

ORDINANCE NO. 21

SERIES 2020

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING THE TOWN TO GRANT AN ELECTRICAL UTILITY EASEMENT FOR THE UNDERGROUND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES FOR AN ELECTRICAL TRANSFORMER ON THE TOWN-OWNED PROPERTY AT 606 6TH STREET, CRESTED BUTTE, COLORADO 81224

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 the laws of the State of Colorado;

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

WHEREAS, the Town Director of Public Works and Town staff have recommended to the Town Council that the Town grant an electrical utility easement to Gunnison County Electric Association ("GCEA") under and upon a portion of the Town-owned property where the Center for the Arts is located at 606 6th Street, Crested Butte, Colorado 81224, for purposes of installing and maintaining electrical transmission and distribution lines and related equipment for an electrical transformer located on this Town-owned property; and

WHEREAS, the Town Council hereby finds that it is necessary and suitable, and in the best interest of the Town and the health, safety and welfare of the residents and visitors of Crested Butte, that the Town grant to GCEA the electrical utility easement described in the Underground Right of Way Easement attached hereto as Exhibit A as set forth below.

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

Section 1. Authorization to Grant Easement Upon Town-Owned Property. The Town Council, pursuant to the Crested Butte Town Charter and the laws of the State of Colorado, hereby authorizes the granting of an electrical utility easement to Gunnison County Electric Association ("GCEA") under and upon a portion of the Town-owned property where the Center for the Arts is located at 606 6th Street, Crested Butte, Colorado 81224, for purposes of installing and maintaining electrical transmission and distribution lines and related equipment for an electrical transformer located on this Town-owned property, and authorizes and directs the Town Manager and Town Clerk to appropriately execute any and all documents necessary and appropriate to consummate said conveyance of this easement to GCEA following approval thereof by the Town Attorney.

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases,

words or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

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

INTRODUCED, READ, AND SET FOR PUBLIC HEARING THIS 07th DAY OF July, 2020.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 20th DAY OF July, 2020.

TOWN OF CRESTED BUTTE, COLORADO

By: [Signature]
James A. Schmidt, Mayor

ATTEST: [Signature]
Lynelle Stanford, Town Clerk



UNDERGROUNDRIGHT-OF-WAY EASEMENT

1. GRANT OF EASEMENT.

The undersigned real property owner(s), Town of Crested Butte ("Grantor"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grant(s) to GUNNISON COUNTY ELECTRIC ASSOCIATION, INC., a Colorado cooperative electric association, and to its agents, successors and assigns ("Grantee") (Grantor and Grantee collectively the "Parties"), the following:

A perpetual easement and right-of-way (the "Easement"), running with the land, for the erection, construction, reconstruction, replacement, modification, upgrading, upgrading, removal, maintenance, reasonable expansion and operation of underground electric transmission and distribution lines and any other underground communication or utility facilities, and other equipment and fixtures (collectively the "Lines"), with the right to alter, repair, maintain, upgrade and remove the same, in whole or in part, at any time, which Easement and right-of-way shall extend 4 feet on each side of the center of the line over, across, and under the real property described on the attached Exhibit A (the "Real Property"), situated in Gunnison County, Colorado, and, if available, as more particularly depicted on the plat or drawing attached as Exhibit B, both Exhibits being incorporated by reference. The Easement is subject to the additional provisions set forth below.

2. TERMS OF EASEMENT.

- A. Grantee shall have the right of ingress and egress across the Real Property for any purpose necessary in connection with the erection, construction, reconstruction, replacement, upgrade, removal, maintenance and operation of the Lines and facilities and that such right of ingress and egress shall be considered a covenant which runs with the land. Such ingress and egress shall be exercised in a reasonable manner.
- B. Grantor further grants and conveys to Grantee, its agents, successors and assigns, a non-exclusive easement to use all roads or trails existing on the Real Property, for ingress and egress across Grantor's property, including the right to maintain and repair as necessary in connection with the erection, construction, reconstruction, replacement, removal, upgrade, maintenance and operation of the Lines.
- C. Grantee shall also have the right at any time to cut, remove, clear away, trim and control, by any reasonable means, including machinery or otherwise, any and all trees, brush and shrubbery whether within the Easement or adjacent thereto, which now or hereafter, in the sole and exclusive opinion of Grantee, may interfere with the safe construction, operation and maintenance of the Lines and related equipment used in connection therewith.
- D. Grantee shall also have the right to install, maintain and use gates in all fences which now or might hereafter cross or be adjacent to the Easement.
- E. Grantee shall at all times exercise due care and diligence to avoid damage to the fences, crops, livestock and other personal property on the Real Property.
- F. Grantor, his or her successors, heirs or assigns, shall not allow any building or other structures, hay or haystack, trees or other combustible material or property to remain or to be placed above, under or near the Lines in such a manner as to interfere with the safe operation or maintenance of the Lines or in any such manner as in the opinion of Grantee might result in damage to the property of either party from fire or other cause. Upon receipt of written notice from Grantee identifying material, structures or property deemed by Grantee to interfere with the safe operation or maintenance of the Lines, Grantor, its

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successors, heirs or assigns shall remove the material, structures and property within ten (10) days thereafter. If there is a failure to do so within ten (10) days, Grantee, its agents, successors or assigns shall have the right to remove the material, structures or property and collect the costs of such removal from Grantor, his or her successors or assigns.

