROM
THAT SHOW HERE BASED ON SLOPE AND AVAILABLE PLANTING SPACE.

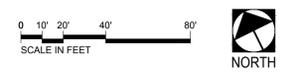


EXHIBIT E

EASEMENT AGREEMENT FOR CEMETERY WATER LINE

This Easement Agreement (this “Agreement”) is entered into this ___ day of _____, 2018 by and between Cypress Foothills, LP, a Texas limited partnership (“Cypress”), the Town of Crested Butte, Colorado, a Colorado home rule municipality (the “Town”), and Aperture Homeowners Association, Inc., a Colorado nonprofit corporation (the “HOA”). Each of the foregoing is referred to herein as a “Party” and collectively as the “Parties”.

I. Recitals

- A. Cypress recently platted the Aperture subdivision as recorded at reception number 648057¹ (“Aperture Subdivision”). As part of this development, Cypress and the Town entered into a Pre-Annexation Agreement recorded at reception number 638399 and an amendment thereto recorded at reception number 643828 (as amended, the “Annexation Agreement”).
- B. As part of the Annexation Agreement, Cypress entered the Voluntary Cleanup Program (“VCUP”) as administered by the Colorado Department of Public Health and Environment (“CDPHE”) wherein it cleaned up the portions of the Old Town Landfill within the West Parcel, all as more particularly described and defined in the Annexation Agreement.
- C. Cypress desires to utilize the existing Town water infrastructure and irrigation water supply located on Town Parcel 2, as described and defined in the Annexation Agreement, to irrigate the areas disturbed by the VCUP process as part of its revegetation efforts.
- D. The Town desires to provide Cypress with the water for this purpose because the land to be revegetated is intended to be later conveyed to the Town for its use pursuant to the Annexation Agreements and Section 13-1-280 of the Town Code.
- E. In exchange for the use of the water on the VCUP areas, the Town has requested an easement across Aperture Subdivision to the cemetery for the purpose of installing and maintaining a water line.
- F. The HOA believes that the expeditious irrigation of the VCUP disturbed areas is in the best interests of its lot owners and the subdivision, that the easement is not inconsistent with the open space uses on the impacted parcel, and that the provision of the utility easement is in the best interests of the HOA.

II. Agreement

NOW THEREFORE, in consideration of the foregoing recitals, the mutual promises, grants, and other provisions set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. *Grant of Easement.* Cypress and the HOA hereby quitclaim and convey to the Town an easement at the location and width more particularly described on **Exhibit A** hereto

¹ All references to recorded documents are to documents recorded in the real property records of Gunnison County, Colorado.

(the “Easement Area”), and shown on **Exhibit B** hereto, for the limited purpose of installing and maintaining a two-inch diameter water service line (the “Easement”). The Easement shall allow the use of heavy equipment within the Easement Area for the limited purposes of installing and maintaining the water service line.

2. *Revegetation and Restoration.* Immediately following any surface disturbance caused by, or resulting from, the exercise of the Easement, the Town shall restore the surface estate to substantially the same condition as it was in prior to the surface disturbance, including revegetating and restoring any disturbed areas as well as ensuring that the surface topography is not altered by the exercise of the Easement. The term “surface disturbance” includes, without limitation, all dirt work and excavation and all other activities that result in the destruction, removal or damage of vegetation in place in the Easement Area at the time of such activity.
3. *Limited and Non-Exclusive Easement.* The Easement is limited in its scope to what is expressly set forth above. No expansion of the Easement is permitted. The Easement is a non-exclusive easement. Cypress and the HOA may engage in any and all uses of the Easement Area that are not inconsistent with the Easement.
4. *Construction of Water Line.* Cypress shall construct and install no more than thirty linear feet of a two-inch diameter water line with a curb stop, within the Easement Area, as further depicted on Exhibit B. Cypress makes no representations or warranties regarding the water line, its construction, grade, materials, fitness for any particular purpose or any other warranty, express or implied, except that Cypress represents and warrants until the Town connects, alters, extends or otherwise hooks onto the water line at or beyond the boundary between termination of the Easement Area and the cemetery, or for a period of one year from completion, whichever occurs first, that the water line was constructed with new or like new materials. The construction and installation of the water line described in this paragraph 4 shall be constructed and installed no later than October 31, 2019.
5. *Use of Water.* Cypress is hereby permitted and allowed to connect to and use the Town’s central water supply by connecting to a fire hydrant adjacent to the VCUP to irrigate the areas disturbed by the VCUP process. The right to connect and use such water shall be limited to: (i) connecting to the Town’s central water infrastructure and irrigation water supply from and on Town Parcel 2, and (ii) using such water as may be reasonably appropriate to revegetate, restore and rehabilitate the areas disturbed through the VCUP process. Cypress shall not be charged, directly or indirectly, for connecting to the central water system from and on Town Parcel 2. Cypress shall not be charged, directly or indirectly, for the water consumption or other usage arising out of or relating to the irrigation or other water usage on the property disturbed through the VCUP process. Cypress will not be charged any tap fees or other fees for any usage pursuant to this paragraph. However, upon connecting to the Town’s central water supply in the manner set forth above, Cypress’ shall install, at Cypress’s sole cost, a backflow prevention device. Cypress’s right and permission to connect to and use the water as set forth in this paragraph shall terminate on the earlier of: (i) completion of

the revegetation requirements contained in a no action determination provided by the Colorado Department of Public Health and Environment in the VCUP process, (ii) conveyance of the Town Parcels as set forth in the Annexation Agreement, or (iii) October 31, 2019.

- 6. *Binding.* This Agreement and the Easement granted thereunder shall run with the Easement Area and shall be binding upon, and inure to the benefit of, the successors in title to the Easement Area.
- 7. *No Third Party Beneficiaries.* There are no third party beneficiaries to this Agreement or the Easement.

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

CYPRESS FOOTHILLS, LP,
a Texas limited partnership

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

By: _____
_____, its Vice President

STATE OF COLORADO)
)ss.
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____, 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

Town of Crested Butte, Colorado,
a Colorado home rule municipality

By: _____

ATTEST:

Lynelle Stanford, Town Clerk

STATE OF COLORADO)
)ss.
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as of the Town of Crested Butte, Colorado.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

Aperture Homeowners Association, Inc.,
a Colorado nonprofit corporation

By: _____
_____, President

STATE OF COLORADO)
)ss.
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as president of Aperture Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

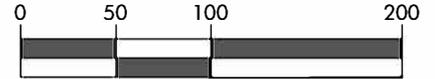
My commission expires: _____.

Notary Public

Exhibit A to Easement Agreement for Cemetery Water Line – Legal Description

The legal description is forthcoming.

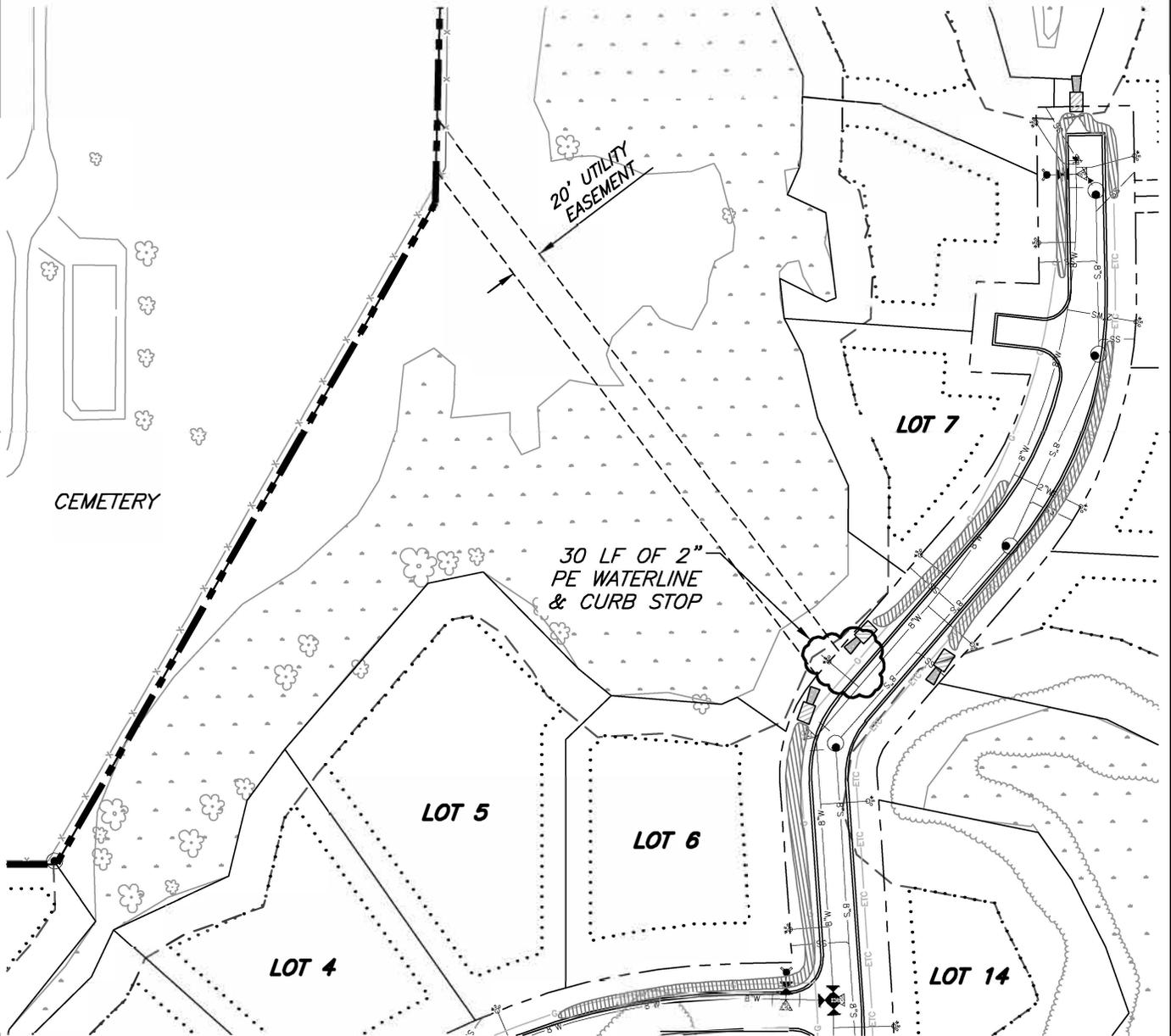
Graphic Scale



In Feet: 1" = 100'



I:\2015\2015-201-SlateRvr\002-SiteDev\H-Dwgs\Civil\PS-SheetSet\SR-EasementLot6-7.dwg Plotted: 8/30/2018 9:01 AM By: Shannon Kaminsky



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

Slate River Development
 Final Plan for Major Impact Project

Job No.	2015-201.002
Drawn by:	SK
Date:	8.30.2018
QC:	PE: TH
File:	SR-EasementLot67

Exhibit B to
 Cemetery Easement

Sht. 1
 Of 1



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

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

PRE-ANNEXATION AGREEMENT

THIS PRE-ANNEXATION AGREEMENT (this "**Agreement**") is made and entered into this 16th day of February, 2016 (the "**Effective Date**"), by and between the **TOWN OF CRESTED BUTTE, COLORADO** (the "**Town**"), a Colorado home rule municipality and **CYPRESS FOOTHILLS, LP** ("**Applicant**"), a Texas limited partnership.

RECITALS:

A. At the Town Council's January 11, 2016 Town Council meeting, the Town Council considered an application (the "**Application**") from Applicant requesting that Applicant be given the right and approval to connect its real property, approximately 44.5 acres in size, as legally described in **Exhibit A** attached hereto (the "**Subject Property**") to the Town's sewer system pursuant to §13-1-280 of the Crested Butte Municipal Code (the "**Code**").

B. Section 13-1-280 of the Code authorizes the Town to provide sewer services outside of the Town's municipal boundaries in certain circumstances; the Subject Property is located within the Town's Waste Water Service Area; and an Intergovernmental Agreement Regarding the Upper East River Valley Areawide 201 Facilities Plan to which the Town is a party contemplates that the Town may provide sewer services to properties within its Waste Water Service Area.

C. As part of the Application, Applicant has agreed, in exchange for the right and approval to connect the Subject Property to the Town's sewer system, to convey title to part of the Subject Property to the Town, subject to certain requirements and conditions, along with Applicant's performance of certain other obligations hereunder.

D. During said Town Council meeting, the Town Council received and considered a Town Staff Report addressing the Application, as well as comment from the public on the Application.

E. Following presentation of the Application by Applicant, Town Staff's presentation and the Town Council's receipt of comments from the public, the Town Council considered the Application and moved to instruct the Town Staff and Town Attorney to prepare a pre-annexation agreement reflecting Applicant's Application and including therein such other terms and condition as are deemed necessary and advisable.

F. The Town and Applicant now desire to memorialize the terms and conditions respecting the Application, the conveyance of title to part of the Subject Property to the Town, the requirements and conditions in connection with such conveyance, and Applicant's performance of certain other obligations in this Agreement pursuant to §13-1-280 of the Code.



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 Applicant agree as follows:

1. **Purpose.** The purpose of this Agreement is to set forth certain, binding terms and conditions upon which the Town and Applicant agree as respects the discrete subject matters addressed herein. By Applicant's performance of its obligations set forth herein, Applicant shall be authorized to connect to the Town's sewer system pursuant to §13-1-280 of the Code.

2. **No Other Vested Right.** No vested right or entitlement of any kind whatsoever are being granted or conveyed by the Town to Applicant other than the contractual rights between the parties arising by virtue of this Agreement.

3. **Incorporation.** The Application is incorporated herein. In the event of any inconsistency between any term or condition of this Agreement and the Application, this Agreement and such inconsistent term or condition herein shall in all cases prevail and control.

4. **Term.** Applicant shall have 48 months from the Effective Date of this Agreement to: (a) obtain approval from Gunnison County (the "**County**") of its Major Impact Land Use Change Application (the "**County Application**") project (the "**County Project**"), as further described in paragraph 5; (b) obtain approval from the State of Colorado Department of Public Health and Environment ("**CDPHE**") of the voluntary cleanup plan further described in paragraph 6.3; and (c) convey the Town Parcels (as defined below). If after the expiration of 48 months, the Town fails to extend this Agreement by resolutions of the Town Council, this Agreement shall terminate and be of no further force and effect, and the parties shall be relieved of their respective obligations hereunder upon such termination.

5. **Subject Property Development.** Applicant shall develop the portion of the Subject Property east of the Slate River (the "**East Parcel**") by filing the County Application and seeking approval of the County Project from the County pursuant to the County's Land Use Resolution. Applicant shall develop the portion of the Subject Property west of the Slate River (the "**West Parcel**") through the Town's annexation process, including Chapter 15 of the Code, subject to the terms contained herein. The West Parcel and the East Parcel are legally described on **Exhibit A**. This boundary line between the West Parcel and the East Parcel generally corresponds to the western boundary of the wetlands along the west bank of the Slate River as it flows through the Property, as such wetlands have been delineated by the United States Army Corps of Engineers. The Town's municipal boundary, following annexation of the West Parcel, shall be extended north and east to the boundary between the West Parcel and the East Parcel. Cypress agrees not to erect a gate or fence across Road A at the boundary between the West Parcel and the East Parcel.

5.1 **East Parcel Generally.** The East Parcel shall be developed through the County into a residential neighborhood.



