

ORDINANCE NO. 20

SERIES 2008

AN ORDINANCE APPROVING AND
ACCEPTING AN AMENDMENT TO THE DEED
OF CONSERVATION EASEMENT GIVEN TO
THE TOWN BY HIDDEN MINE RANCH, LLC

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

WHEREAS, the Town and Hidden Mine Ranch, LLC ("Hidden Mine") entered into that certain Deed of Conservation Easement recorded in the real property records of the Office of the Clerk and Recorder of Gunnison County, Colorado on December 26, 2007 at Reception No. 581212 (the "Easement") by which the Town accepted a conservation easement in and to that certain real property described therein (the "Conservation Area");

WHEREAS, the Town staff has determined that the diagramed description of the Conservation Area in the Easement does not contain an adequate legal description of said Conservation Area and, accordingly, the Easement requires an amendment that includes such an adequate legal description of said Conservation Area;

WHEREAS, the Town staff has determined that amending the Easement as contemplated herein will uphold and enhance the Conservation Values of the Easement and the Conservation Area; and

WHEREAS, the Town Council finds that the amendments to the Easement provided for herein will uphold and enhance the Conservation Values of the Easement and the Conservation Area as determined by the Town staff and accordingly are in the best interest of the health, safety and welfare of the Town, its residents and visitors.

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

Section 1. Acceptance and Amendment to Easement. The Town Council hereby approves and accepts the Amendment to Deed of Conservation Easement attached hereto as Exhibit "A".

Section 2. Authorization for Execution. The Town Council hereby authorizes the Mayor, the Mayor Pro tem and other appropriate Town officials to

execute and deliver any and all documents necessary and convenient for the purpose of accepting and entering into the Amendment to Easement.

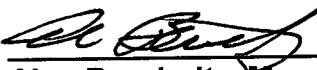
Section 3. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions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

Section 4. Savings Clause. Except as amended hereby, the Town of Crested Butte Municipal Code of 1987, 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 6th DAY OF October, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 20th DAY OF October, 2008.

TOWN OF CRESTED BUTTE,
COLORADO

By: 
Alan Bernholtz, Mayor

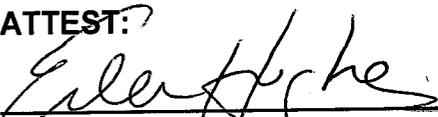
ATTEST:

Eileen Hughes, Town Clerk



EXHIBIT "A"

Amendment to Deed of Conservation Easement

[attach here]

9/22/08
to record 10/21/08

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

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

AMENDMENT TO DEED OF CONSERVATION EASEMENT

THIS AMENDMENT TO DEED OF CONSERVATION EASEMENT

("Amendment") is made this ^{21st} day of OCT, 2008 by HIDDEN MINE RANCH, LLC, a Colorado limited liability company, having an address of P.O. Box 3642, Crested Butte, Colorado 81224 ("Grantor"), in favor of the TOWN OF CRESTED BUTTE, COLORADO, a body politic and corporate, having an address of P.O. Box 39, Crested Butte, Colorado 81224 ("Grantee").

RECITALS:

- A. Grantor and Grantee entered into that certain Deed of Conservation Easement recorded in the real property records of the Office of the Clerk and Recorder Gunnison County, Colorado on December 26, 2007 at Reception No. 581212 (the "Easement"), said Easement encumbering that certain real property described therein (the "Conservation Area").
- B. The parties have determined that the diagramed description of the Conservation Area in the Easement does not contain an adequate legal description of said Conservation Area and, accordingly, the Easement requires an amendment that includes such an adequate legal description of said Conservation Area.
- C. The parties have determined that amending the Easement as contemplated herein will uphold and enhance the Conservation Values of the Easement and the Conservation Area.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and in the Easement, the parties hereto agree as follows:

1. Amendment to Description of Conservation Area. The description of the Conservation Area contained in the Easement is hereby amended and shall be as described in Exhibit "B" attached hereto and incorporated herein.
2. Continued Effect. Except as amended hereby, the original Easement and any covenants, terms, conditions and restrictions contained therein shall remain in full force and effect, the same being ratified and re-affirmed hereby.

3. Recording. Grantee shall record this instrument in a reasonably timely fashion in the official records real property records of the Clerk and Recorder of Gunnison County, Colorado.
4. Capitalized Terms. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Easement.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Amendment to Deed of Conservation Easement to be effective as of the day and year first above written.

GRANTOR:

HIDDEN MINE RANCH, LLC,
a Colorado limited liability company

By: *Clifford Michael Higgins*
Clifford Michael Higgins, Manager

GRANTEE:

TOWN OF CRESTED BUTTE,
a Colorado home rule municipality

By: *Alan Bernholtz*
Alan Bernholtz, Mayor

ATTEST: *Eileen Hughes*
Eileen Hughes, Town Clerk

(SEAL)

STATE OF OKLAHOMA)
) SS.
COUNTY OF OKLAHOMA)

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Clifford Michael Higgins, Manager of Hidden Mine Ranch, L.L.C., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

