



AGENDA

MEETING OF THE MINTURN TOWN COUNCIL

**Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645**

Wednesday March 18, 2020

**Work Session – 5:30pm
Regular Session – 6:30pm**

**MAYOR – John Widerman
MAYOR PRO TEM – Earle Bidez**

COUNCIL MEMBERS:

Terry Armistead
George Brodin
Brian Eggleton
Eric Gotthelf
Chelsea Winters

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Work Session – 5:30pm

- Discussion of proposed Ordinance 05 – Series 2020 An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three Single Family Equivalents – Metteer pg 62

Regular Session – 6:30pm

1. Call to Order

- Roll Call
- Pledge of Allegiance

- #### **2. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)**

3. Approval of Consent Agenda

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

- March 4, 2020 Minutes pg 4
- Resolution 09 – 2020 a Resolution expressing support for ECO Transits FY2020 FTA 5339(b) buses and bus facilities grant program to acquire tow (2) new 40' transit buses pg 12
- Resolution 10 – 2020 a Resolution approving the purchase of a water distribution leak detection system. pg 15

4. Approval of Agenda

- Items to be Pulled or Added
- Declaration of Conflicts of Interest

5. Special Presentations

- Avon to Gilman Transmission Line Public Scoping Process update – Adam Bianchi, Deputy District Ranger, White River National Forest, USDA
- Council Comments/Committee Reports

PUBLIC HEARINGS AND/OR ACTION ITEMS

6. **Public Hearing/Action Item:** Resolution 11 – Series 2020 A Resolution appointing a municipal judge – Metteer pg 18
7. **Public Hearing/Action Item:** Ordinance No. 03 – Series 2020 (First Reading) an Ordinance amending sections of the Minturn Municipal Code pertaining to the “Mountaintop area” – Metteer pg 38
8. **Public Hearing/Action Item:** Ordinance No. 04 – Series 2020 (First Reading) An Ordinance Amending Chapter 8 of the Minturn Municipal Code to Adopt the 2020 Model Traffic Code for Colorado with Local Amendments – Peterson-Cremer pg 62
9. **Public Hearing/Action Item:** Resolution 12 – Series 2020 A Resolution approving an Electronic Participation Policy at Town Council meetings during a local disaster emergency – Peterson-Cremer pg 69
10. **Public Hearing/Action item:** Resolution 13 – Series 2020 A Resolution Approving Supporting the Governor’s Declaration of Emergency – Peterson-Cremer pg 76

- 11. Public Hearing/Action Item:** Ordinance 05 – Series 2020 An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three Single Family Equivalents – Metteer pg 78

COUNCIL INFORMATION / UPDATES

12. Staff Updates

- Manager's Report
- Future Agenda Items pg 83

EXECUTIVE SESSION

- 13. Executive Session: An Executive Session for the purpose of conferencing with the Town Attorney for the purpose of receiving legal advice on a specific legal question under CRS Section 24-6-402(4)(b) – Bolts Lake and Water Issues – Winokur/Metteer**

MISCELLANEOUS ITEMS

14. Future Meeting Dates

- a) Council Meetings:
- March 18, 2020
 - April 1, 2020
 - April 15, 2020

15. Other Dates:

- Candidate Forum – March 19, 2020
- Municipal Election – April 7, 2020

16. Adjournment



OFFICIAL MINUTES

MEETING OF THE MINTURN TOWN COUNCIL

**Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645**

Wednesday March 4, 2020

Executive Session – 5:30pm

Regular Session – 6:30pm

MAYOR – John Widerman

MAYOR PRO TEM – Earle Bidez

COUNCIL MEMBERS:

Terry Armistead

George Brodin

Brian Eggleton

Eric Gotthelf

Chelsea Winters

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645.

The Minturn Town Council will open the Regular Meeting at 5:30pm for the purpose of convening into Executive Session. At (approximately) 6:30pm the Council will convene into Regular Session for the remainder of the meeting.