5.2 **West Parcel Generally.** Subject to the terms and conditions contained herein, the majority of the West Parcel shall be conveyed to the Town for use as affordable housing, open space, parks, public and other civic uses. Such potential uses include, without limitation, an emergency services center, preschool, open space, parks, recreational facilities, and affordable housing, at the locations further specified in paragraph 6.4 below. Applicant shall retain a parcel located in the northeast corner of the West Parcel along the Slate River (the "**Applicant Retained Lands**"), as legally described on **Exhibit A**, which shall be developed into six residential lots in connection with the annexation of the West Parcel.

5.3 **Site Plan.** The site plan attached hereto to as **Exhibit B** shows the East Parcel, the West Parcel, "**Road A**," "**Road B**," and the general location of the proposed uses on the West Parcel. **Exhibit B** is preliminary in nature; it is not a final site plan or lot layout.

6. **Subject Property Development Specifics.** Development of the Subject Property shall occur in the following order and pursuant to the following terms and conditions:

6.1 Applicant shall file its County Application with the County as soon as practicable after the Effective Date.

6.1.1 At the time the Applicant submits its Preliminary Plan Application to the County, Applicant shall also submit to the Town its plan for connecting the East Parcel to the Town's sewer system and its plan for constructing Road A on the West Parcel according to *Public Works Criteria for Design and Construction of Earthwork, Sewer and Water* (the "**Town Specifications**").

6.1.2 Upon County approval of the County Project, Applicant will enter into a standard sewer connection agreement with the Town, which agreement (a) shall be substantially similar to the sewer connection agreements the Town has previously used to extend sewer service beyond its municipal boundaries, and (b) shall not be inconsistent with this Agreement (the "**Sewer Connection Agreement**").

6.1.3 The traffic study Applicant prepares as part of its County Application will include the proposed uses on both the East Parcel and the West Parcel.

6.1.4 This Agreement and all of the terms hereof shall be contingent and are hereby expressly conditioned upon Applicant obtaining County approval of the County Project on the East Parcel, together with approval for the construction of Road A across the West Parcel, as reflected on **Exhibit B**, which County approval is satisfactory to Applicant in its sole discretion (the "**Requisite Approval**"). In the event Applicant fails to obtain the Requisite Approval, this Agreement shall be null and void and the parties shall have no further obligations to one another.

6.2 If Applicant obtains the Requisite Approval from the County on the East Parcel, the County-approved final plat of the Subject Property shall reflect the West Parcel as a remainder tract. No activities related to the West Parcel, including but not limited to its planning, annexation, zoning, subdivision and development shall delay Applicant's construction



of road and utility infrastructure (including but not limited to the construction of Road A as reflected on **Exhibit B**) necessary to sell the residential lots approved by the County on the East Parcel; provided that, before Applicant constructs any such road and utility infrastructure across and through the West Parcel to the East Parcel, including Road A, Applicant shall deliver to the Town, and the Town will review, and not unreasonably withhold its approval of, an engineering feasibility study regarding the delivery of wastewater services to the East Parcel, and the parties will enter into the Sewer Connection Agreement. Applicant shall pay the Town's costs and expenses of reviewing and approving the engineering feasibility study delivered to the Town pursuant to this paragraph 6.2, and such costs and expenses the Town incurs in connection with the preparation and execution of the Sewer Connection Agreement.

6.3 If and when Applicant obtains the Requisite Approval from the County on the East Parcel, Applicant shall promptly enter the portions of the Old Town Landfill located within the West Parcel as reflected on **Exhibit B** into the Colorado Voluntary Cleanup Program ("**VCUP**") administered by CDPHE. Applicant shall request approval from CDPHE of a cleanup plan proposed by Applicant that meets CDPHE standards necessary to allow a portion of Town Parcel 2 (as defined below) to be used for a preschool, for open use recreational facilities, parks, or playfields, libraries or museums, art centers, schools, essential governmental uses (but not public utility facilities), a bus stop and parking ancillary to the foregoing uses and open space if the Town so elects pursuant to paragraph 6.3.1 below; Town Parcel 3 (as defined below) to be used for the development of affordable housing; and Town Parcel 4 (as defined below) to be used as open space. Applicant's receipt of a no action determination from CDPHE confirming that Applicant has achieved the cleanup standards described above (the "**No Action Determination**") is an express condition precedent to Applicant's obligation to convey the Town Parcels to the Town. In the event Applicant fails to obtain the No Action Determination, this Agreement shall be null and void, and the parties shall have no further obligations to one another.

6.3.1 Upon entry of the portions of the Old Town Landfill located within the West Parcel as reflected on **Exhibit B** into CDPHE's VCUP, Applicant shall thereafter communicate with the Town at regular, but in no event less than every other two weeks regarding the VCUP process, the cleanup being performed pursuant thereto and the progress thereof. In this regard, Applicant agrees to allow the Town to reasonably communicate with CDPHE in concert with Applicant regarding the VCUP process and the cleanup being performed. Applicant and the Town agree to work cooperatively regarding the VCUP process and the cleanup, with the Town agreeing to not interfere with the VCUP process and cleanup and Applicant agreeing to share any and all information regarding the VCUP process and cleanup with the Town. With respect to the cleanup of the Old Town Landfill on Town Parcel 2, the Town may elect, at any time and in its sole discretion, to notify Applicant, in writing, that it intends to use the Old Town Landfill on Town Parcel 2 only as open space. Upon receipt of such an election by the Town, Applicant agrees to use all reasonable efforts with CDPHE to amend its VCUP to define the end use of the Old Town Landfill on Town Parcel 2 as open space. Upon approval of this modification by CDPHE, Applicant shall only perform the cleanup work required by CDPHE to use the Old Town Landfill on Town Parcel 2 as open space, and the Town shall thereafter only be entitled to use Town Parcel 2 as open space; provided that, if the Town, at its sole cost and expense, elects, at its sole discretion, to later gain an amendment to the



No Action Determination (or the issuance of a new no action determination by CDPHE, as the case may be) for Parcel 2 thus allowing for the other uses contemplated in paragraphs 6.3 and 6.4.1.3 based on the Town achieving the cleanup standards required therefor, the Town shall be entitled to use Parcel 2 for such permitted uses in accordance with CDPHE's no action determination.

6.3.2 In connection with the VCUP, Applicant shall obtain and provide to the Town an estimate of the cost of obtaining the No Action Determination based on the cleanup plan proposed by Applicant and approved by CDPHE (the "**Estimated Cleanup Cost**"), which such estimate shall be stamped by a Colorado licensed professional engineer. Applicant shall initiate and complete the approved cleanup with reasonable diligence, provided that in no event shall Applicant be required to spend more than 125% of the Estimated Cleanup Cost in pursuing the No Action Determination. In the event the actual cleanup cost exceeds the Estimated Cleanup Cost by more than 25%, Applicant and the Town shall consult with one another on how the excess costs of the cleanup shall be paid.

6.4 Upon Applicant's receipt of the No Action Determination, Applicant shall be obligated to convey by quitclaim deed, on an "as is where is" basis, made without representations or warranties as to the physical or environmental conditions (the "**Deed of Conveyance**") "**Town Parcel 1**," "**Town Parcel 2**," "**Town Parcel 3**," and "**Town Parcel 4**" (each a "**Town Parcel**"; together collectively, the "**Town Parcels**") on the West Parcel. The Town Parcels are legally described on **Exhibit A**. The Town Parcels are subject to the encumbrances and exceptions set forth on **Exhibit C**. The Deed of Conveyance also will be subject to the terms and conditions of this Agreement, and expressly set forth the restrictions and obligations contained in paragraphs 6.4.4 and 6.4.5 hereof. Other than any conditions, limitations, and restrictions imposed by Gunnison County as part of its approval of the County Project, Applicant agrees not to further encumber the Town Parcels, provided however that in the event the County imposes an obligation or restriction that precludes the Town's ability to use the Town Parcels for the uses contemplated herein, then the Town shall have the right to terminate this Agreement, and the parties shall be relieved of their respective obligations hereunder upon such termination. Applicant's obligation to convey the Town Parcels shall be subject to the following express conditions precedent:

6.4.1 Following the Requisite Approval from the County, Applicant shall file an annexation petition pursuant to Chapter 15 of the Town Code seeking to annex the West Parcel. The Town shall, as soon as practicable, initiate and process to completion the master planning, annexation, zoning and subdivision processes for the West Parcel consistent with this Agreement. The Town shall consult with Applicant, and Applicant shall cooperate with, the Town's planning, annexation, zoning and subdivision of the West Parcel, including but not limited to providing the Town all engineering, surveys, and other non-privileged materials related to the Subject Property already in Applicant's possession, custody, or control. However, except as otherwise set forth herein, the completion of these processes for the West Parcel shall be the primary responsibility of, and at the sole cost and expense of, the Town, and all costs to Applicant shall be waived.



6.4.1.1 The Applicant Retained Lands shall be subdivided into six Town lots and zoned as one of the Town's existing residential zoning designations.

6.4.1.2 Town Parcel 1 shall be zoned "P" Public. Any emergency services center to be located on the Town Parcels shall be located only on Town Parcel 1. The Town shall not develop the pond wetlands located within Town Parcel 1, other than as related to the extension of Road B. No building constructed on Town Parcel 1 shall exceed 30 feet in height.

6.4.1.3 Town Parcel 2 shall be zoned "P" Public, and subject to paragraph 6.3.1 above, shall only be used for open use recreational facilities, parks, or playfields, libraries or museums, art centers, schools, essential governmental uses (but not public utility facilities), a bus stop, and parking ancillary to the foregoing uses.

6.4.1.4 Town Parcel 3 shall be zoned "A-O" Agriculture-Open District, "P" Parks, "R2A" Residential, and/or "R4" Residential/Multi Family; provided, however, that if Town Parcel 3 is zoned "R2A" or "R4," Town Parcel 3 shall only be used for the development of affordable housing.

6.4.1.5 Town Parcel 4 shall be zoned "A-O," "P," "R2A" and/or "R4"; provided, however, that: (a) Town Parcel 4 shall only be used as open space and/or parks until the earlier to occur of (i) the sale and closing of all of the residential lots on the East Parcel and the Applicant Retained Lands, (ii) 10 years from the Effective Date, or (iii) approval by Applicant or its successor in interest (the "Land Conservation Covenant"); (b) after the expiration of the Land Conservation Covenant, if any portion of Town Parcel 4 is zoned "P," such portion shall only be used for open use recreational facilities, parks, or playfields, libraries or museums, art centers, schools, essential governmental uses (but not public utility facilities), a bus stop, and parking ancillary to the foregoing uses; and (c) if any portion of Town Parcel 4 is zoned "R2A" and/or "R4," such portion shall be no larger than Town Parcel 3, shall be adjacent to and located immediately north of Town Parcel 3, shall be no wider from north to south than Town Parcel 3, and shall only be used for the development of affordable housing.

6.4.1.6 Within two years of annexation, Applicant will construct a river trail along with west bank of the Slate River through the West Parcel as shown on Exhibit B (the "River Trail") in order to provide potential connectivity to the existing Rec Path south and east of the Subject Property. Concurrently, with the construction of the River Trail, Applicant will move the sewer outfall to the south and construct fencing between the River Trail and the Town's Public Works Yard. Applicant shall choose the design, style, and material for such fencing, but Applicant shall consult with the Town to ensure that the final design, style, and materials selected for this fencing are reasonably sufficient to create a distinct barrier between the River Trail and the Public Works Yard that is no less secure than a chain link fence six feet in height. In addition, in order to provide boater access to the Slate River from its west bank, immediately south of the Road A bridge (the "Boat Launch"), and on the Slate River as it flows through the Property, Applicant and the Town shall enter into a boater access easement agreement concurrently with the conveyance of the Town Parcels memorializing such access in perpetuity. This easement agreement will address the terms and conditions for boater access to



the Slate River as it flows through the Property as well as associated uses of the Boat Launch, including but not necessarily limited to, other permissible recreational uses of the Boat Launch and vehicular access to and from the Boat Launch. Finally, Applicant reserves the right, in its sole discretion, and at its sole expense, to install odor controls on the wastewater treatment plant, as contemplated by the Public Works Facility Master Plan prepared by JVA, Incorporated.

6.4.1.7 The annexation and development of the West Parcel is unique and is unlikely to fit neatly into each and every one of the more formulaic requirements of the Town's annexation and subdivision provisions. The Town Code affords the Town Council the flexibility necessary to annex and develop the West Parcel consistent with this Agreement and in the best interest of the Town's citizens. *See, e.g.*, § 15-1-60(a)(10) & (b)(2)(d); § 15-1-70(a)(3) & (b)(1); § 15-1-80(b)(7) & (b)(14).

6.4.1.8 Prior to the conveyance of the Town Parcels, the Town shall release Applicant, its partners, affiliates, lenders, agents, employees, and all predecessor owners of the Town Parcels in connection with the transfer of the Town Parcels, including all portions of the Old Town Landfill located on Town Parcel 2, Town Parcel 3 and Town Parcel 4, that shall include a release of all claims and covenant not to sue with respect to any site conditions and 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, and Town Parcel 4 notice, confirmation and a release and covenant not to sue Applicant, its partners, affiliates, lenders, agents, employees, and all predecessor owners of the Town Parcels, which shall be a condition of any transfer to any future purchaser, and to which any future purchaser of any portion of such Town Parcels must agree.

6.4.2 The Town Parcels shall be conveyed by Applicant to the Town once Applicant has obtained the No Further Action determination from CDPHE and the Town Parcels have been legally subdivided, approved, annexed, and zoned.

6.4.3 Town Parcel 1, Town Parcel 2 and Town Parcel 3 shall be conveyed to the Town without any financial consideration. Town Parcel 4 shall be conveyed to the Town in exchange for \$350,000.00, which amount is a portion of the anticipated cost of obtaining the No Action Determination.

6.4.4 The Deed of Conveyance shall require the Town to refrain from any uses of the Town Parcels affected by the Old Town Landfill that may disturb any cap associated with the approved cleanup, and any other controls and conditions contained in the No Action Determination. The Deed of Conveyance shall also include: (a) the right of Applicant to enforce, through injunctive relief, the terms of this Agreement and the controls and conditions contained in the No Action Determination; and (b) the obligation of the Town to obtain Applicant's consent to any amendment or modification to the terms of this Agreement and the controls and conditions contained in the No Action Determination.

6.4.5 The Deed of Conveyance shall include the Land Conservation Covenant. The final Land Conservation Covenant shall be reasonably acceptable to the Town and consistent with this Agreement.



6.4.6 In the event that the Town desires to use Town Parcel 4 for any of the uses described in paragraph 6.4.1.5(b) or (c) above after the expiration of the Land Conservation Covenant, it shall be the Town's sole responsibility to undertake whatever other remediation of the applicable portion of the Old Town Landfill is required by CDPHE to modify the No Action Determination as needed to allow for the Town's proposed uses of Town Parcel 4, provided however, that in the event the Town uses a portion of Town Parcel 4 for affordable housing consistent with paragraph 6.4.1.5(c) above, it must, at a minimum, meet the same cleanup standards Applicant was required to meet for the cleanup of Town Parcel 3.

6.4.7 Applicant 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.

6.4.8 The maximum floor area of all buildings on a lot on the East Parcel shall not exceed 5,750 square feet in the aggregate. The main residence shall not exceed 5,000 square feet, and the sum total of all detached accessory buildings shall not exceed 750 square feet.

6.4.9 The Town shall cooperate with Applicant to ensure appropriate buffering between development of the East Parcel and the 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 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 Applicant's expense on Town property around the Town Public Works Yard as contemplated in the Town Public Works facility master plan, or as otherwise agreed to by the parties.