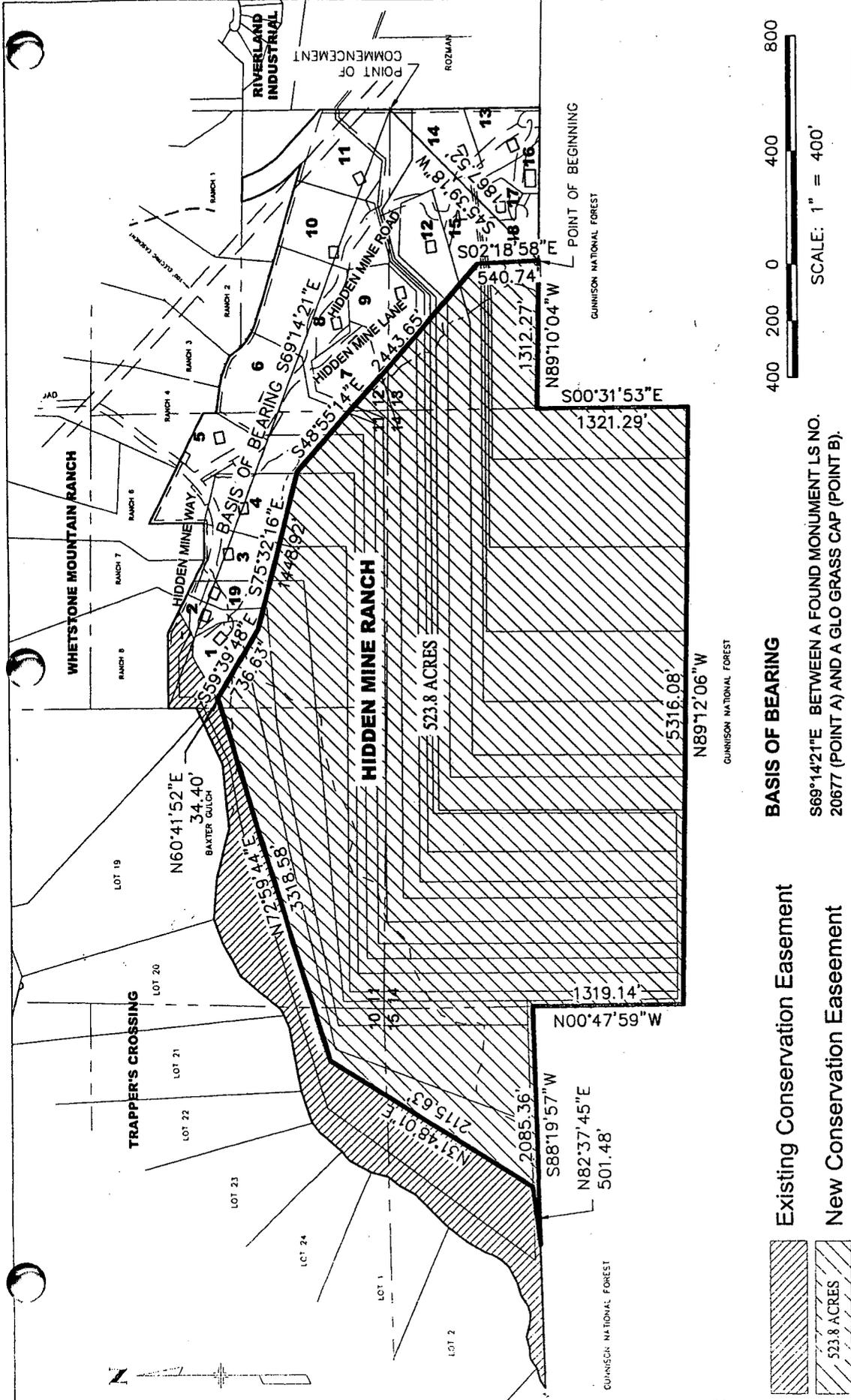
GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 20 day of October
2008

My Commission Expires:
09/18/2008



Joyce Gerald
Notary Public

9/28/08

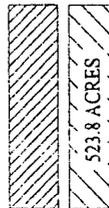


BASIS OF BEARING

$S69^{\circ}14'21''E$ BETWEEN A FOUND MONUMENT LS NO. 20677 (POINT A) AND A GLO GRASS CAP (POINT B).

Existing Conservation Easement

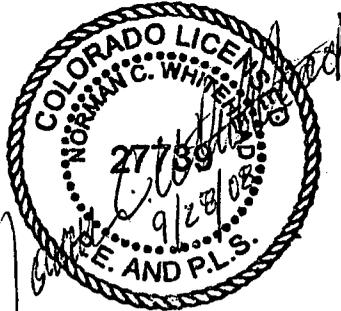
New Conservation Easement



A parcel of land situated in Sections 10, 11, 12, 13, 14 and 15, Township 14 South, Range 86 West of the 6th Principal Meridian, County of Gunnison, State of Colorado, being more particularly described as follows:

Commencing at a U.S.G.L.O. brass cap for the quarter corner common to said Section 12 and said Section 13; thence S45°39'18"W a distance of 1,867.52 feet to the POINT OF BEGINNING; thence along the outer boundary of Hidden Mine Ranch the following 5 courses: 1) N89°10'04"W a distance of 1,312.27 feet; 2) S00°31'53"E a distance of 1,321.29 feet; 3) N89°12'06"W a distance of 5,316.08 feet; 4) N00°47'59"W a distance of 1,319.14 feet; 5) S88°19'57"W a distance of 2,085.36 feet; thence along an existing conservation easement the following 4 courses: 1) N82°37'45"E a distance of 501.48 feet; 2) N31°48'01"E a distance of 2,115.63 feet; 3) N72°59'44"E a distance of 3,318.58 feet; 4) N60°41'52"E a distance of 34.40 feet; thence along the Hidden Mine Ranch Open Space Easement the following 4 courses: 1) S59°39'48"E a distance of 736.63 feet; 2) S75°32'16"E a distance of 1,448.92 feet; 3) S48°55'14"E a distance of 2,443.65 feet; 4) S02°18'58"E a distance of 540.74 feet to the POINT OF BEGINNING.

Containing 523.8 acres, more or less.



BY: _____
NCW & Associates, Inc.
NORMAN C. WHITEHEAD
REGISTERED LAND SURVEYOR
COLORADO NO. 27739