

RESOLUTION NO. 20

SERIES NO. 2016

RESOLUTIONS OF THE CRESTED BUTTE TOWN
COUNCIL APPROVING THE GRANT OF A
REVOCABLE LICENSE AGREEMENT TO EAST OF
IRWIN, LLC FOR THE PLACEMENT OF A PORCH IN
THE MAROON AVENUE PUBLIC RIGHT OF WAY
ADJACENT TO 214 MAROON AVENUE

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 has recommended to the Town Council that it grant a revocable license to encroach into the public right of way on Maroon Avenue with a porch structure adjacent to portions of 214 Maroon Avenue to the record title owner thereof, East of Irwin, LLC; and

WHEREAS, the Town Council finds hereby that granting a revocable license to encroach into the public right of way on Maroon Avenue with a porch structure adjacent to portions of 214 Maroon Avenue to the record title owner thereof is in the best interests of the Town.

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

1. **Findings.** The Town Council finds hereby that granting a revocable license to encroach into the public right of way on Maroon Avenue with a porch structure adjacent to portions of 214 Maroon Avenue to the record title owner thereof, East of Irwin, LLC, is in the best interests of the Town.

2. **Authorization of Mayor.** Based on the foregoing findings, the Town Council hereby authorizes the Mayor to execute the "Revocable License Agreement" in substantially the same form as attached hereto as **Exhibit "A."**

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS
5th DAY OF July, 2016.

TOWN OF CRESTED BUTTE, COLORADO

By: Glenn Michel
Glenn Michel, Mayor

ATTEST



Lynelle Stanford, Town Clerk

(SEAL)



EXHIBIT "A"

Revocable License Agreement

[attach approved form here]

RECORDING REQUESTED BY: [REDACTED]

WHEN RECORDED RETURN TO:

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

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT (this "Agreement") is made and entered into this 26 day of July, 2016, by and between the TOWN OF CRESTED BUTTE, COLORADO ("Licensor"), a Colorado home rule municipality with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 and EAST OF IRWIN LLC ("Licensee"), a Colorado limited liability company with an address of 215 Elk Avenue, P.O. Box 187, Crested Butte, CO 81225.

RECITALS:

A. Licensee is the fee title owner of certain real property more particularly described as:

Lots 9, 10 and 11, Block 21, TOWN OF CRESTED BUTTE, EXCEPTING THEREFROM the East 1' of the South 20' of Lot 9, Block 21, Town of Crested Butte, County of Gunnison, State of Colorado,

commonly known as 214 Maroon Avenue, Crested Butte, Colorado 81224 (the "Premises").

B. The Premises is bound by that certain public right of way known as Maroon Avenue (the "Public Property").

C. Licensee has requested the right to construct and install, and keep and maintain certain improvements in the Public Property.

D. The Town is willing to allow Licensee to keep and maintain such improvements in the Public Property, subject to certain conditions and requirements.

NOW, THEREFORE, for and in consideration of the covenants, terms, conditions and requirements set forth herein, the sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

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

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

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT (this "**Agreement**") is made and entered into this 13 day of July, 2016, by and between the **TOWN OF CRESTED BUTTE, COLORADO** ("**Licensor**"), a Colorado home rule municipality with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 and **EAST OF IRWIN LLC** ("**Licensee**"), a Colorado limited liability company with an address of 215 Elk Avenue, P.O. Box 187, Crested Butte, CO 81225.

RECITALS:

A. Licensee is the fee title owner of certain real property more particularly described as:

Lots 9, 10 and 11, Block 21, TOWN OF CRESTED BUTTE,
EXCEPTING THEREFROM the East 1' of the South 20' of Lot 9, Block 21,
Town of Crested Butte,
County of Gunnison,
State of Colorado,

commonly known as 214 Maroon Avenue, Crested Butte, Colorado 81224 (the "**Premises**").

B. The Premises is bound by that certain public right of way known as Maroon Avenue (the "**Public Property**").

C. Licensee has requested the right to construct and install, and keep and maintain certain improvements in the Public Property.

D. The Town is willing to allow Licensee to keep and maintain such improvements in the Public Property, subject to certain conditions and requirements.

NOW, THEREFORE, for and in consideration of the covenants, terms, conditions and requirements set forth herein, the sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

4. **Assumption of Risk**. Licensee assumes all risk of damage to property or injury to persons, including death, in connection, whether directly or indirectly, with the License. In the event of any such damage or injury, Licensee agrees to pay all costs related thereto, including, without limitation, reasonable attorneys' fees.
5. **Indemnification**. By execution of this License, Licensee, for itself and its successors, hereby agrees to indemnify, defend and hold harmless Licensor, its elected officials, employees, contractors, agents, insurers, insurance pools and attorneys against any and all claims, suits, damages, costs, losses and expenses, including reasonable attorneys' fees, in connection with any personal injury, including death, or property damage, arising out of or connected in any way with, whether directly or indirectly, the License and Licensee's use of the Public Property.
6. **Insurance**.