6.4.10 Applicant shall observe a 50-foot building set back from all high quality wetlands on the East Parcel. Lot boundaries on the East Parcel may extend to within 25 feet of a high quality wetland boundary. Lot boundaries on the East Parcel adjacent to low quality wetlands may extend to the low quality wetland boundary, provided that any such lot would have a building setback of 25 feet.

6.4.11 Applicant shall be responsible for the construction of Road A and Road B on the West Parcel, and all of the roads on the East Parcel at its sole cost expense. Road A and Road B on the West Parcel shall be constructed in accordance with the Town Specifications. Road A and Road B on the West Parcel shall be dedicated to the Town and maintained by the Town following acceptance thereof, subject to a two-year warranty by Applicant. The Town shall convey adequate right-of-ways for the benefit of Applicant and its successors and assigns for Road A and Road B on and through the West Parcel. All roads on the West Parcel shall be public. All roads on the East Parcel shall be private.

6.4.12 The right of way for the extension of Eighth Street north from Butte Avenue to Road A would cross Town Property (where the Town Public Works Yard is currently located) and the Subject Property. It is possible that there are portions of the Old Town Landfill



within this right of way, on the Town's property, on Applicant's property, or both. If portions of the Old Town Landfill are located within the Eighth Street right of way on the Town's property, then the Town may elect to undertake whatever remediation is required by CDPHE to allow for the construction of Eighth Street through the Town's property to the Subject Property. If the Town elects to perform such remediation, or if there are not portions of the Old Town Landfill located on the Town property within the Eighth Street right of way, then in the event there are portions of the Old Town Landfill located within the Eighth Street right of way on Applicant's property, Applicant shall be responsible for undertaking whatever remediation is required by CDPHE to allow for the construction of Eighth Street through the Subject Property to the intersection between Eighth Street and Road A. Once the Town and Applicant have obtained any necessary approvals from CDPHE allowing for the construction of Eighth Street through their respective properties, or if CDPHE approval is not required, then, and only then, will Applicant be responsible for the performance of the construction of Eighth Street and associated utility infrastructure work. However, Applicant can, in its sole discretion, choose to perform all of the necessary cleanup of landfill materials itself, on both the Subject Property and Town property, but in order to perform any cleanup of landfill materials on the Town property, Applicant will be required to enter into an indemnification agreement that is satisfactory to the Town. If Applicant performs the construction of Eighth Street and associated utility infrastructure work pursuant to this paragraph 6.4.12, then such construction and associated utility infrastructure work shall be performed at Applicant's cost and expense. The Town shall provide access to Town property as necessary for all purposes related to the construction of Eighth Street and associated utility infrastructure. The Town shall provide Applicant with a release of all claims and covenant not to sue with respect to any site conditions and any responsibilities or liabilities, including without limitation any environmental liabilities, related to the Eighth Street construction and any associated utility infrastructure work. Until the Town and Applicant are able to achieve the construction of Eighth Street and associated utility infrastructure, the Town shall grant an easement for non-motorized pedestrian access to the Subject Property from Butte Avenue across Town property to the north (where the Town Public Works Yard is currently located) for the benefit of the Subject Property, and allow Applicant to construct a trail at Applicant's expense, and at a location and pursuant to terms approved by the Town, in order to accommodate said easement.

6.4.13 Applicant shall be responsible for the installation of all utility infrastructure necessary to connect the residential lots on the East Parcel to the Town's sewer system pursuant to and in accordance with the terms and conditions of the Sewer Connection Agreement. All wastewater infrastructure shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by Applicant.

6.4.14 Applicant shall be responsible for the installation of all utility infrastructure necessary to connect the Town's water and wastewater systems from the Town Parcels to the residential lots on the Applicant Retained Lands pursuant to and in accordance with the terms and conditions of a standard development improvements agreement to be executed upon the annexation of the West Parcel pursuant to paragraph 6.4.1 above that is (a) substantially similar to the development improvement agreements the Town has previously used, and (b) not inconsistent with this Agreement. Such infrastructure shall be constructed in



accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by Applicant.

6.4.15 On the written the request of the Town, Applicant shall permit and shall not unreasonably condition or delay an adjacent property owner's request to connect to the Town's 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 Applicant, but rather shall be borne by such adjacent property owner benefiting from such connection, with the terms and conditions and easements necessary for such future connections to be negotiated between Applicant 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.

6.4.16 Applicant shall be responsible to pay availability fees in accordance with Section 13-1-160 of the Code (the "**Availability Fees**"). Applicant shall pay all Availability Fees for the East Parcel and Applicant Retained Lands upon the Town's acceptance of all wastewater infrastructure.

6.4.17 Pursuant to Section 13-1-280 of the Code, tap fees for residential lots on the East Parcel will be one and one half times (1.5x) per EQR of the in-Town rate (the "**Tap Fees**") as of the Effective Date.

6.4.18 Pursuant to Section 13-1-280 of the Code, monthly service fees for residential lots on the East Parcel will be two times (2x) per EQR of the in-Town rate (the "**Service Fees**") as of the Effective Date.

6.4.19 Applicant acknowledges that at all times, all road and related infrastructure maintenance and snow plowing on the East Parcel shall be the sole responsibility of Applicant at its cost and expense. Applicant shall provide, however, easements and associated access for maintenance of all sewer infrastructure on the East Parcel which shall be performed in accordance with the Code. Applicant shall be responsible for all other road and utility infrastructure maintenance and snow plowing on the West Parcel, at its sole cost and expense, until the completion, acceptance, and dedication of such infrastructure.

7. **No Interference with Gunnison County's Jurisdiction.** For purposes of clarity, final approval of the subdivision and development of the East Parcel rests with Gunnison County, Colorado. The parties do not intend, and are not, by entering into this Agreement seeking to usurp or interfere in any way with the County's jurisdiction over the subdivision and development of the East Parcel, the County Land Use Resolution, or the County's land use change process. Provided that Applicant complies with the terms and conditions of this Agreement, the Town shall not impose any further obligations on Applicant's subdivision and development of the East Parcel with the County, nor shall it object to the County's approval of the County Project at any phase thereof, nor shall it advocate for additional restrictions on the East Parcel; provided that the County Application is, and remains, consistent with the terms and conditions of this Agreement. However, in the event any subsequent amendment to the County's Land Use Resolution lessens regulatory restrictions on the development of the East Parcel, Applicant must obtain the approval of the Towne in order to benefit from any such amendment with respect to the development of the East Parcel.



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

9. **No Waiver.** Applicant acknowledges and agrees that the Town is relying upon, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (currently \$350,000.00 per person and \$990,000.00 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

10. **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 Applicant in exchange for the conveyance of Town Parcel 4 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 4, and (ii) Applicant shall not be obligated to convey Town Parcel 4.

11. **Cooperation; Other Documentation; Instruments.** The parties shall reasonably cooperate with each other in order 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.

12. **Assignment; Assumption.** This Agreement and the rights and obligations contained herein may be assigned or transferred by Applicant only upon written consent approved by resolutions of the Town Council, which such consent shall not be unreasonably withheld, provided however that the right of approval belonging to Applicant in paragraph 6.4.5(c) shall be freely assignable and transferrable to the homeowners association for the residential lots to be developed on the East Parcel. Any transfer or assignment without the necessary written consent shall be void *ab initio*. Upon any proper assignment or transfer hereunder, the assignee or transferee shall assume all the rights and obligations of Applicant hereunder.



13. **Termination.** Each party reserves the right to terminate this Agreement if the other party breaches any term or condition hereof, and, after receipt of written notice thereof from the non-breaching party, fails to cure such breach within 30 days of receipt of such notice; except that where such breach is not susceptible to timely cure despite reasonable efforts by the breaching party, the breaching party shall have such additional time as is reasonably necessary to effect a cure where such cure is being diligently pursued. In addition to termination of this Agreement, the non-breaching party may pursue all rights and remedies at law and in equity against the breaching party, including, without limitation, specific performance and actions for damages. Neither party shall be liable to the other for any incidental, special, or consequential damages.

14. **Authority.** The person executing this Agreement on behalf of Applicant does hereby covenant and warrant that as to Applicant, such person is duly authorized and has full right and authority to enter into this Agreement and that the person signing on behalf of Applicant is authorized to do so.

15. **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, concerning the power of the Town to impose the conditions on Applicant as set forth herein, or over the procedure, substance or form of the resolutions adopting this Agreement.

16. **Entire Agreement.** This Agreement supersedes and controls all prior written and oral agreements and representations of the parties with respect to the subject matters addressed herein and represents the total integrated agreement between the parties with respect to such subject matters.

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

18. **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.

19. **General Release.** It is expressly understood that the Town cannot be legally bound by the representations of any of its elected officials, officers, employees, agents, representatives and attorneys or their designees, except in accordance with Town ordinances, the Code and the laws of the State of Colorado, and that Applicant, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town, its elected officials, officers, employees, agents, representatives, and attorneys or their designees, which is subsequently held unlawful by a court of law; provided, however, this paragraph shall not be construed to limit the rights and remedies of the parties otherwise provided by law, including under equitable doctrines such as estoppel.

20. **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
Gunnison, Colorado 81230
Facsimile: 970-641-1943
mlock@lawoftherockies.com

Town of Crested Butte
Attention: Michael Yerman
507 Maroon Avenue
P.O. Box 39
Crested Butte, Colorado 81224
Facsimile: 970-349-6626
myerman@crestedbutte-co.gov

with a copy to:

J. D. Belkin & Associates, LLC
Attention: John Belkin, Town Attorney
502 Whiterock Avenue, Suite 200
P.O. Box 2919
Crested Butte Colorado 81224
Facsimile: 970-497-4401
jbelkin@jbelkinlaw.com

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



21. **Voluntary Agreement.** Applicant's continued compliance with all of the terms and conditions of this Agreement on a voluntary and contractual basis is a condition of its right to connect to the Town's central sewer system.

22. **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.

23. **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.

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

25. **Recording.** Upon execution, Applicant 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 Subject Property and be binding upon the parties successors and assigns. In the event this Agreement becomes null and void for any of the reasons set forth herein, the parties agree to execute and record a notice of termination of this Agreement and, in addition, if necessary to remove this Agreement as an exception to title to the Subject Property, the Town agrees to execute a quitclaim deed to the Subject Property.

26. **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.

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



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: Glenn Michel
Glenn Michel, Mayor



ATTEST:

Lynelle Stanford
Lynelle Stanford, Town Clerk

(SEAL)

CYPRESS FOOTHILLS, LP

Cypress Foothills LP
By: David C. Sarg
Name: David C. Sarg
Title: CF/VP



Exhibit A

Overall Applicant Owned Property (the "Subject Property") Legal Description:

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 eleven (11) 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 along the high water line of the Slate River approximately
 - 7) S44°00'17"E a distance of 2.43 feet,
 - 8) S61°14'28"E a distance of 180.87 feet,
 - 9) S45°20'59"E a distance of 257.67 feet,
 - 10) S39°16'06"E a distance of 215.58 feet,
 - 11) S50°53'25"E a distance of 97.51 feet to the southerly line of the SW1/4 of said Section 35; thence along said southerly line S89°43'49"E, approximately 506.01 feet to the S1/4 Corner of said Section 35, said corner being a 3 1/4" Aluminum Cap; thence along an existing fence line as it exists in the field and as shown and described in a Boundary Agreement recorded in Book 769 at Page 881 the following three (3) courses:
- 1) N00°11'53"E a distance of 271.72 feet,
 - 2) N00°50'11"W a distance of 932.90 feet,
 - 3) N01°19'37"W a distance of 346.89 feet to a point on the northerly line of the Trampe Partition Parcel 13 and the southerly line of Spann Parcel 23 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 570.01 feet to a point on the easterly line of the Town of Crested Butte Cemetery as described in Exhibit A(5) in Court Decree of Partition as recorded in Book 516 at Page 474; thence along the easterly line of said Cemetery Parcel S01°20'33"W a distance of 220.37 feet to the northerly corner of a parcel of land described in Book 518 at Page 403; thence along the northwesterly line of said parcel S29°46'00"W a distance of 470.46 feet to a point on the northerly line of said Trampe Partition Parcel 13, said point also being on the southerly line of said Cemetery Parcel; thence along said northerly line of said Parcel 13 N90°00'00"W a distance of 1116.19 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 44.503 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.

Legal Description (Proposed East Parcel):

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 the S1/4 Corner of said Section 35, said corner being a 3 1/4" Aluminum Cap from which the southwest Corner of said Section 35 bears N89°43'49"W a distance of 2650.49 feet; thence along an existing fence line as it exists in the field and as shown and described in a Boundary Agreement recorded in Book 769 at Page 881 the following three (3) courses:

- 1) N00°11'53"E a distance of 271.72 feet,
- 2) N00°50'11"W a distance of 932.90 feet,
- 3) N01°19'37"W a distance of 346.89 feet to a point on the northerly line of the Trampe Partition Parcel 13 and the southerly line of Spann Parcel 23 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 570.01 feet to a point on the easterly line of the Town of Crested Butte Cemetery as described in Exhibit A(5) in Court Decree of Partition as recorded in Book 516 at Page 474; thence along the easterly line of said Cemetery Parcel S01°20'33"W a distance of 220.37 feet to the northerly corner of a parcel of land described in Book 518 at Page 403; thence along the northwesterly line of said parcel S29°46'00"W a distance of 470.46 feet to a point on the northerly line of said Trampe Partition Parcel 13, said point also being on the southerly line of said Cemetery Parcel; thence along said northerly line of said Parcel 13 N90°00'00"W a distance of 568.93 feet; thence along the wetland boundary more or less on the southerly bank of the Slate River the following six (6) courses:

- 1) S20°36'39"E a distance of 77.30 feet,
- 2) S32°48'09"E a distance of 178.03 feet,
- 3) S39°16'35"E a distance of 115.15 feet,
- 4) S52°37'46"E a distance of 40.69 feet,
- 5) S42°06'22"E a distance of 87.35 feet,
- 6) S66°34'01"E approximately 53.68 feet to the high water line of the Slate River; thence the following five (5) courses along the high water line of the Slate River approximately:
 - 1) S44°00'17"E a distance of 2.43 feet,
 - 2) S61°14'28"E a distance of 180.87 feet,
 - 3) S45°20'59"E a distance of 257.67 feet,
 - 4) S39°16'06"E a distance of 215.58 feet,
 - 5) S50°53'25"E a distance of 97.51 feet to the southerly line of the SW1/4 of said Section 35; thence along said southerly line S89°43'49"E, a distance of 506.01 feet to the Point of Beginning.

Said Parcel as described above contains 30.436 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 1/4 inch aluminum cap stamped 18480 and dated 1995 found at the south quarter corner of Section 35.

Legal Description (Proposed West Parcel):



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.

Legal Description (Town Parcels, Westerly Portion of the Proposed West Parcel):

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 (4) 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 416.89 feet, thence departing the northerly line of said Dyer subdivision N00°01'42"W a distance of 466.74 feet 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 302.38 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 10.699 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.

Legal Description (Applicant Retained Lands, Easterly Portion of the Proposed West Parcel):

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 the northerly line of the Dyer Subdivision as recorded at Reception No.497990, being monumented by a No.5 rebar and red plastic cap stamped LS 20133, from which the southwest corner of Section of Section 35 bears S73°09'07"W a distance of 1630.84 feet; thence 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 244.88 feet; thence departing said northerly line of said Parcel 13 S00°01'42"E a distance of 466.74 feet to a point on the northerly line of said Dyer subdivision; thence along the northerly boundary the following of said Dyer subdivision the following two (2) courses:

- 1) N61°00'00"E a distance of 203.77 feet
- 2) S79°30'09"E a distance of 381.57 feet to the point of beginning.

