

RESOLUTION NO. 21

SERIES 2021

A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL APPROVING AN AMENDMENT TO THE TELECOMMUNICATIONS FACILITIES LEASE WITH VISIONARY COMMUNICATIONS, INC. FOR THE INSTALLATION OF FACILITIES AND TRANSMISSION OF INTERNET AND OTHER TELECOMMUNICATIONS SERVICES IN THREE TOWN OWNED PROPERTIES

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; and,

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

WHEREAS, pursuant to C.R.S. Section 31-15-713(c), the Town Council may lease any real property, together with any facilities thereon, owned by the Town when the Town Council determines lease to be in the best interest of the Town; and,

WHEREAS, on August 16, 2021, the Town Council approved Ordinance No. 15, authorizing the Town to enter into a five year Telecommunications Facilities Space Lease between the Town and Visionary Communications, Inc., involving three Town owned properties located at 801 Butte Avenue (the Town Shops) and 508 Maroon Avenue (the Marshal’s Offices) and 601 Elk Avenue (the Crested Butte Visitors Center), in Crested Butte, Colorado for purposes of providing Internet and other telecommunications services in the Town and for the Town; and

WHEREAS, the representatives of the Town and Visionary Communications determined after the Lease was approved and signed that the parties needed to make certain amendments to the Lease in order to clarify the levels of Internet service that can be provided to certain Town owned properties and steps Visionary Communications will take to improve the levels of service to two of the eight Town owned properties identified in Paragraph 1(b) of the Lease; and

WHEREAS, Ordinance No. 15 directs the Town Manager and Town Clerk to execute any and all documents necessary and appropriate to consummate said Agreement with Visionary Communications following approval thereof by the Town Attorney; 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 amend Paragraph 1(b) of the previously approved Lease with Visionary Communications, Inc., per the Lease Amendment attached hereto as **Exhibit A**.

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

Section 1. Authorization To Amend Ground Lease 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 Town to enter into the written amendment to the Telecommunications Facilities Space Lease with Visionary Communications, Inc. in the form attached hereto as **Exhibit A**, and authorizes and directs the Town Manager and Town Clerk to appropriately execute any and all documents necessary and appropriate to consummate this Amendment with Visionary Communications, Inc., following approval thereof by the Town Attorney.

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this Resolution 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 Resolution, or the validity of this Resolution shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

INTRODUCED, READ AND ADOPTED BY THE TOWN COUNCIL THIS 4th DAY OF October, 2021.

TOWN OF CRESTED BUTTE, COLORADO

By: [Signature]
James A. Schmidt, Mayor

ATTEST: [Signature]
Lynelle Stanford, Town Clerk

[SEAL]



AMENDMENT TO TELECOMMUNICATIONS FACILITIES SPACE LEASE

THIS AMENDMENT TO TELECOMMUNICATIONS FACILITIES SPACE LEASE ("Amendment"), dated the 4th day of October, 2021 (the "Effective Date"), is entered into by the Town of Crested Butte, a Colorado home rule municipality, having an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 ("Town") and Visionary Communications, Inc., a Wyoming corporation, having an address of 1001 S. Douglas Highway, #201, Gillette, WY 82716, and a local address of 108 E. Tomichi, Gunnison, CO 81230 ("Visionary").

BACKGROUND:

A. On August 16, 2021, the Town Council approved Ordinance No. 15, Series 2021, authorizing the Town to enter into a Telecommunications Facilities Lease with Visionary and the parties executed the Lease. Following execution of the Lease, representatives of the Town and Visionary determined that the levels of broadband and other services to be delivered to the Town as consideration for the Lease needed to be amended.

B. The Town and Visionary desire to enter into this Amendment in order to clarify the levels of service that Visionary can and will provide to the Town owned properties identified in Paragraph 1(b) of the Lease, as set forth herein.

LEASE AMENDMENT:

Town and Tenant agree to amend and replace Paragraph 1(b) of the Lease as follows:

1. LEASE.

(b) In consideration of Town granting Tenant the Lease during the Initial Lease Term defined below, Tenant agrees to deliver to the Town 100 MB of broadband service, static IP services and DNS services (the "Service") to Town Hall, the Marshal's Offices, Transit Center, the Town Shops, the Town Public Works Facility, and two locations named "Landtrust." Tenant agrees to deliver 50 MB of the Service to the Town Wastewater Facility and The Dcpot until such time as Tenant can upgrade the networks for these two locations to allow for delivery of 100 MB of Service. Tenant has ordered the equipment to upgrade the Service for these two locations but has not yet received the equipment due to supply chain delays. Such Service shall be subject to Town's acceptance in its sole and absolute discretion. The Lease will be for a term (the "Lease Term") of five (5) years commencing on the Effective Date and may be renewed by written agreement of Town and Tenant for an additional five (5) years upon terms agreed to by the parties prior to the expiration date of the Initial Lease Term.

Except as amended herein, the terms of the Lease previously signed by the Town and Visionary will remain in full force and effect.

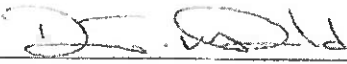
The Town and Visionary execute this Amendment to Telecommunications Facilities Space Lease Agreement effective as of October 4, 2021.


TOWN:

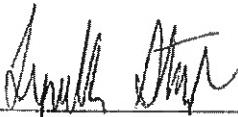
TENANT:

TOWN OF CRESTED BUTTE

VISIONARY COMMUNICATIONS, INC..

By: 
Dara T. MacDonald, Town Manager

By: 
Brian Worthen, President/CEO

Attest: 
Lynelle Stanford, Town Clerk

(SEAL)