G. Grantor, his or her successors, heirs or assigns, agrees that all Lines and other facilities installed by Grantee on the Real Property at Grantee's expense, shall remain the property of Grantee, removable at the sole discretion of the Grantee; provided, however, that any fences, gates, culverts or ditches constructed by Grantee may be conveyed to Grantor on such terms and conditions and at such times as may be mutually agreed upon by Grantor and Grantee.

H. Grantor shall be entitled to the full use and enjoyment of said premises, subject only to the prior rights of Grantee herein conveyed; provided, however, that Grantor its successors, heirs or assigns may require any subsequent grantees who may acquire any interest in the Easement to enter into a joint use and maintenance agreement with Grantee, and that this covenant shall be deemed to run with the land.

I. Grantor covenants that he and/or she is the owner of the lands described in attached Exhibit A, and is or are authorized to execute this Easement, and that this Easement is binding upon the heirs, successors and assigns of Grantor.

J. Grantor shall not alter the grade once the cable has been placed as to cause the cable depth to be deeper than 48 inches or shallower than 36 inches.

IN WITNESS WHEREOF, the undersigned has set his (her) (its) hand(s) on this 20 day of July, 2020.

GRANTOR:

[Signature]
James A. Schmidt, Mayor

ACKNOWLEDGEMENT

STATE OF Colorado)
County of Gunnison) ss

The foregoing instrument was acknowledged before me this 20 day of July, 2020 by James A. Schmidt.

WITNESS my hand and official seal.

My commission expires: 12-18-2020

(SEAL)

[Signature]
Notary Public

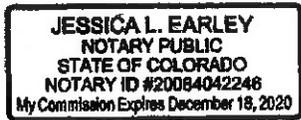


EXHIBIT A - LAND DESCRIPTION - UTILITY EASEMENT

An 8-foot wide Utility Easement situated within Whiterock Avenue and Lots 20 through 21, Block 51, Plat of Town of Crested Butte, recorded September 25, 1964 at Reception No. 260766 of the records of Gunnison County, Colorado, and adjoining the easterly right-of-way line of Sixth Street (a.k.a. Colorado State Highway No. 135) as described and modified by Right of Way Deed recorded July 28, 1952 at Book 291 page 47 (as to Block 51) and Warranty Deed recorded December 13, 1984 at Book 613 page 198 (as to Block 50), with the centerline of said 8-foot wide Utility Easement being more particularly described as follows:

Commencing at the southeasterly boundary corner of "Tract 1" per said Book 291 page 47, also being a point along the easterly right-of-way line of said Sixth Street, and also being a point on the southerly boundary line of said Block 51; thence along said easterly right-of-way line S03°51'31"E a distance of 46.21' to the true point of beginning; thence the following two (2) courses:

- 1) East a distance of 16.54'; thence
- 2) N20°00'15"E a distance of 95.96' to an existing electrical transformer, the point of termination.

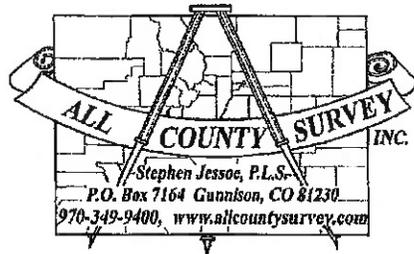
The sidelines of said Easement shall be lengthened or shortened to commence and terminate on, and conform to the easterly right-of-way line of said Sixth Street. Said Easement contains 900 square feet, more or less. Basis of Bearing is based on a record bearing of N89°58'18"E between a yellow plastic cap monument stamped "LS 9476" found at the southwesterly boundary corner of Block 52 and an aluminum cap monument stamped "LS 23502" found at the southeasterly boundary corner of Block 52;

Town of Crested Butte,
County of Gunnison,
State of Colorado.



30 May 2020

Stephen L. Jessoe Date
Colorado Licensed Professional Land Surveyor No. 38048
For and on behalf of All County Survey, Inc.



According to Colorado Law, you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any legal action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

Exhibit B