Said Parcel as described above contains 3.458 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.

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EXHIBIT C

1. Any facts, rights, interests, or claims thereof, not shown by the public records but that could be ascertained by an inspection of the Town Parcels or that may be asserted by persons in possession of the Town Parcels (hereinafter referred to herein as the "subject parcel").
2. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject parcel and not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
6. Taxes and assessments for the year when the subject parcel is conveyed, not yet due or payable.
7. **RIGHT OF THE PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM, SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES HEREBY GRANTED, 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, AS NOTED ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.**
8. **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, AS NOTED ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.**
9. **TERMS, CONDITIONS, RESERVATIONS AND AGREEMENTS REGARDING THE RIGHT OF THE PARTIES TO CONSTRUCT DITCHES REASONABLE NECESSARY TO CONVEY WATER AS CONTAINED IN THE FINAL PARTITION OF PROPERTY RECORDED JUNE 28, 1978 IN BOOK 516 AT PAGE 474, AS NOTED ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.**



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EXHIBIT C

10. 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, AS NOTED ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.
11. RIGHT OF WAY EASEMENT, 20 FEET IN WIDTH, AS GRANTED TO ATMOS ENERGY IN INSTRUMENT RECORDED AUGUST 29, 2005 UNDER RECEPTION NO. 557487, AS SHOWN ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.
12. TERMS, CONDITIONS, RESTRICTIONS AND AGREEMENTS AS CONTAINED IN ROAD RESTRICTION AGREEMENT RECORDED JULY 12, 2006 UNDER RECEPTION NO. 566803, AS NOTED ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.
13. RIGHT OF WAY EASEMENT AS GRANTED TO GUNNISON COUNTY ELECTRIC ASSOCIATION, INC. IN INSTRUMENT RECORDED APRIL 26, 2007, UNDER RECEPTION NO. 574656, AS SHOWN ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED JANUARY 17, 2014.
14. 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, AS SHOWN ON ALTA/ACSM SURVEY (JOB NO. 2012-208.002) PREPARED BY STEPHEN L. EHLERS, PLS NO. 20133 FOR CYPRESS ACQUISITIONS, LLC OR ITS ASSIGNEE, HSUMY INC., LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY, DATED JANUARY 17, 2014, LAST REVISED

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

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

AMENDMENT TO PRE-ANNEXATION AGREEMENT

THIS AMENDMENT TO PRE-ANNEXATION AGREEMENT (this "**Amendment**") is made and entered into this 7th day of December, 2016 (the "**Effective Date**"), by and between the **TOWN OF CRESTED BUTTE, COLORADO** (the "**Town**"), a Colorado home rule municipality and **CYPRESS FOOTHILLS, LP** ("**Applicant**"), a Texas limited partnership.

RECITALS:

- A. The Town and Applicant entered into a Pre-Annexation Agreement (the "**Agreement**") dated February 16, 2016 and recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on March 14, 2016 at Reception No. 638399 whereby the Town gave the right and approval to Applicant to connect the Subject Property (as defined in the Agreement) to the Town's sewer service system pursuant to §13-1-280 of the Crested Butte Municipal Code (the "**Code**").
- B. At the Town Council's October 3, 2016 Town Council meeting, the Town Council considered Applicant's request that Applicant be given the right and approval to connect the East Parcel (as defined in the Agreement) of the Subject Property to the Town's water service system pursuant to §13-1-280.
- B. Section 13-1-280, as amended by Ordinance 13, Series 2016, authorizes the Town to provide water services outside of the Town's municipal boundaries in certain circumstances following Town Council approval.
- C. As part of Applicant's request to be given the right and approval to connect the East Parcel to the Town's water service system, Applicant has agreed, in exchange for such right and approval, to perform certain other obligations relative to the Subject Property as set forth herein.
- D. During said Town Council meeting, the Town Council received and considered a Town Staff Report addressing Applicant's request to be given the right and approval to connect the East Parcel to the Town's water service system.
- E. Following the Town Council's receipt of Applicant's presentation and consideration of Town Staff's Report, the Town Council considered Applicant's request to be given the right and approval to connect the East Parcel to the Town's water service system and moved to instruct the Town Staff and Town Attorney to prepare an amendment to the Agreement reflecting Applicant's request and including therein such other terms and condition as are deemed necessary and advisable.



F. The Town and Applicant now desire to memorialize the terms and conditions respecting Applicant's request to be given the right and approval to connect the East Parcel to the Town's water service system pursuant to §13-1-280 of the Code, the requirements and conditions in connection with such request and Applicant's performance of certain other obligations relative to the Subject Property as set forth herein.

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 Applicant agree as follows:

1. **Scope of Amendment; Conflict of Terms.** This Amendment amends and modifies the Agreement, however only to the extent provided herein. In the event of any conflict or inconsistency between any term or condition of this Amendment and any term or condition of the Agreement, this Amendment and the terms hereof shall in all cases prevail, govern and control. This Amendment is supported by the same consideration as the Agreement and the additional consideration as provided herein. Reference herein to the Amendment shall include the Agreement, *mutatis mutandi*, as amended hereby.
2. **Capitalized Terms.** Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.
3. **Purpose.** The purpose of this Amendment is to set forth certain binding terms and conditions upon which the Town and Applicant agree as respects the discrete subject matters addressed herein.
4. **No Vested Right.** No vested rights or entitlements of any kind whatsoever are being granted or conveyed by the Town to Applicant other than the contractual rights between the parties arising by virtue of this Amendment.
5. **Term; Termination.** This Amendment shall have a term that coincides with Section 4 of the Agreement, with any termination of this Amendment occurring pursuant to the terms of the Agreement. In addition, in the event that the Agreement is terminated, or otherwise becomes null and void pursuant to the Agreement, this Amendment shall automatically terminate (or become null and void) therewith.
6. **Compliance with Law.** When fulfilling its obligations under this Amendment, Applicant shall comply with all relevant laws, ordinances and regulations in effect as of the Effective Date. In addition, Applicant shall be subject to all laws, ordinances and regulations of general applicability that become effective after the Effective Date.
7. **Right and Authority to Connect to Water System; Requirements.** By Applicant's performance of its obligations set forth herein, Applicant shall have the right and authority to connect the East Parcel to the Town's water system pursuant to §13-1-280 of the Code subject to the terms and conditions hereof. As more specifically set forth in Section 7.6 below, Applicant shall have the right to use treated water from the Town for all indoor uses on



the East Parcel, including all indoor uses within up to twenty-three (23) primary residences, up to twenty-three (23) detached accessory dwellings or buildings, and an owners' complex and associated amenities to be owned by the homeowners association for the East Parcel, irrigation and landscaping of all of the 0.46 acre park to be owned by the homeowners association for the East Parcel, irrigation and landscaping of up to 2,500 square feet per residential lot on the East Parcel, and all required fire flows. Upon Applicant's receipt of the Requisite Approval, Applicant and the Town will enter into a water services agreement (the "**Water Services Agreement**") that will be consistent with the terms and conditions of the Agreement and this Amendment, and that will not impose any additional system development charges, tap fees, assessments, or costs on the Applicant under Chapter 13 of the Code, other than as specified in the Agreement or this Amendment. The Water Services Agreement shall be recorded in the official real property records of the office of the Clerk and Recorder of Gunnison County, Colorado. Applicant's right and authority to connect the East Parcel to the Town's water system shall be conditioned upon compliance with the terms and conditions of the Agreement and this Amendment, including but not limited to the following:

7.1 ***Water Rights Dedication.*** In exchange for the Town giving Applicant the right and authority to connect the Subject Property to the Town's water system pursuant to §13-1-280 of the Code, upon Applicant's receipt of the Requisite Approval, and immediately after the execution of the Sewer Connection Agreement and Water Services Agreement, Applicant shall convey to the Town (by Special Warranty Deed) interests in the McCormick Ditch in the amounts and priorities described on the attached **Exhibit "A"** (the "**McCormick Ditch Water Rights**"), subject to Applicant's reservation of rights as described below. Applicant provides no representations or warranties of any kind regarding the amount of historical consumptive use water or actual available flow rates associated with the McCormick Ditch Water Rights as discussed further in Section 7.2 below, or the amount of water that may be available to change to municipal use. The parties understand the McCormick Ditch Water Rights are currently owned by Verzuh Ranch, Inc., and that Applicant will need to acquire title to the McCormick Ditch Water Rights from Verzuh Ranch, Inc., in order to satisfy the above water rights dedication to the Town. The parties also understand the McCormick Ditch Water Rights were or are used for irrigation on what is known as (or formerly known as) the McCormick Ranch outside and east of the Town boundaries (the "McCormick Ranch"). The Town seeks to change the McCormick Ditch Water Rights in certain amounts, as discussed below, for uses within the Town water system and for Town purposes; and seeks to file a water court case for such changes in December 2016. Therefore, on or before December 15th, 2016, Applicant shall acquire authorization and consent from Verzuh Ranch, Inc., in writing and in a form acceptable to Town, which allows the Town's use of the McCormick Ditch Water Rights in the "Change Case" as defined below ("Verzuh Authorization"). Such Verzuh Authorization will provide that the Town has Verzuh Ranch Inc.'s irrevocable authority to file the Change Case with Town as the applicant, and prosecute such application to completion so long as this Amendment is still in effect. Such Verzuh Authorization shall also include an agreement by Verzuh Ranch, Inc. to: (1) cooperate, at no expense to Verzuh Ranch, Inc., with the Change Case; (2) not file a statement of opposition or other opposition to the Change Case; and (3) provide information in its possession, custody, and control as to the use of said McCormick Ditch Water Rights, including internal diversion records, irrigation records, aerial photographs, affidavits, and other available information concerning the historic use of the McCormick Ditch Water Rights. In the event



Applicant does not obtain the Verzuh Authorization by December 15th, 2016, this Amendment shall automatically terminate and be of no further force and effect. In the event the Agreement or this Amendment terminates for any reason and the Applicant's right to connect to the Town's water system becomes null and void, Town will abandon the Change Case and convey or grant any interests, contractual or otherwise, in the McCormick Ditch Water Rights back to Verzuh Ranch, Inc.

7.2 **Water Court Case.** No later than three months after the Verzuh Authorization or conveyance of the McCormick Ditch Water Rights to the Town, whichever comes first, the Town will file a change case in Water Court (the "**Change Case**") to: (a) change the type of uses, places of use and decree an alternate point of diversion at the Town's municipal intake for up to 9 (nine) acre feet of historic consumptive use (the "**HCU**") credit and associated diversion rate amount under the senior Priority 164 of the McCormick Ditch Water Rights as used on the McCormick Ranch; (b) potentially include up to 9 (nine) acre feet of HCU from the senior Priority 164 of the McCormick Ditch Water Rights in a plan for augmentation and/or exchange for Town purposes; (c) quantify the total acre feet of HCU credit associated with the existing and/or potential dry-up of historically irrigated acres under the senior Priority 164 of the McCormick Ditch Water Rights as used on the McCormick Ranch; and (d) change that portion of the senior Priority 164 of the McCormick Ditch Water Rights to be allocated to Applicant (see Section 7.3, below); Applicant shall provide a description of such change for inclusion in the Town's water court application no later than December 15th, 2016. The Town will take all reasonable and cost-effective steps to maximize the amount of HCU credit quantified in the Change Case, and Applicant will cooperate with those efforts. Applicant shall not file a statement of opposition or otherwise oppose the Change Case; except that Applicant may intervene at any time if Applicant reasonably believes its reserved rights pursuant to Section 7.3 below are being adversely affected or that this Agreement is or will be violated as it relates to the McCormick Ditch Water Rights under this Section 7. In addition, the Town agrees to keep Applicant reasonably apprised of the status of the Change Case and provide copies to Applicant of all pleadings and other documents filed in the Change Case. Applicant does not warranty or make any representation as to the amount of HCU credit, if any, the Town may be able to quantify and decree in the Change Case; and similarly, the Town provides no representations or warranties of any kind regarding the amount of historical consumptive use water that may be quantified or obtained in the Change Case, or the amount of historical consumptive use water that may be available to allocate to Applicant for its purposes. Applicant shall execute any documents, affidavits or covenants required by the Town, the water court, and/or the Division of Water Resources to memorialize, delineate, map and effectuate the dry up of any portions of the McCormick Ranch required to generate and quantify the HCU credit available for transfer, provided that Applicant is the appropriate party to execute such documents, affidavits, or covenants, and provided further that such documents affidavits, or covenants do not increase Applicant's obligations under this Amendment or result in any expense to Applicant.

7.3 **Applicant's Reservation of Rights.** Following entry of a final, non-appealable water court decree in the Change Case, the Town shall allocate the average annual HCU credit quantified by the court as follows: the Town shall receive the first six (6) acre feet of decreed HCU credit; Applicant shall receive the next six (6) acre feet of HCU credit; the Town and Applicant shall share equally in the next six (6) acre feet, i.e., any HCU credit from



12-18 acre feet shall be split 50/50; and Applicant shall receive any HCU credit in excess of 18 acre feet. Each party shall receive a proportionate share of the flow rates associated with the McCormick Ditch Water Rights commensurate with its HCU credit allocation. If the quantity of water physically and legally available for diversion at any given time under the McCormick Ditch Water Rights is less than 100%, the flow rates associated with the McCormick Ditch Water Rights shall be administered in strict priority, and the flow rates associated with the senior Priority 164 shall be operated between the parties commensurate with the allocation method for the decreed HCU credit described above, i.e., the Town shall receive the flow rate associated with its 6 acre feet first, Applicant shall receive the flow rate associated with its 6 acre feet second, etc.¹ Nothing in this paragraph shall prevent either party from taking any portion of the available flow that is not being taken by the other party at that point in time. Each party will be allocated, and responsible for complying with, a proportionate share of any diversion limits, return flow obligations, or other related terms and conditions of the final decree. Each party shall receive the exclusive right and entitlement to claim and enforce dry-up on the acres associated with its HCU credit allocation. Existing dry-up acres shall be assigned to the first HCU credits, and future dry-up acres shall be assigned to the later HCU credits. The Town shall cause a map to be prepared delineating the locations of the dry-up areas assigned to the Town and Applicant, in a manner that is consistent with this paragraph. Once the Change Case is completed and the allocation is made, the Town shall promptly convey Applicant's allocated interest in the McCormick Ditch Water Rights and HCU credits by Special Warranty Deed, together with all appurtenances to Applicant, or, at Applicant's written direction, to Applicant's designee or assign. Thereafter, Applicant agrees to not "call" for its McCormick Ditch Water Rights so as to prevent or curtail the Town from exercising its changed or exchanged McCormick Ditch interest at the Town municipal intake on Coal Creek. This restriction shall bind and run with Applicant's interest in the McCormick Ditch Water Rights. The Town shall not file a statement of opposition or otherwise oppose any future water court case changing the Applicant's interest in the McCormick Ditch Water Rights; except that Town may intervene at any time if Town reasonably believes its interests in the McCormick Ditch Water Rights are being adversely affected or that this Agreement is or will be violated as it relates to the McCormick Ditch Water Rights under this Section 7. In addition, in the event of such future change case involving the McCormick Ditch Water Rights, the Applicant agrees to keep the Town reasonably apprised of the status of the water court case and provide copies to the Town of all pleadings and other documents filed in the case.

7.4 *Water Court Case Costs.* Applicant and the Town agree to split the first \$50,000.00 of costs and expenses incurred by the Town in pursuing the Change Case. Applicant shall reimburse to Town, within 30 days of invoicing, all fees, costs and expenses to file and prosecute the Change Case up to a maximum amount not to exceed \$25,000.00.

