

RESOLUTION NO. 2

SERIES 2012

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF CRESTED BUTTE AND MT. CRESTED BUTTE WATER AND SANITATION DISTRICT RE: USE AND MAINTENANCE OF SEWER ROBOTIC TV CAMERA

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, Section 14.5 of the Town Charter permits the Town Council, in pertinent part, by resolution, to enter into agreements with special districts for the joint use of equipment;

WHEREAS, the Town and Mt. Crested Butte Water and Sanitation District (the "**District**"), a Colorado special district, jointly acquired, and have jointly operated and maintained, a certain sewer robotic TV camera and associated equipment for use in their respective waste water systems;

WHEREAS, the Town and the District have not entered into an intergovernmental agreement respecting, without limitation, the ongoing use and maintenance of such TV camera equipment;

WHEREAS, the Town Staff has determined that it is in the best interest of the Town to enter into an intergovernmental agreement with the District respecting, without limitation, the continued ongoing use and maintenance of such TV camera equipment; and

WHEREAS, the Town Council supports entering into an intergovernmental agreement with the District respecting, without limitation, the continued ongoing use and maintenance of such TV camera equipment.

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

(1) Town Council may enter into an intergovernmental agreement in the form attached hereto as **Exhibit "A"** (the "**IGA**") respecting, without limitation, the continued ongoing use and maintenance of the TV camera equipment described therein; and

(2) Mayor may execute the IGA with only such changes as are approved by the Town Attorney.

INTRODUCED, READ AND ADOPTED BY THE TOWN COUNCIL THIS 3RD DAY OF JANUARY, 2012.

TOWN OF CRESTED BUTTE, COLORADO

By: *Aaron J. Huckstep*
Aaron J. Huckstep, Mayor

ATTEST
Eileen Hughes
Eileen Hughes, Town Clerk

(SEAL)



EXHIBIT "A"

IGA

[attach form of IGA here]

INTERGOVERNMENTAL AGREEMENT

BETWEEN

**TOWN OF CRESTED BUTTE
AND
MT. CRESTED BUTTE WATER AND SANITATION**

**RE:
USE AND MAINTENANCE OF SEWER ROBOTIC TV CAMERA**

3rd THIS AGREEMENT ("Agreement") is entered into in Gunnison County, Colorado this day of JANUARY, 2012 as follows:

1. **PARTIES**. The parties to this Agreement are:

TOWN OF CRESTED BUTTE ("Town"), a Colorado home rule municipality

and

MT. CRESTED BUTTE WATER AND SANITATION DISTRICT, a Colorado special district ("District"; together with the Town, collectively the "Parties", each sometimes individually referred to as a "Party").

2. **RECITALS**. The following recitals apply to this Agreement:

2.1 The Town is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic by virtue of the constitution and laws of the State of Colorado.

2.2 The District is a duly organized special district existing under and by virtue of the statutes of the State of Colorado.

2.3 The Town provides sanitation services and maintains and operates a waste water treatment plant to provide such services to the Town and its contractually designated service area.

2.4 The District provides sanitation services and maintains and operates a waste water treatment plant to provide services within its boundaries and its contractually designated service area.

2.5 On March 25, 1997 the Town and the District entered into that certain Intergovernmental Agreement Re: Purchase and Use of Trailer Jet ("IGA").

2.6 Pursuant to the IGA, the Parties jointly purchased, and set forth the ongoing rights for the use of, and maintenance obligations for, the Trailer Jet, as defined in the IGA, with equipment, for use in their respective waste water systems.

2.7 The Parties jointly own certain sewer robotic TV camera and associated equipment ("**Camera Equipment**") for use in their respective waste water systems, but have not entered into an intergovernmental agreement respecting the ongoing rights for, without limitation, the use of, and maintenance obligations for, the Camera Equipment.

2.8 The District has made certain upgrades and improvements to the Camera Equipment costing the District \$34,000.00. The Town's share of the costs of such upgrades and improvements is one-half (1/2) of such amount, or \$17,000.00. The Town shall pay the District \$17,000.00 for its share of the costs of upgrades and improvements to the Camera Equipment within fifteen (15) days of the date first written above.

2.9 The Parties now desire to enter into this Agreement in order to set forth the ongoing rights for the use of, and maintenance obligations for, the Camera Equipment.

3. **AGREEMENT**. The Parties have entered into this Agreement to set forth their respective duties and obligations, rights and privileges.

4. **CAMERA EQUIPMENT**. The Parties have purchased that certain Camera Equipment described as:

A mobile sewer inspection system consisting of:

- CDL-9000 Datalogger System
- Cobra Technologies Portable Control Unit
- Cobra Technologies RCU/ Reel Control Unit
- Cobra Technologies Robotic Sewer Camera with Pan/Tilt Head
- Pace American 8' utility trailer (VIN 4FPFB0813WG024790)

5. **MAINTENANCE EXPENSES**. Each Party shall keep the other Party informed of damage or breakage that occurs to the Camera Equipment within twenty fours (24) hours of learning of such damage or breakage. The Parties must reasonably agree on incurring any maintenance expenses for the Camera Equipment greater than \$2,500.00 in advance of incurring such expenses, and each Party shall be responsible for one-half (1/2) of such expenses. The requested Party shall pay its share of such expenses to the requesting Party within thirty (30) days after receiving an invoice for such expenses.