6.1. At its sole cost and expense, Licensee shall obtain and keep in force from the date first written above until termination of this Agreement "all-risk" property coverage naming Licensee and Licensor as their interests may appear.

6.2. At its sole expense, Licensee shall obtain and keep in force from the date first written above until termination of this Agreement commercial general liability insurance with a combined single limit of not less than \$1,000,000.00 for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring Licensee and Licensor, including, without limitation, coverage for contractual liability, broad form property damage and non-owned automobile liability, with respect to the Public Property. The insurance shall be noncontributing with any insurance that may be carried by Licensor and shall contain a provision that Licensor, although not named as a primary insured, shall nevertheless be entitled to recover under the policy for any loss, injury, cost or damage to Licensor, or the property of the same.

6.3. All insurance required herein and all renewals thereof shall be issued by companies authorized to transact business in the State of Colorado and rated at least A+ Class X by Best's Insurance Reports (property liability) or otherwise approved by Licensor in writing. All insurance policies shall be subject to approval by Licensor as to form and substance, shall expressly provide that the policies shall not be canceled without 30 days' prior written notice to Licensor and shall provide that no act or omission of Licensor that would otherwise result in forfeiture or reduction of the insurance shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained. Licensee may satisfy

removal, street or alley maintenance, street or alley repairs and improvements and utility installation, maintenance and repairs.

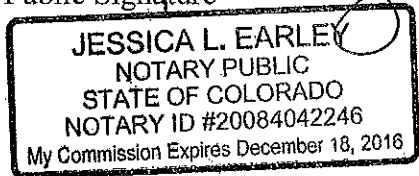
9. **No Assignment.** This Agreement and the License granted hereunder shall not be assignable or transferrable by Licensee without Licensor's prior written consent; provided that, Licensee may transfer Licensee's property without first obtaining consent from Licensor and the rights and obligations contained under this License shall inure to Licensee's successor in interest without further action by the parties of such successor in interest. Failure to obtain Licensor's consent to such assignment or transfer as required shall make such assignment or transfer void *ab initio*.
10. **Subject to Laws.** This License is subject to all State and municipal laws as they now exist or may hereafter be amended.
11. **Licensee Representations.** Licensee represents and warrants that: (a) it is duly qualified to do business and is in good standing in the State of Delaware; (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement; (c) the individual executing this Agreement has the full power and authority to do so; and (d) the Agreement does not violate any other obligation of Licensee.
12. **Notices.** All notices required pursuant to this Agreement shall be deemed served upon depositing a certified letter, return receipt requested, in the United States mail, addressed to the party being served with such notice at the addresses set forth above, unless a request to mail to a different address is provided in writing to the other party.
13. **Prevailing Party.** In the event of any dispute between the parties in connection with this License, the non-prevailing party shall pay the prevailing party all costs and expenses, including, without limitation, reasonable attorneys' fees, costs and expenses, incurred in such dispute.
14. **Entire Agreement; Amendment.** This Agreement represents the entire agreement of the parties respecting the subject matters addressed herein. This Agreement may be amended only in writing by properly executed agreement.
15. **Successors and Assigns.** The rights and obligations of the parties shall inure to the benefit and burden to the parties' successors and permitted assigns.
16. **No Waiver.** No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

STATE OF Colorado)
COUNTY OF Gunnison) ss.

The foregoing Revocable License Agreement was acknowledged before me this 25 day of July, 20 16 by Glenn Michel, Mayor of the Town of Crested Butte, a Colorado home rule municipality, on behalf of said entity.

WITNESS my hand and official seal.
My commission expires: 12-18-2016

Jessica L. Earley
Notary Public Signature

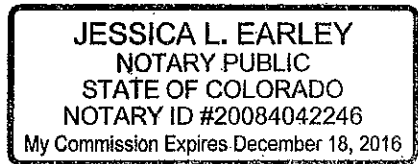


STATE OF Colorado)
COUNTY OF Gunnison) ss.

The foregoing Revocable Encroachment License Agreement was acknowledged before me this 13 day of July, 20 16 by Victoria B. Church, Member and Manager of East of Irwin LLC, a Colorado limited liability company, on behalf of said entity.

WITNESS my hand and official seal.
My commission expires: 12-18-2016

Jessica L. Earley
Notary Public Signature



MAROON AVENUE