¹ For example, if the Court decrees 9 acre feet of HCU credit under Priority 164 of the McCormick Ditch (decreed for 0.64 c.f.s.), the Town will receive 6 acre feet and a corresponding 66.5% of the flow rate, or 0.426 c.f.s.; and Applicant will receive 3 acre feet and a corresponding 33.5% of the flow rate, or 0.214 c.f.s. If the flow rate in the Ditch is only 0.5 c.f.s., then Town shall be entitled to the first 0.426 c.f.s., and Applicant shall be entitled to the remainder 0.074 c.f.s., until the Town has diverted a volume of water that corresponds with 6 acre-feet of consumptive use credit.



7.5 **Water Infrastructure.** At the time Applicant submits its preliminary plan as part of the County Application, Applicant shall also submit to the Town its plan for connecting the East Parcel to the Town's water system and its plan for constructing Road A on the West Parcel according to the Town Specifications. Applicant shall be responsible for the installation of all utility infrastructure necessary to connect the Town's water systems to the East Parcel pursuant to and in accordance with the terms and conditions of a standard development improvements agreement to be executed by Applicant upon receipt of the Requisite Approval that is (a) substantially similar to the development improvement agreements the Town has previously used, and (b) not inconsistent with this Amendment. Such infrastructure shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by the Applicant. Applicant shall pay the cost and expense of the Town's review and acceptance of the utility infrastructure.

7.6 **Treated Water Service.** The Town will provide treated water service to the East Parcel for all uses approved by Gunnison County in the Requisite Approval, including all indoor uses on the East Parcel, such indoor uses to include use within up to twenty-three (23) homes of 5,000 square feet, up to twenty-three (23) detached accessory dwellings or buildings of 750 square feet or less, and an owners' complex and associated amenities to be owned by the homeowners association for the East Parcel; irrigation and landscaping of all of the 0.46 acre park to be owned by the homeowners association for the East Parcel; irrigation and landscaping of up to 2,500 square feet per residential lot on the East Parcel (such allowance not to be combined or cumulated); and all required fire flows. Applicant understands and agrees that the Town will be the sole provider of treated water to the East Parcel and that Town shall not be obligated to provide more than the total number of equivalent residential units (EQRs) represented by such above development, as converted to gross maximum and average water demands and depletions using Town water engineering assumptions and standards. The treated water to be delivered by the Town under the terms of this Amendment may be used for all lawful in-building residential purposes and normal and reasonable outside irrigation of trees, lawns and gardens, such outdoor irrigation or landscaping area not to exceed irrigation of the 0.46 acre park to be owned by the homeowners association for the East Parcel, plus an additional 2,500 square feet per residential lot with treated water; such treated water further subject to all Town water-related ordinances and policies now or then in effect, and which are equally applicable to residents of Town. The recording of this Amendment and/or the Water Services Agreement will constitute a covenant running with the land restricting the use of treated water delivered hereunder to the terms and conditions contained in this Amendment and/or Water Services Agreement, and to all Town ordinances and policies now or in the future in effect, which are equally applicable to residents of Town, and the limitation to no more than the irrigation of the 0.46 acre park to be owned by the homeowners association for the East Parcel, plus an additional 2,500 square feet of lawn and garden irrigation per residential lot by drip or sprinkler irrigation means. The treated water to be delivered by the Town under the terms of this Amendment shall be used consistent with all Town water-related ordinances and policies now or then in effect, provided that such water-related ordinances and policies are equally applicable to all residents of the Town.



7.7 ***Use of Raw Water for Outside Uses.*** Applicant understands and agrees that the Town will not provide any raw water for irrigation or other uses. Nothing in this Amendment or the Agreement will prevent Applicant from seeking separate, additional raw water if it desires. Any and all raw water use on the Subject Property will be in accordance with Colorado water law governing the appropriation and use of water, provided, however that if Applicant seeks to change or develop any additional water rights or supplies, the Town may take such actions as it deems appropriate to protect its own water rights and supplies so long as any such actions are consistent with the Town's obligations under the Agreement and this Amendment. There will be no cross-connections of the Applicant's raw water supplies or infrastructure to the Town's treated water system. All backflow prevention devices shall be installed and inspected according to Town Code. Applicant will demonstrate in its plans, to the satisfaction of the Town, and be responsible for, the proper installation, maintenance and testing of required backflow prevention devices and for assuring that unprotected cross-connections, structural or sanitary hazards do not exist on the East Parcel. Applicant's water systems (for both treated and raw water) will be available for inspection as provided in the Code, to authorized Town Representatives to determine whether cross-connections or other structural or sanitary hazards exist, and to confirm that no treated municipal water is being used for outdoor irrigation or aesthetic purposes other than as provided herein.

7.8 ***Tap Fees, System Development Fees, Availability of Service Fee.*** As further set forth in Section 9.7 below, all tap fees, system development fees, availability fees and service charges, now or later in effect, and equally applicable to residents of Town, for treated water service will be assessed and determined utilizing the Town's applicable fees and rates at the time of application for a building permit for the structure for which service is sought. No water service will be provided to any structure absent payment of the appropriate fee and charges. Such fees and charges shall be paid to the Town at the time of building permit submittal to the County. The Town Public Works Department will determine scheduling of all physical taps or connections to the main lines, which scheduling will be done in accordance with then applicable Code, rules, regulations, standards and policies of the Town. Applicant understands and agrees it obligation to pay to the Town an availability fee according to Code 13-1-160 for each building site during the period of time in which the building sites are not connected to the Town water and sewer lines. The availability of service fee charges will commence and begin to accrue at the time of acceptance of water system infrastructure. Applicant understands that the Town is under no obligation to reimburse these or any applicable fees.

7.9. ***Limitations on Provision of Water Service.*** This Amendment is for the supply of treated water service as herein described and no expansion of uses, connections, or water service beyond those set forth herein is in any way authorized by this Amendment. The Town is not by this Amendment representing its ability to provide treated water service to any use or structure except as provided herein. Applicant understands and agrees that the Town's water supply is dependent upon sources from which the supply is variable in quantity and quality and beyond the Town's reasonable control; therefore, no liability will attach to the Town under this Agreement on account of any failure to accurately anticipate availability of water supply or because of an actual failure of water supply due to inadequate runoff, poor quality, failure of infrastructure, drought, or other occurrence beyond the Town's reasonable control. The Town agrees that it shall not treat actual or potential water users on the East Parcel any differently than



it treats actual or potential water users within the Town's municipal boundaries, except as set forth herein.

8. **Additional Requirements in Exchange for Right and Authority to Connect.**

In exchange for granting Applicant the right and authority to connect to the Town's water system, Applicant shall comply with the following additional requirements:

8.1 ***Irrigation of Town Parcels.*** Upon and in coordination with the construction of Eighth Street as contemplated in Section 6.4.12 of the Agreement, Applicant shall cause the delivery of raw water from the McCormick Ditch to the Town Parcels via underground pipe, appurtenances and related facilities (the "**Town Parcel Irrigation Facilities**") to be constructed by either Applicant or the Town pursuant to the Agreement. The design, location and construction of the Town Parcel Irrigation Facilities shall be in accordance with the Town Specifications and shall be approved in advance by the Town, such approval to not be unreasonably withheld. Such Town Parcel Irrigation Facilities shall be designed and constructed at Applicant's sole cost and expense. Following dedication to and acceptance thereof by the Town, the Town shall maintain the same provided that Applicant shall provide a two-year warranty on the materials and workmanship of such Town Parcel Irrigation Facilities. Such additional terms and conditions reflecting the Town Parcel Irrigation Facilities' design, installation and construction shall be included in the Sewer Connection Agreement and the development improvements agreement contemplated in Sections 6.1.2 and 6.4.14 of the Agreement, provided that such additional terms and conditions (a) shall be substantially similar to the terms and conditions of sewer connection agreements and development improvement agreements the Town has previously used and (b) shall not be inconsistent with this Amendment.

8.2 ***Voluntary Declaration of Covenant.*** Upon Applicant's receipt of the Requisite Approval, Applicant shall record a declaration of covenant (the "**Declaration of Covenant**") encumbering all lots located on the East Parcel. The Declaration of Covenant shall be in substantially the same form as **Exhibit "B"** attached hereto.

8.3 ***Wood Burning Stove Requirements.*** All solid-fuel burning devices as defined in Chapter 18, Article 8 of the Code located on the East Parcel shall conform to the requirements of such Article 8, as amended and modified from time to time. The Town shall have the right to inspect compliance with and enforce such requirements in accordance with the Code.

8.4 ***Grant Applications.*** Applicant grants the Town the right to, and shall use all reasonable good faith efforts to assist the Town in, applying for grant funding for and allowing the design of, affordable housing on Town Parcel 3 and an emergency services center on Town Parcel 1. Applicant agrees to party with the Town and provide consent if necessary on any grant applications. Applicant agrees to allow the Town and associated parties to prepare site specific designs for new facilities and structures. Applicant's obligations under this Section 8.4 shall not require Applicant to incur any cost or expense and shall not be inconsistent with any other provision of this Amendment.



9. Other Amendments to Agreement.

9.1 Section 6.4.3 of the Agreement shall be revised to read as follows:

“Town Parcel 1, Town Parcel 2 and Town Parcel 4 shall be conveyed to the Town without any financial consideration. Town Parcel 3 shall be conveyed to the Town for \$350,000.00, which amount is a portion of the anticipated costs of obtaining the No Action Determination.”

9.2 The first sentence of Section 6.4.4 shall be revised to read as follows:

“The Deed of Conveyance shall require the Town to refrain from any uses of the Town Parcels affected by the Old Town Landfill that may disturb any cap associated with the approved cleanup, and abide by any other controls and conditions contained in the No Action Determination.”

9.3 Section 6.4.12 of the Agreement shall be revised to add a final sentence to this section which shall read as follows:

“Once the parties have agreed upon the construction of Eighth Street pursuant to Section 6.4.12, Applicant shall enter into a standard development improvements agreement with the Town that is (a) substantially similar to the development improvement agreements the Town has previously used, and (b) not inconsistent with this Amendment. All infrastructure constructed pursuant to such development improvements agreement shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by the Applicant.”

9.4 Section 6.4.1.2 of the Agreement shall be revised to read as follows:

“Town Parcel 1 shall be zoned “P” Public. Any emergency services center to be located on the Town Parcels shall be located only on Town Parcel 1. No building constructed on Town Parcel 1 shall exceed 30 feet in height. The Town shall not develop the pond wetlands located within Town Parcel 1, other than as related to the extension of Road B, or for the temporary storage of irrigation water. In the event the Town uses the pond wetlands for the storage of irrigation water, it shall keep the pond full during the irrigation season and maintain the pond in a neat and attractive condition so that it serves as an aesthetic amenity for the Town Parcels and residential lots 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.

9.5 Section 6.4.1.6 of the Agreement shall be revised to read as follows:

“Within two years of annexation, Applicant will construct a river trail along with west bank of the Slate River through the West Parcel as shown on Exhibit B (the “River Trail”) in order to provide potential connectivity to the existing Rec Path south and east of the Subject Property. Concurrently, with the construction of the River Trail, or sooner if



Applicant so desires, Applicant will construct fencing between the River Trail and the Town's Public Works Yard. Applicant shall choose the design, style, and material for such fencing, but Applicant shall consult with the Town to ensure that the final design, style, and materials selected for this fencing are reasonably sufficient to create a distinct barrier between the River Trail and the Public Works Yard that is no less secure than a chain link fence six feet in height. In addition, in order to provide boater access to the Slate River from its west bank, immediately north of the Road A bridge (the "**Boat Launch**"), and on the Slate River as it flows through the Property, Applicant and the Town shall enter into a boater access easement agreement concurrently with the conveyance of the Town Parcels memorializing such access in perpetuity. This easement agreement will address the terms and conditions for boater access to the Slate River as it flows through the Property as well as associated uses of the Boat Launch, including but not necessarily limited to, other permissible recreational uses of the Boat Launch and vehicular access to and from the Boat Launch. Finally, Applicant 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.

9.6 Section 6.4.9 of the Agreement shall be revised to read as follows:

"The Town shall cooperate with Applicant to ensure compatible development and appropriate buffering between development of the East Parcel and the 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, and the Town and Applicant shall cooperate with respect to the placement of Applicant's signage at agreed upon locations on the West Parcels. Immediately after Applicant obtains the Requisite Approval, the Town shall reasonably permit the installation of (a) temporary signage along Gothic Road (in a form reasonably acceptable to Applicant and the Town); and (b) buffers, and other mitigation measures at Applicant's expense on the West Parcel and on Town property around the Town Public Works Yard as contemplated in the Town Public Works facility master plan, or as otherwise agreed to by the Town Manager. Applicant's temporary signage along Gothic Road shall ultimately be replaced by permanent signage along Gothic Road (in a form reasonably acceptable to Applicant and the Town) pointing the way to Applicant's subdivision. Applicant shall have the right to erect permanent "entry feature" signage on the bridge across the Slate River, all property to be retained by Applicant adjacent thereto, as well as any additional signage Applicant desires on the East Parcel."

9.7 Sections 6.4.16, 6.4.17, and 6.4.19 of the Agreement shall be revised to read as follows:

"6.4.16 Applicant shall be responsible to pay availability fees for water and sewer service in accordance with Section 13-1-160 of the Code (the "**Availability Fees**"). Applicant shall pay all Availability Fees for the East Parcel and Applicant Retained Lands upon the Town's acceptance of all water and wastewater infrastructure.



6.4.17 Pursuant to Section 13-1-280 of the Code, tap fees for water and sewer service for residential lots on the East Parcel will be one and one half times (1.5x) per EQR of the in-Town rate (the "**Tap Fees**") as of the date of building permit application for such lot seeking service. The one half times (1.5x) multiplier will not be subject to change.

6.4.18 Monthly service fees for residential lots on the East parcel (the "**Service Fees**") will be two times (2x) per EQR of the in-Town rate pursuant to Section 13-1-280. The (2x) per EQR multiplier will not be subject to change, however, such monthly fees will be amended by the Town from time to time."

9.8 Section 6.4.10 of the Agreement shall be revised to read as follows:

"Lot lines on the East Parcel may extend to wetland boundaries, provided however that Applicant shall observe a 50-foot building setback from all high-quality wetlands on the East Parcel, and Applicant shall observe a 25-foot building setback from all low-quality wetlands on the East Parcel."

10. **Service Lines.** The installation, maintenance, repair and upgrade of all service lines (as defined in Section 13-1-40 of the Code), including that portion which traverses public property, shall be the sole and absolute responsibility of Applicant and the individual property owners of the Subject Property, at the same's sole cost and expense, except that water meters may only be maintained, repaired or replaced by the Town according to Section 13-1-220 of the Code.

11. **Easements.** Applicant shall obtain at its own cost and expense and shall convey in perpetuity to the Town as-built, non-exclusive easements for all water mains, sewer mains, lines, tanks, pump houses and other water and sewer facilities constructed under this Amendment and the Agreement located on or adjacent to the Subject Property, along with all necessary access easements for maintenance, upgrade and repair purposes. Unless otherwise approved by the Town, all such easements will be a maximum of thirty feet (30') in width unless a maximum width of thirty-five feet (35') is necessary to accommodate the parallel installation of water and sewer lines. Such easements shall be shown on the Final Plat of the subdivision of the East Parcel if and when approved by Gunnison County and where appropriate, in the reasonable determination of the Town, memorialized in separate grants of easements instruments.