6. **PERIODS OF USE**. The Parties shall reasonably agree on the periods of time that each Party shall have use of the Camera Equipment.

7. **COSTS OF OPERATION; DAMAGE WHILE IN A PARTY'S POSSESSION**. Each Party assumes responsibility for the Camera Equipment during its possession thereof. It shall be the responsibility of each Party to inspect the Camera Equipment for any damage prior to such Party taking possession thereof. Each Party shall pay the costs of operating the Camera Equipment during the time that such Party has use of it. If the Camera Equipment is damaged, the Party with custody of the Camera Equipment when the same was damaged shall bear the costs and expense of repairing said Camera Equipment.

8. **STORAGE**. The Parties shall reasonably agree on the storage of the Camera Equipment in a fashion that prevents damage to it.

9. **USE BY OTHERS**. The Camera Equipment may not be loaned to a third party.

10. **DESTRUCTION OF CAMERA EQUIPMENT; TERMINATION**.

10.1 If the Camera Equipment becomes obsolete, or is destroyed or damaged beyond reasonable repair, the Parties shall each be entitled to one-half (1/2) of its salvage value, if any. If the Camera Equipment is damaged by a Party, and such damage is reasonably deemed irreparable, the Party responsible for such damage shall forfeit its share of the salvage value of the Camera Equipment.

10.2 If either Party determines in the future that it no longer can or desires to utilize the Camera Equipment, it shall give the other party no less than sixty (60) days' prior written notice of the date it intends to cease use of the Camera Equipment and thereafter, this Agreement shall be deemed terminated and the other party shall retain sole ownership of the Camera Equipment. The notifying Party shall nevertheless remain responsible for its share of the costs incurred under this Agreement prior to such termination.

11. **ANNUAL REVIEW**. The Parties shall review the use of the Camera Equipment annually during budget discussions, and as appropriate may amend the provisions of this Agreement no later than September 1 of every other year, commencing in September, 2012.

12. **NOTICES**. All notices and other communications required or permitted under this Agreement shall be in writing and shall be, as determined by the person giving such notice, either hand delivered, mailed by registered or certified mail, return receipt requested, or by telecopier or telegraphic communication to the required Party at the following addresses:

TOWN: P.O. Box 39
Crested Butte, CO 81224-0187
Attn: Town Manager

DISTRICT: P.O. Box E
Mt. Crested Butte, CO 81225
Attn: Manager

Notice shall be deemed delivered at the time of personal delivery, telecopier or telegraphic

communication or when mailed to the required Party. Either Party may change its address by giving written notice of a change of address to the other Party in the manner above provided.

13. **ENTIRE AGREEMENT**. This Agreement constitutes the entire and only agreement between the Parties. All prior negotiations, agreements, representations and understandings, whether written or oral, are merged into and superseded by this Agreement and shall be of no further force or effect.

14. **AMENDMENT**. This Agreement cannot be modified, amended or changed in any manner except by an agreement in writing signed by the Parties hereto.

15. **APPLICABLE LAW**. This Agreement is executed in Gunnison County, Colorado, and shall be interpreted, construed and governed by the laws of the State of Colorado. Any dispute shall be brought in the District Court for Gunnison County, State of Colorado.

16. **JURISDICTION AND VENUE**. Jurisdiction and venue in any action as to this Agreement and the interpretation, enforcement or the determination of the rights and duties of the Parties hereto shall be in the District Court of Gunnison County, Colorado.

17. **ATTORNEYS' FEES**. If any legal action is commenced or maintained in court, whether in law or in equity, by either party to this Agreement as to the interpretation, enforcement, construction or the determination of the rights and duties of the Parties to this Agreement or any document provided for herein, the substantially prevailing Party in any such action shall be awarded its reasonable attorneys' fees together with all reasonable costs and expenses incurred in such action.

18. **TERMINATION**. This Agreement and the terms and conditions hereof shall remain in full force and effect until fully performed by the Parties, and it is understood and agreed that the terms and conditions of this Agreement shall not be merged nor extinguished by any instrument of conveyance or assignment.

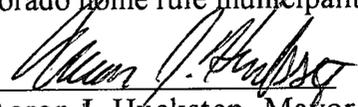
19. **BINDING AGREEMENT**. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns and legal representatives.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Parties have entered into this Agreement effective as of the date first written above.

TOWN:

TOWN OF CRESTED BUTTE,
a Colorado home rule municipality

By: 
Aaron J. Huckstep, Mayor

DISTRICT:

**MT. CRESTED BUTTE WATER AND
SANITATION DISTRICT,** a Colorado
special district

By: 
Frank Glick, Manager