12. **Water and Sewer Service Subject to the Town's Charter, Codes, Rules, Regulations and Policies.** All water and sewer service provided by the Town to Applicant and its assigns or successors in interest, in whole or in part, will be subject to, all provisions of the Code and the rules, policies or regulations of the Town now in effect or as may be hereafter adopted as to provision of water and sewer service by the Town, provided that all such provisions of the Code and such rules, policies and regulations are equally applicable to all residents of the Town.

13. **Costs and Expenses.** Except where the responsibility is otherwise assigned to a party in this Amendment or the Agreement, all costs and expenses associated with a particular performance item shall be the sole and absolute responsibility of Applicant.



14. **Enforcement.** The parties, their assigns or successors in interest, in whole or in part, to this Amendment and the Agreement recognize and agree that the damages flowing from any violation of the Amendment or the 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 the Amendment and the 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.

15. **No Waiver.** Applicant acknowledges and agrees that the Town is relying upon, and does not waive or intend to waive by any provision of this Amendment, the monetary limitations (currently \$350,000.00 per person and \$990,000.00 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

16. **TABOR; Colorado Constitution, Article X, Section 20.** Notwithstanding any other provision in this Amendment 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 Amendment. (b) It is understood and agreed that this Amendment does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Amendment 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 Amendment 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 Applicant 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) Applicant shall not be obligated to convey Town Parcel 3.

17. **Cooperation; Other Documentation; Instruments.** The parties shall reasonably cooperate with each other in order effect the transactions contemplated in this Amendment. 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.

18. **Assignment; Assumption.** Applicant’s rights and obligations under paragraphs 7.2 and 7.3 shall be absolutely assignable by Applicant without the approval of the Town Council, written or otherwise, including but not limited to (a) Applicant’s right to be reasonably apprised of the status of the Change Case and to be provided with copies of pleadings and other documents filed in the Change Case and (b) Applicant’s right to have the Town convey



Applicant's allocated interest in the McCormick Ditch Water Rights and HCU credits by Special Warranty Deed, together with all appurtenances. All other rights and obligations contained in this Amendment may be assigned or transferred by Applicant only upon written consent approved by resolutions of the Town Council, which such consent shall not be unreasonably withheld. Any transfer or assignment without written consent, where such consent is required, shall be void *ab initio*. Upon any proper assignment or transfer hereunder, the assignee or transferee shall assume all the rights and obligations, as applicable, of Applicant hereunder.

19. **Authority.** The person executing this Amendment on behalf of Applicant does hereby covenant and warrant that as to Applicant, such person is duly authorized and has full right and authority to enter into this Amendment and that the person signing on behalf of Applicant is authorized to do so.

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

21. **Entire Agreement.** This Amendment supersedes and controls all prior written and oral agreements and representations of the parties with respect to the subject matters addressed herein and represents the total integrated agreement between the parties with respect to such subject matters.

22. **Modification.** This Amendment shall not be amended or modified, except by subsequent written agreement of the parties approved by resolutions of the Town Council.

23. **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.

24. **General Release.** It is expressly understood that the Town cannot be legally bound by the representations of any of its elected officials, officers, employees, agents, representatives and attorneys or their designees, except in accordance with Town ordinances, the Code and the laws of the State of Colorado, and that Applicant, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town, its elected officials, officers, employees, agents, representatives, and attorneys or their designees, which is subsequently held unlawful by a court of law; provided, however, this paragraph shall not be construed to limit the rights and remedies of the parties otherwise provided by law, including under equitable doctrines such as estoppel.

25. **Notices.** Any notice or other information required by this Amendment 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
Gunnison, Colorado 81230
Facsimile: 970-641-1943
mlock@lawoftherockies.com

Town of Crested Butte
Attention: Michael Yerman
507 Maroon Avenue
P.O. Box 39
Crested Butte, Colorado 81224
Facsimile: 970-349-6626
myerman@crestedbutte-co.gov

with a copy to:

J. D. Belkin & Associates, LLC
Attention: John Belkin, Town Attorney
502 Whiterock Avenue, Suite 200
P.O. Box 2919
Crested Butte Colorado 81224
Facsimile: 970-497-4401
jbelkin@jbelkinlaw.com

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

26. **Voluntary Agreement.** Applicant's continued compliance with all of the terms and conditions of this Amendment on a voluntary and contractual basis is a condition of its right to connect to the Town's water system.



27. **Attorneys' Fees; Costs.** Should this Amendment 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.

28. **Governing Law; Venue.** This Amendment 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.

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

30. **Recording.** Upon execution, Applicant shall record this Amendment in the Office of the Gunnison County Clerk and Recorder. The benefits and burdens of this Amendment shall run with the Subject Property and be binding upon the parties' successors and assigns. In the event this Amendment becomes null and void for any of the reasons set forth herein, the parties agree to execute and record a notice of termination of this Amendment and, in addition, if necessary to remove this Amendment as an exception to title to the Subject Property.

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

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



EXHIBIT "A"

McCormick Ditch Water Rights

(a) 0.64 cubic feet of water per second of time decreed to the McCormick Ditch, being Ditch No. 168, Priority Number 164, in Civil Action No. 1325, in District Court, Gunnison County, Colorado, September 14, 1906, with an appropriation date of June 1, 1903, inclusive of 0.36 c.f.s. out of the 0.5 c.f.s. that was changed to add domestic and municipal uses by judgment and decree entered November 22, 1972, in Case No. W-578, District Court, Water Division No. 4, and which change was confirmed by the Order entered December 14, 1984, in Case No. 83CW20, District Court, Water Division No. 4.² The decreed point of diversion of the McCormick Ditch is located at a point whence the northeast corner of Section 3, Township 14 South, Range 86 West, 6th P.M., bears North 67 degrees East 890 feet;

(b) 1.853 cubic feet of water per second of time decreed to the McCormick Ditch, being Ditch No. 168, Priority Number 533, in Civil Action No. 5590, in District Court, Gunnison County, Colorado, January 27, 1961, with an appropriation date of June 1, 1903. The decreed point of division of the McCormick Ditch is located at a point whence the northeast corner of Section 3, Township 14 South, Range 86 West, 6th P.M., bears North 67 degrees East 890 feet; and

(c) 1.0 cubic feet of water per second of time decreed to the McCormick Ditch, being Ditch No. 168, Priority Number 558, in Civil Action No. 5590, in District Court, Gunnison County, Colorado, January 27, 1961, with an appropriation date of April 1, 1952. The decreed point of diversion of the McCormick Ditch is located at a point whence the northeast corner of Section 3, Township 14 South, Range 86 West, 6th P.M., bears North 67 degrees East 890 feet.

² The Town of Crested Butte claims the remaining 0.14 c.f.s. out of the 0.5 c.f.s. by virtue of a Special Warranty Deed between Verzuh and the Town, dated 8-7-2000, and subsequent change case for the 0.14 c.f.s. interest in Case No. 02CW63, Division 4 Water Court.



EXHIBIT "B"

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

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

DECLARATION OF COVENANT

THIS DECLARATION OF COVENANT (this "**Covenant**") is made this ___ day of _____, 20__ (the "**Effective Date**") by CYPRESS FOOTHILLS, LP ("**Owner**"), a Texas limited partnership.

RECITALS:

A. Owner is the fee title owner of that certain real property described in **Exhibit "1"** attached hereto (the "**Property**").

B. Owner has obtained from the Town of Crested Butte, Colorado (the "**Town**"), a Colorado home rule municipality, the right and approval to connect the Property to the Town's water service system pursuant to §13-1-280 of the Crested Butte Municipal Code (the "**Code**") under a Pre-Annexation Agreement dated February 16, 2016 and recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on March 14, 2016 at Reception No. 638399, as amended and modified by an Amendment to Pre-Annexation Agreement dated _____, 20__ and recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on _____, 20__ at Reception No. _____ (collectively, the "Pre-Annexation Agreement").

C. In exchange for the Town allowing Owner to connect the Property to the Town's water service system pursuant to §13-1-280 of the Code, Owner has agreed and desires to impose a transfer fee expressed as a percentage of the value of each future transfer of any portion of or interest in the Property as set forth and determined according to the provisions contained herein.

D. Because such water service benefits will be needed as and to the extent that the Property is developed and transferred, and its value to future owners will be reflected in future property values, Owner has determined that it is reasonable and appropriate to impose a transfer fee expressed as a percentage of the value of each future transfer of any portion of or interest in the Property as set forth and determined according to the provisions contained herein.

E. The rate, exemptions, and other attributes of such transfer fee have been determined as set forth in this Covenant.

F. The transfer fee provided for herein shall be payable to the Town as described herein.



G. Each person acquiring any interest in any portion of the Property, as an essential condition of any conveyance to such person, shall be deemed for all purposes to have assented and agreed to the provisions of this Covenant; and shall hereby have waived any right to challenge or contest the provisions hereof or to seek any refund or abatement of the fee payable hereunder. The provisions of this Covenant shall run with the Property and be binding on all persons who hereafter acquire any interest in the Property.

COVENANT:

Owner hereby covenants and agrees, and binds encumbers the Property as follows:

1. **Covenant.** Owner hereby covenants and agrees that, there is hereby imposed a fee on all transfers by, without limitation, deeds, instruments, writings, certain leases and any other instruments by which any lands, tenements or other interests in the Property or any portion or interest therein are sold, granted, assigned, transferred or otherwise conveyed to or vested in a purchaser or transferee thereof, or any person, except as may be expressly exempt herein.

2. **Persons Liable for Fee.** Any seller or any other person who transfers any interest in the Property or any portion or interest therein which is subject to the fee imposed herein, and any purchaser or any other person to whom such a transfer is made, shall be jointly and severally liable for payment of the fee.

3. **Fee Due on Transfer.** Unless exempt hereunder, the fee is due on transfer of the property or any portion thereof.

4. **Definitions.** The following words and phrases, as used herein, shall have the following meanings:

“Artifice or device” means any transaction or transactions the substantial purpose of which is to evade the provisions of this Covenant and the imposition of the fee hereunder, including but not limited to the transfer to a corporation, partnership, limited partnership, joint venture, business trust or other association or organization together with the intent to ultimately assign the controlling interest in such association or organization.

“Consideration” means and includes actual cash paid and/or value of the property delivered, or contracted to be paid or delivered, in return for the transfer of ownership or title to real property (but not personal property), and shall include the amount of any lien, mortgage, contract indebtedness or other encumbrance, either given to secure the purchase price or any part thereof, or remaining unpaid on the property at the time of the sale. The term does not include the amount of any outstanding lien or encumbrance in favor of the United States, the State or quasi-government corporation or district for taxes, special benefits or improvements. In the event the transaction or transfer is by lease or similar agreement not specifically exempted herein, consideration means the capitalization of ten percent (10%) of the average annual rental over the entire term of the lease, including any renewal term, plus the actual consideration, if any, other than rent, paid or to be paid.



“Deed in lieu of foreclosure” means a conveyance by a property owner to a secured party or wholly owned subsidiary of the secured party of property which is the subject of a mortgage, deed of trust or other security instrument in consideration of the cancellation of all or part of the indebtedness secured by such security instrument or release of the debtor or guarantor from any personal liability of such indebtedness.

“Fee” means the transfer fee imposed by this Covenant, which the Owner agrees is a “charge” for purposes of collection under Section 4-8-10 of the Town Code and C.R.S. §§ 31-20-105 and 106.

“Financial institution” means, for purposes hereof, an insured bank, commercial bank or trust company or credit union.

“Real property” means real property as defined by and under the laws of the State of Colorado that is part of the Property and any portion thereof.

“Transfer” means and includes any grant or conveyance of the ownership of title to real property that is evidenced by any deed, conveyance, instrument or writing wherein or whereby title to real property situated in the property is granted or conveyed, or the conveyance of a possessory interest and all other indicia of ownership in real property without the passing of legal title, subject to the exemptions provided herein.

5. **Amount of Fee.** The amount of the fee payable in each class shall be as follows:

5.1 Where there is no consideration or where the consideration is five hundred dollars (\$500.00) or less, no fee hereunder shall be payable. The mere statement on the face of the instrument of transfer that the consideration received in connection therewith is five hundred dollars (\$500.00) or less shall not be deemed adequate supporting evidence that the consideration in the subject transfer is five hundred dollars (\$500.00) or less.

5.2 Where the consideration exceeds five hundred dollars (\$500.00), the fee payable shall be three percent (3%) of such consideration.

6. **Exemptions.** The fee imposed herein shall not apply to:

6.1 Any document wherein the United States or any agency or instrumentality thereof, the State, any county, city and county, municipality, district or other political subdivision of the State is either the grantor or grantee.

6.2 Any document transferring title to real property in consequence of a gift of such property, where no consideration other than love and affection or charitable donation is evidenced by the terms of the document of transfer.

6.3 Any transfer by document, decree or agreement partitioning, terminating or evidencing termination of a joint tenancy, tenancy in common or other co-ownership in real



property; however, if additional consideration or value is paid in connection with such partition or termination, the fee shall apply and be based upon such additional consideration.

6.4 Transfers pursuant to a decree of separation or divorce except where the transfer is made to a third party.

6.5 Any transfer of title or change of interest in real property by reason of death, will or decree of distribution.

6.6 Any transfer made pursuant to business organization, reorganization or restructuring, including but not limited to mergers or consolidations of corporations, or by a subsidiary to a parent corporation, for no consideration other than cancellation or surrender of the subsidiary's stock or ownership interest. The transfer of at least seventeen percent (17%) of the stock in a corporation owning an interest in the Property or a portion thereof, or seventeen percent (17%) of any ownership interest in a business entity whose assets include an interest in the Property or a portion thereof shall not be included in this exemption, and such transfer shall be subject to imposition of the fee imposed herein (i.e., the fee will be imposed on the consideration paid for the stock or other ownership interest so transferred, to the extent attributable to the value of the interest in the Property owned by the corporation or other business entity in which the stock or ownership interest is being transferred).

6.7 Any transfer to make effective any plan confirmed or ordered by a court of competent jurisdiction under the Bankruptcy Act or in an equity receivership proceeding.

6.8 Any transfer made and delivered without consideration for the purpose of confirming, correcting, modifying or supplementing a transfer previously recorded; making minor boundary adjustments; removing clouds of titles; or granting easements, rights-of-way or licenses.

6.9 Any decree or order of a court of record quieting, determining or resting title, including a final order awarding title pursuant to a condemnation proceeding.

6.10 Any lease of any real property or assignment or transfer of any interest in any such lease, provided that the terms and conditions of such lease do not constitute a de facto conveyance of the subject property. In the latter event, the fee shall be based upon the capitalization at five percent (5%) of the average annual rental over the entire term of the lease, including any renewal term, plus the actual consideration, other than rent, paid or to be paid. When the average annual rental cannot be determined, the fee shall be based upon the assessed value of the property covered by the lease.

6.11 Any transfer to secure a debt or other obligation, or release of real property which is security for a debt or other obligation.

6.12 Any executory contract for the sale of real property of less than three (3) years' duration, under which the purchaser is entitled to or does take possession thereof without acquiring title thereto, or any assignment or cancellation of any such contract.



6.13 (a) Any transfer under execution, sale or foreclosure sale under a power of sale or court decree of lien foreclosure; sheriff's deed; public trustee deed or treasurer's deed; or deed in lieu of foreclosure; provided that such transfer shall be exempt only: (i) if the grantee is the person holding the obligation or instrument which is being cancelled, in whole or part, in exchange for the transfer or upon which the proceeding is based, as applicable, or the grantee is a junior lienholder or exercising redemption rights pursuant to a lien that was recorded prior to commencement of the foreclosure or execution; (ii) if such grantee is the original obligation holder or a financial institution; and (iii) to the extent of the obligation which is being canceled, in whole or in part, in exchange for the transfer or is being satisfied at the execution or foreclosure sale and any obligations to prior lienholders paid from the sale.

(b) Notwithstanding Subparagraph (a) above, where the grantee is not the original obligation holder or a financial institution and where the other requirements of Subparagraph (a) are otherwise met, such transfer may still qualify for an exemption from the fee pursuant to this Paragraph; provided that the transferee must, as market conditions allow, resell the property in order to satisfy the obligation within two (2) years of the transfer. If, however, the property is not sold within two (2) years of the transfer or within any extension of such time beyond two (2) years as the Town Manager may allow for good cause shown, then the transfer shall not be considered exempt pursuant to this Paragraph and shall be considered an artifice and subject to the fee.

(c) A purchaser at an execution or foreclosure sale who holds no security interest or redemption rights in the property, and who acquires title to the property upon expiration of all redemption periods, is required to pay the fee.

(d) For deeds in lieu of foreclosure transfers, in order to qualify for an exemption from the fee pursuant to this Paragraph, the obligation that is being cancelled must be in default at the time of the transfer and no additional consideration shall be exchanged between the transferor and transferee in connection with such transfer. The transferor and transferee shall provide to the Town Manager an affidavit approved by the Town Attorney certifying the existence of the default at the time of the transfer and that no additional consideration has or will be exchanged in connection with the transfer.

6.14 Any transfer by the Owner, its affiliates, or a successor developer of the Property or any portion thereof, including but not limited to, any subdivided lot therein, which exemption shall be automatic, and shall not be subject to Section 7.

7. **Application for Exemption.**

7.1 In the event of any transfer that the grantor or grantee thereof desires to establish is exempt from the applicability of the fee, except pursuant to Section 6.14 above which exemption is automatic, or where the instrument of transfer contains language clearly establishing that the transfer is exempt, the grantor or grantee thereunder shall apply for and obtain from the Town Manager a certificate of exemption, which can then be recorded in the Office of the Gunnison County Clerk and Recorder. The application for a certificate of



exemption and such certificate shall be in substantially the same form as Exhibit "2" attached hereto, and shall be processed expeditiously by the Town Manager. A grantor or grantee of a transfer made pursuant to or and in accordance with Section 6.14 may, but need not, apply for a certificate of exemption.

7.2 Notwithstanding anything contained herein to the contrary, if an artifice or device is employed in connection with the transfer of real property then such transfer shall be subject to the fee.

7.3 Any person whose claim of exemption duly applied for under the provisions of this Section is denied by the Town Manager may immediately appeal to the Town Council for a determination of such exemption; and such appeal shall be considered by the Town Council within thirty (30) days of receipt of the same. In the event of a determination by the Town Council favorable to the appellant, any fee previously deposited, or so much thereof as may be allowed by the Town Manager, shall be promptly refunded to the person paying or depositing the same. If a decision is not made by the Town Council within thirty (30) days of the receipt thereof, the decision will be deemed favorable to the appellant.

8. Lands Affected. The fee imposed herein shall apply to all real property located within the Property and any portion thereof not specifically exempted hereunder.

9. Enforcement.

9.1 The Town Manager is charged with the enforcement of this Covenant.

9.2 On or before the time of any transfer upon which the fee is imposed hereunder, one of the persons liable for said fee shall cause a report to be provided to the Town Manager setting forth the true, complete and actual consideration for the transfer, the names and addresses of the parties thereto, and the location of the real property transferred.

9.3 For the purposes of collection of the fee imposed under this Covenant, all banks, title companies, escrow companies, building and loan institutions, attorneys, real estate agencies or other closing agents or agencies permitted as such to do business under the laws of the State may collect and remit the same to the Town for and on behalf of the persons liable for the fee.

10. Due Dates; Delinquencies; Penalties; Interest.

10.1 The fee is due and payable at the time of transfer, and becomes delinquent as provided in Section 10.3 below. Interest shall accrue at the rate of one and one-half percent (1.5%) per month, or fraction thereof, on the amount of the fee, exclusive of penalties, from the date the fee the fee is due and unpaid. Interest accrued shall constitute part of the fee.

10.2 The amount of any delinquent fee, together with interest due thereon, shall constitute a lien on the property for the amount thereof, which lien shall continue until the amount thereof is paid or until its discharge of record by foreclosure or otherwise. Such lien



may be foreclosed through the District Court of Gunnison County, Colorado, or by any other means available to the Town under law.

10.3 If the Town learns of any fee that is due, owing, and unpaid, the Town Manager shall give written notification to the seller, purchaser, transferor or transferee of the fee or any portion thereof that remains unpaid. Such notice shall be provided at the address shown on the instrument or writing effecting the transfer subject to the fee, if provided therein, otherwise the notice will be sent to the more recent address of such seller, purchaser, transferor or transferee, as applicable. Said notification shall be mailed by certified mail, postage prepaid, return receipt requested, and shall be effective on the date of mailing. If the fee, together with interest due thereon, are not paid in full within thirty (30) days of the effective date of notification, the Town Manager shall mark the same as delinquent on the Town's tax roll and shall certify such delinquency to the County Treasurer, pursuant to Sections 31-20-105 and 31-20-106, C.R.S., who shall extend such delinquencies upon the real property tax rolls of the County and collect the same in the manner set forth for real property taxes. For such purposes, Owner, for its successors in interests, transferees and assigns, hereby submits to, and waives any claims and defense to in connection therewith, without limitation, for purposes of collection, the rights, powers and authorities of the Town and the County Treasurer contained in Sections 31-20-105 and 31-20-106, C.R.S., and Chapter 4, Article 8 of the Code and other applicable law respecting any unpaid or delinquent fee, and any costs and expenses associated therewith. Upon certification of the delinquent taxes, the interest thereon shall also become due and owing.

10.4 The Owner agrees that in the event unpaid delinquent fees are certified to the County Treasurer as permitted by Section 10.3, the Owner shall not object to collection of the same by the Treasurer under C.R.S. §§ 31-20-105 and 106, as a charge due to the Town, in the manner set forth in that statute.

10.5 The amount of the fee, together with any interest thereon, imposed under the provisions of this Covenant shall be deemed a debt owed to the Town. Any person owing money to the Town under the provisions of this Covenant shall be liable in any action for the recovery of the delinquent amount, plus the attorney's fees and other costs expended by the Town in such action.

10.6 Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law and in equity.

10.7 Prior to foreclosing the lien provided for in Section 10.2, or taking any other legal action to collect a fee that is due, owing, and unpaid pursuant to the terms of this Covenant, the Town shall comply with the notification procedure set forth in Section 10.3.

11. **Severability.** Any determination by any court of competent jurisdiction that any provision of this Covenant is invalid or unenforceable shall not affect the validity or enforceability of any other provision hereof.

12. **Modification.** This Covenant shall not be amended or modified, except by subsequent written agreement of the parties approved by resolutions of the Town Council and



recorded in the official real property records of the Clerk and Recorder of Gunnison County, Colorado.

13. **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.

14. **Governing Law; Venue.** This Covenant 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.

15. **Recording; Run with the Land.** This Covenant shall be recorded in the official real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado. The provisions of this Covenant shall run with the Property and be binding on all persons who hereafter acquire any interest in the Property or any portion thereof, whether as an owner, renter, trustee or mortgage beneficiary or otherwise.

16. **Recitals.** The recitals set forth above are deemed material provisions of this Covenant and enforceable in the same manner as any other term or condition hereof.

17. **Incorporation into Instrument of Transfer.** Each and every provision contained in this Covenant shall be deemed incorporated in each deed, instrument or document of transfer by which any right, title or interest in any of the Property or portion thereof is granted, devised, conveyed or otherwise transferred as if fully set forth therein.

18. **Statement Regarding Fee.** Upon written request by any interested party, the Town shall issue a written statement setting forth the amount of any unpaid Transfer Fee with respect to any specific portion of the Property identified in such request. Such statement shall be furnished as soon as reasonably practicable, but in no event later than 30 days after receipt of the request, and shall be binding on the Town.

19. **Term.** Except as provided herein, the term of this Covenant shall be perpetual unless the Property is annexed into the Town of Crested Butte, in which case this Covenant shall automatically terminate upon such annexation and shall be of no further force and effect as to any Transfer subsequent to the effective date of such annexation.

20. **Electronic Reproductions; Counterparts.** For purposes of enforcement of terms of this Covenant, electronic reproductions hereof shall be deemed to be originals.

WHEREFORE, Owner has made this Covenant by its duly authorized officers as of the Effective Date.

CYPRESS FOOTHILLS, LP

By: _____

Name: _____

Title: _____



STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Declaration of Covenant was acknowledged before me this _____ day of _____, 201_ by _____, _____ of Cypress Foothills, LP, a Texas limited partnership on behalf of said entity.

WITNESS my hand and seal.

My commission expires: _____

Notary Public

[SEAL]



EXHIBIT 1

Legal Description of the Property Subject to Declaration of Covenant:

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 the S1/4 Corner of said Section 35, said corner being a 3 1/4" Aluminum Cap from which the southwest Corner of said Section 35 bears N89°43'49"W a distance of 2650.49 feet; thence along an existing fence line as it exists in the field and as shown and described in a Boundary Agreement recorded in Book 769 at Page 881 the following three (3) courses:

- 1) N00°11'53"E a distance of 271.72 feet,
- 2) N00°50'11"W a distance of 932.90 feet,
- 3) N01°19'37"W a distance of 346.89 feet to a point on the northerly line of the Trampe Partition Parcel 13 and the southerly line of Spann Parcel 23 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 570.01 feet to a point on the easterly line of the Town of Crested Butte Cemetery as described in Exhibit A(5) in Court Decree of Partition as recorded in Book 516 at Page 474; thence along the easterly line of said Cemetery Parcel S01°20'33"W a distance of 220.37 feet to the northerly corner of a parcel of land described in Book 518 at Page 403; thence along the northwesterly line of said parcel S29°46'00"W a distance of 470.46 feet to a point on the northerly line of said Trampe Partition Parcel 13, said point also being on the southerly line of said Cemetery Parcel; thence along said northerly line of said Parcel 13 N90°00'00"W a distance of 568.93 feet; thence along the wetland boundary more or less on the southerly bank of the Slate River the following six (6) courses:

- 1) S20°36'39"E a distance of 77.30 feet,
- 2) S32°48'09"E a distance of 178.03 feet,
- 3) S39°16'35"E a distance of 115.15 feet,
- 4) S52°37'46"E a distance of 40.69 feet,
- 5) S42°06'22"E a distance of 87.35 feet,
- 6) S66°34'01"E approximately 53.68 feet to the high water line of the Slate River; thence the following five (5) courses along the high water line of the Slate River approximately:
 - 1) S44°00'17"E a distance of 2.43 feet,
 - 2) S61°14'28"E a distance of 180.87 feet,
 - 3) S45°20'59"E a distance of 257.67 feet,

SKYLAND COMMUNITY ASSOCIATION

350 Country Club Drive, Ste. 112A
Crested Butte, CO 81224

Phone: (970) 349-7411

Fax: (970) 349-5054

August 24, 2018

To the Town of Crested Butte Town Council and the Town of Mt. Crested Butte Town Council,

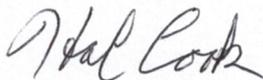
I am submitting this letter on behalf of the Skyland Community Association. Our association represents 452 properties and 850 residents of which approximately 300 are full time residents. Our association and residents have been following the Corner at Brush Creek development process. We were disappointed in the decision of both the Planning Commission and the County Commissioners to proceed with this development.

We greatly appreciate and support your efforts to educate our county officials as to the adverse impacts of this proposed development and your efforts to influence the county officials on the proper use and planning for this jointly held property. Like you, we fully support the need for affordable housing in the Valley but believe it must be done correctly. The Town of Crested Butte's most recent submission to the County Commissioners - Memorandum dated August 2, 2018 regarding the vote to deny or proceed with conditions very much reflects the views of our residents and as such, has our full support. Any proposed development at that location or anywhere in the Valley should have a density and design that is compatible with the surrounding area. We fully support the Memorandum's proposed conditions as it relates to amenities, parking, design, setbacks, and sewer requirements. The proposed subdivision of the parcel to address parking and amenities fits well with the needs of the North Valley and aligns with the intent of the MOU and the Gunnison Valley Needs Assessment.

We ask and encourage you to continue your efforts to oppose the current proposed development. There are more reasonable and realistic ways to proceed that will address the housing issue. These solutions should be assessed on a County-wide basis and not a singular approach as currently under review.

Please use this letter as evidence of the opposition of the Skyland Community Association to the proposed Corner at Brush Creek project.

Sincerely yours,



Hal Cook
Board President
Skyland Community Association

To the Town of Crested Butte Town Council and the Town of Mount Crested Butte Town Council,

We are submitting this letter on behalf of the Silver Sage Neighborhood Homeowners Association. We represent 14 homes and approximately 20 residents, many of whom are full-time residents in this Valley. We are sending this letter to let you know we support your efforts regarding the project at Brush Creek from occurring as it is currently proposed. We do not support the decision of the Planning Commission and the County Commissioners to proceed with this development.

We have followed the Planning Commission review and thank you for your continued comments regarding the concerns over this development. We support Affordable Housing but the current proposed development does not address the issue in a way that works with the North Valley. We appreciate and support the Town of CB's letter to the County Commissioners – Memorandum dated August 2, 2018. Any project developed on Brush Creek should be compatible with the Brush Creek corridor and be based on developments reasonably adjacent to the area. Your recommendations that address design and setbacks, parking and sewer requirements are in line with what is needed in this area including the addition of a parcel for parking which is in line with the MOU.

This letter supports the opposition of the residents of the North Valley to the Corner at Brush Creek.

Best regards,

A handwritten signature in black ink, appearing to read "K. White", followed by the printed text "PRESIDENT SS HOA".

Board of Directors
Silver Sage HOA

Town of Crested Butte
Attn: Lynelle Stanford
PO Box 39
Crested Butte, CO 81224

August 16, 2018

Dear Town Council members:

I would like to start by introducing myself. My name is Carolina Fechino Alling, Designer in Crested Butte since 2003, for Interni LLC. I served on the "Bozar" board for 5+ years. I have been a town resident since 1999, and I have a vested interest in the success of the Crested Butte architectural design as a historic district as well as the current and constant challenges of Crested Butte growth direction.

I'm writing with the intent for the council to reconsider Ordinance No. 25 Series 2017, in which guideline 2.29.5 was approved, specifically the wording on criteria (g.)

Guideline 2.29.5 reads as follows:

The Board will have to determine whether the application will comply with the intents of GL 2.29.5, that states:

In limited situations an accessory dwelling may be placed in the front yard of residential zones if all of the following criteria must be met. (Ord. 25, Series 2017, 10/02/2017)

- a. *The primary residence existing on site was constructed prior to 2012, is situated in the rear of the lot in such a manner that a detached building is not possible.*
- b. *The square footage of the existing residence exceeds 1,000 sf.*
- c. *The existing residence was not approved or classified as an accessory dwelling by the BOZAR.*
- d. *The proposed building must contain a dwelling unit and classified as an accessory dwelling.*
- e. *The dwelling shall be subordinate in height to the primary residence.*
- f. *The structure should have an entry door facing the street.*
- g. *A garage door cannot face the street, but side facing garage doors could be considered if access from the rear of the building is not possible.*
- h. *No more than one garage structure can be contained on the site.*
- j. *The siding materials must meet the requirements for a single-family residence.*
- k. *The setbacks for the site must be met.*

As you can see this guideline only applies to a few properties in town, giving a chance to add a few more long term housing units to the town of Crested Butte. As well as a possibility of adding more storage/parking chances to the homeowner. Since this guideline is new, I believe there is room for improvement.

The language used on on the criteria (g.) *“g. A garage door cannot face the street, but side facing garage doors could be considered if access from the rear of the building is not possible.”* While I understand the importance of garage doors not facing the street, to comply with existing guidelines. I do believe there is a better, more effective way to say the same thing that will comply with already well establish guidelines such as: // **Neighborhood context // Mass & Scale // Maintaining Mature Landscape // Historic Proportions // Effective Parking Plan with in the Property // Long Term residence //** and give the opportunity to the homeowner to add valuable Sq Ft to their property, without compromising any of these important guidelines.

I think something with in this lines can work much better if the verbiage used on the criteria g. says :

- ***“A garage door will be consider if concealed or disguised as a dwelling facade and complies with existing guidelines.”***

The reason why I’m writing this letter today is because, I been working on a project where this new guideline could be of use. And I found that if I were to propose a garage door on the side of the ADU, the building will grow in mass and scale, becoming more predominant than the main residence in the rear of the property, mature landscape will be removed in order to have a successful use of the side garage door.

And if I were to just propose a storage room without garage door, this will not make the footprint bigger, it will keep the building size in scale with the main residence on the property, but in this case the parking will increase on the outside of the residence by adding one more car to the street, from the original two for the main residence. Creating more parking issues on this street.

I believe in designing buildings that fit with in the guidelines as well as the neighborhood context and also to help mitigate rising issues with in this town. That is the reason why I suggest reconsidering the wording use in this new guideline. I see it as a win-win for the homeowner and the town.

In conclusion, please consider amending the wording in Ordinance No. 25 Series 2017, Guideline 2.29.5 to allow for these few specific sites to be considered with respect to Bozar’s guidelines as a whole.

I welcome the opportunity to discuss this matter further with the council. Please feel free to contact me directly should you have any questions.

Sincerely,

Carolina Fechino Alling
 (970) 596-4586
interni_design@yahoo.com

Living Journeys
GALA MAP

Gothic Rd

Town of
Crested Butte

Journeys End Rd

Crested Butte
Community School

135

GALA

SCHAUL RESIDENCE
535 JOURNEYS END RD.

LOST?
CALL 970 - 433 - 8835

EAT DRINK ²²³

and be

Giving

Living Stories Gala

Join Us for a
Celebration of Inspiring
Community Stories and Silent Auction Benefiting

Living Journeys

SATURDAY, SEPTEMBER 15, 2018
3:30PM - 6:30PM

SCHAUL RESIDENCE
535 JOURNEYS END
CRESTED BUTTE, CO 81224

\$100 PER PERSON
Mountain Casual

RSVP or Donate Online at LivingJourneys.org



Living Journeys
GALA

KINDLY RESPOND BY SEPTEMBER 1ST:

NAME _____

NO. ATTENDING _____ PHONE _____

TOTAL (\$100 PER PERSON) \$ _____

Questions: info@livingjourneys.org

RSVP

GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING AGENDA

224

DATE: Tuesday, August 21, 2018

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. CoreSource, Inc – Fifth Amendment to Service Agreement 1-1-2012
 2. CoreSource, Inc – Ninth Amendment to Service Agreement 1-1-2018
 3. CoreSource, Inc – First Amendment; Employee Medical Benefit Plan 1-1-17
 4. CoreSource, Inc – First Amendment; Employee Medical Benefit Plan 9-1-17
 5. ColoradoWorks Policy; Department of Health & Human Services
 6. Development Improvements Agreement; Red Mountain Ranch; Release
 7. Retail Liquor License Renewal; Amie Mountain Lodge LLC dba Inn at Arrowhead
October 15, 2018-October 15, 2019
 8. Acknowledgement of County Manager's Signature; Contract; Colorado Department of Public Health and Environment & Gunnison County; Retail Food Establishment; Enforcement of Standards
 9. Acknowledgement of County Manager's Signature; Professional Services Agreement; The Center for Applied Research, Inc.; Gunnison County Economic Model
 10. Ratification of Chairperson's Signature; Letter of Support; Alpine Tunnel submission to Endangered Places List
 11. Resolution 2018-29; A Resolution Repealing and Rescinding Resolution No. 06-76, A Resolution Setting the Amount of the Surety Bond for County Treasurer
 - Scheduling
- 8:35
- County Manager's Report
- 8:45
- Deputy County Manager's Reports and Project Updates
 1. Master Schedule A Agreements
- 8:55
- Continuation Hearing; Petition for Abatement or Refund of Taxes; Property Tax Years 2016 & 2017; R001699, Lots 13-23 BLK 52 First Addition #641478; PPI Gunnison LLC.
- 9:10
- Vouchers and Transfers
 - June 2018 Sales Tax & Local Marketing District Tax Reports
 - Draft Capital Improvement Plan 2019-2023
 - Treasurer's Report
 - Unscheduled Citizens: Limit to 5 minutes per item. No formal action can be taken at this meeting.
 - 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.
 - Adjourn

GUNNISON COUNTY BOARD OF COUNTY BOARD OF EQUALIZATION:

*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

225

DATE: Tuesday, August 21, 2018

Page 2 of 2

PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

9:40 • Denied Senior Property Tax Exemption Hearing; Steve Eberhardt; Lime Point No. 2 & No. 3 North Tract #14311 Quartz Creek Subdivision B523 P642 #504950 #540033

9:55 • Adjourn

GUNNISON/HINSDALE BOARD OF HUMAN SERVICES REGULAR MEETING:

9:55 am • (See separate agenda)

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> no later than 6:00 pm on the Friday prior to the meeting.

AGENDA

4:30PM – Joint Work Session with the Town of Crested Butte – Brush Creek Workforce Housing

6:00 PM - Public Hearing – Public Input on a Planned Unit Development Major Alteration Application Submitted by the Board of County Commissioners to amend the existing Planned Unit Development and deed restriction for lot 34, Pitchfork Subdivision aka 100 Big Sky Dr. The alteration would reduce the unit count from 6 units to 4 units and would allow for the sale of the units to qualified individuals under the provisions of an amended deed restriction – John Cattles

Call to Order

Roll Call

Approval of the August 21, 2018 Regular Town Council Meeting Minutes

Reports

Manager's Report
Town Council Reports

Mt. Crested Butte/Crested Butte Chamber of Commerce Second Quarter Report – Ashley UpChurch

Living Journeys – Summer 2018 Admissions Tax Grant Report Follow Up – Darcie Perkins

CORRESPONDENCE

OLD BUSINESS-

Discussion and Possible Consideration of the Three Mile Plan – Carlos Velado

NEW BUSINESS –

Discussion and Possible Consideration of a Planned Unit Development Major Alteration Application Submitted by the Board of County Commissioners to amend the existing Planned Unit Development and deed restriction for lot 34, Pitchfork Subdivision aka 100 Big Sky Dr. The alteration would reduce the unit count from 6 units to 4 units and would allow for the sale of the units to qualified individuals under the provisions of an amended deed restriction – John Cattles and Carlos Velado

Discussion and Possible Consideration of a Renewal Lease Lodge Site 17

**REGULAR TOWN COUNCIL MEETING
MT CRESTED BUTTE, COLORADO**

227
September 4, 2018
6:00 PM
COUNCIL CHAMBERS

Discussion and Possible Consideration of Mountain Express Land Purchase

OTHER BUSINESS –

PUBLIC COMMENT – *Citizens may make comments on items not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments are limited to five minutes.*

ADJOURN

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 349-6632 at least 48 hours in advance. Public comment on these agenda items is encouraged.



To: Town Council
 From: Tiffany O'Connell, Town Clerk
 Subject: Town Council Calendar
 Date: August 29, 2018

Calendar

Date	Time	Event	Location	Additional Information
August 30, 2018	4:00PM	Mt. Emmons Mining Company Open House	Crested Butte Town Council Chambers	
September 4, 2018	4:30PM	Joint Work Session with the Crested Butte Town Council	Town Hall	Brush Creek Work Force Housing
September 4, 2018	6:00PM	Regular Town Council Meeting	Town Hall	
September 11, 2018	5:00PM	Special Town Council Meeting	Town Hall	Admissions Tax Grant Requests
September 18, 2018	5:00PM	Work Session	Town Hall	Brush Creek Work Force Housing
September 18, 2018	6:00PM	Town Council Meeting	Town Hall	
November 8, 2018	TBD	Joint Town Council Meeting – Town of Crested Butte, City of Gunnison, Gunnison County Commissioners	TBD	

GUNNISON COUNCIL AGENDA
MEETING IS HEAD AT CITY HALL, 201 W. VIRGINIA AVENUE
GUNNISON, CO, IN THE 2ND FLOOR COUNCIL CHAMBERS
Approximate meeting time: 3 hours

August 28, 2018 **REGULAR SESSION** **5:30 P.M.**

I. Presiding Officer Call Regular Session to Order: (silent roll call by City Clerk):

II. 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.

III. Council Action Items:

A. Approval of the August 14, 2018 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 follow regular session meetings and become permanent city record. If a city councilor was not present no the meeting, they must abstain in the vote and action on approval of the minutes.

Staff contact: City Clerk Erica Boucher

Action Requested of Council: To approve the August 14, 2018 Regular Session meeting minutes.

Estimated time: 1 minute

B. Set a Public Hearing on a Retail Cultivation Establishment License

Application from ALK Holdings, LLC dba OhmGro; 800 West Rio Grande Avenue, Gunnison, for 5:30 p.m. on October 9, 2018

Background: On June 23, 2015, City Council passed Ordinance No. 5, Series 2015, establishing the regulations and process for approving medical and retail marijuana establishments in Gunnison. The State Marijuana Enforcement Division (MED) has issued a Conditional Retail Cultivation Establishment License for the above sited application that is currently under review by City Staff.

Staff contact: City Clerk Erica Boucher

Action Requested of Council: To accept the application for a new Retail Marijuana Cultivation Establishment submitted by ALK Holdings, LLC dba OhmGro located at 800 West Rio Grande Avenue in Gunnison, Colorado and to set a public hearing for 5:30 p.m. on Tuesday, October 9th, 2018.

Estimated time: 3 minutes

C. Abatement and Removal of Vacant Mobile Homes

Background: This topic is based on a previous City Council meeting discussing a part of the strategic plan relating to the maintenance of existing structures and dealing with nuisance issues associated with uninhabitable residences. Staff was directed to compile a list of vacant mobile homes and estimates for the costs associated with the abatement of these mobile homes.

Staff contact: City Building Inspector Eric Jansen

Action Requested of Council: To discuss and provide direct to staff on how to proceed regarding the abatement and removal of vacant mobile homes.

Estimated time: 20 minutes

D. West Gunnison Park and Site Concept Master Plan/Resolution No. 8, Series 2018

Background: The West Gunnison property (Lazy K) was purchased by the City for multiple purposes in 2015, including the creation of a park. In June 2018, the City along with planning consulting firm Design Workshop, solicited public feedback to develop a preferred park plan (Phase I) and to identify land where workforce housing could possibly be developed (Phase II). The creation and execution of a park was deemed priority by the community; therefore, this memo focuses on information and funding relating to Phase I, or park creation, for the Lazy K property.

Staff contact: City Manager Russ Forrest

Action Requested of Council: To approve Resolution No. 8, Series 2018 and to direct staff to pursue grants as appropriate to fund the park plan, specifically a GOCO grant in November 2018.

Estimated time: 15 minutes

E. Final Draft of IOOF Park Preferred Conceptual Plan

Background: Based on the City Council's Strategic Plan (October 10, 2017), City Council tasked staff with the implementation of timely and strategic recommendations to enhance the vitality and prosperity of Gunnison's downtown. It was determined that improving IOOF Park was an important piece to enhancing the downtown area; therefore, the City hired sprout studio LLC to gather public input and to develop designs on how IOOF Park could be redesigned to better fit the needs and desires of the community.

Staff contact: Parks and Rec Director Dan Ampietro

Action Requested of Council: To approve the IOOF Park Preferred Conceptual Plan and to direct staff to move forward with securing funds for construction.

Estimated time: 15 minutes

F. Utility Infrastructure Engineering Assessment

Background: To promote future development and assess the city's utility capacities to serve these developments, a study of existing water, sewer and electrical capacities are needed to gain knowledge into system expansions

required to provide adequate, reliable and economical service to planned developments.

Staff contact: Public Works Director David Gardner

Action Requested of Council: To inform Council and assess if additional appropriations are needed.

Estimated time: 15 minutes

G. Discussion on Policy for Disposal of City-Owned Land/Ordinance No. 10, Series of 2018

Background: The Council at the August 14th Regular Session meeting directed staff to revise the draft policy for their consideration which would also inform the decision to call for a special election on Lazy K.

Staff contact: City Attorney Kathy Fogo

Action Requested of Council: To discuss and potentially approve Ordinance No. 10, Series 2018; Re: An Ordinance of the City Council of the City of Gunnison, Colorado Adopting a Policy for Disposition of City-Owned Property.

Estimated time: 10 minutes

H. Resolution No. 7, Series of 2018 to call a special election to put Lazy K on the ballot and Lazy K ballot language.

Background: Council identified the need for livable and affordable housing as one of its strategic priorities. Approximately 4.3 acres of the West Gunnison property (Lazy K) has been identified as an option for affordable housing. At the August 14th Regular Session meeting, Council directed staff to revise the proposed ordinance to establish a policy for disposal of City-owned Land. After staff revised the ordinance, the ballot language also needed to be revised for consistency.

Staff contact: City Attorney Kathy Fogo

Action Requested of Council: Approve Resolution No. 7, Series 2018, Re: A Resolution of the City Council of the City of Gunnison, Colorado, referring a ballot question to the Qualified Electors of the City of Gunnison to sell or otherwise convey a portion of real property owned by the City at a Special Election to be held on November 6, 2018.

Estimated time: 5 minutes

I. Final Review of Community Survey Questions

Background: Council directed staff to work RRC Associates to develop a community survey to gather feedback on Council's strategic priorities and City services.

Staff contact: City Clerk Erica Boucher

Action Requested of Council: To review a final survey and to give direction to staff to proceed with the execution and distribution of the community survey.

Estimated time: 10 minutes

IV. Council Work/Discussion Items:

- A. Parks and Recreation Semi-Annual Report**
Staff contact: Parks and Rec Director Dan Ampietro
- B. 2nd Quarter Finance Report**
Staff contact: Finance Director Ben Cowan

V. Reports:

City Attorney Report
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. 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.**

Monday, September 17th**Work Session 5PM to 7:30PM**

Presentation by Developers on Block 76 Proposals.

Consent Agenda

Vinotok Special Event Application

Appointment of Creative District Commissioner

RLA for Dillon Wall

New Business

Update from the Chamber

Ordinance – Selling Land to School District

Ordinance – Red Lady Open Space

Purchase Contract with School District

An Ordinance of the Crested Butte Town Council Approving the Cable Television Franchise

Agreement with Time Warner Cable Pacific West LLC, Doing Business as Charter Communications.

Ordinance – Bicycle Operation Approaching Intersections

October 1, 2018**Work Session**

Mike McBride Gunnison County Electric

Slate River Working Group Update on Management Plan

Public Hearing

Water Treatment Plant Upgrades

New Business

Block 76 Developer Selection

Community Survey

October 15, 2018**Work Session**

Budget Discussion

New Business

Initial Presentation of the 2019 Draft Budget

Parking Plan

Future Items

- Quarterly Financial Reports
- Annual Report by the Chair of the Weed Advisory Board on Weed Management in the Town of Crested Butte - November
- Annual Report from the Creative District Commission - October