Executive Session – 5:30pm

The meeting was called to order by Mayor John W. at 5:30pm and convened in the upstairs Conference Room.

Those present include: Mayor John Widerman, Mayor Pro Tem Earle Bidez and Town Council members George Brodin, Brian Eggleton, Terry Armistead, and Eric Gotthelf. Note Chelsea W. was excused absent.

Staff present: Town Manager Michelle Metteer, Town Attorney Michael Sawyer, and Town Water Attorney Meghan Winokur.

1. Executive Session: An Executive Session for the purpose of conferencing with the Town Attorney for the purpose of receiving legal advice on a specific legal question under CRS Section 24-6-402(4)(b) – Water Issues – Metteer

Motion by Terry A., second by George B., to convene in Executive Session for the purposes of conferencing with the Town attorney(s) for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b). Water Issues; as presented. Motion passed 6-0. Note Chelsea W. was excused absent.

The Council met in the Conference room for the Executive Session. At 6:28pm the Council adjourned the Executive session and convened in the Council Room for the public portion of the Council meeting.

Regular Session – 6:30pm

2. Call to Order

- Roll Call

The meeting was called to order by Mayor John W. at 6:38pm in the Council Chambers.

Those present include: Mayor John Widerman, Mayor Pro Tem Earle Bidez and Town Council members George Brodin, Brian Eggleton, Terry Armistead, and Eric Gotthelf. Note Chelsea Winters was excused absent.

Staff present: Town Manager Michelle Metteer, Attorney Michael Sawyer, Town Planner Scot Hunn, and Town Treasurer/Town Clerk Jay Brunvand.

- Pledge of Allegiance

3. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)

Mr. Tim McGuire, Battle Mtn, updated on the Bolts Lake area. They have been meeting with numerous parties, over 50 individuals. They are listening to gain insight if the project should stay in town or continue with the Disconnect process. This process will continue with the goal of determination. If things continue as they have, they will be submitting a proposal to move forward with the development within Minturn. Brian E. asked who from Battle Mtn has been involved; Mr. McGuire and others as available. John W. recommended anyone with questions to contact them.

4. Approval of Consent Agenda

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item please tell me now and I will remove the item from the Consent Agenda and place it

in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

- February 19, 2020 Minutes
- Resolution No. 08 – Series 2020 a Resolution approving the Holy Cross Energy Community Enhancement funds toward the improvement of sidewalks - Metteer

Motion by Terry A., second by Brian E., to approve the Consent Agenda of March 4, 2020 as presented. Motion passed 6-0. Note: Chelsea Winters was excused absent.

5. Approval of Agenda

- Items to be Pulled or Added

Move item 10 to before item 8 to accommodate the audience.

Motion by Terry A., second by Eric G., to approve the Agenda of March 4, 2020 as amended. Motion passed 6-0. Note Chelsea W. was excused absent.

- Declaration of Conflicts of Interest

6. Special Presentations

- Council Comments/Committee Reports

Earle B. noted the Barstool Race this weekend: Saturday beginning at noon all the way up Cemetery Rd to the end (approx. one mile from Hwy 24). Apre party and awards at the Saloon.

Brian E. noted the Climate Action Collaborative meeting is Monday.

Terry A. attended the HighFive meeting and updated. They are looking for Board Members from the community. Contact JK at HighFive for details or www.Highfivemedia.org. Terry A. also updated on the Bike Park. They applied for a grant that was denied. However, many parties are involved and they will be moving forward with the park in some form.

John H. noted several upcoming meetings and who will be attending. George B. noted the Holy Cross powerline meeting is March 12 at the USFS offices in Minturn, all are encouraged to attend for education and comment. There is a link on the Town website as well to accept public comment. All comments need to be in by April 1, 2020

PUBLIC HEARINGS AND/OR ACTION ITEMS

- 7. Public Hearing/Action Item:** Ordinance No. 02 – Series 2020 (Second Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code – Hunn/Sawyer (30 min)

Scot H. outlined the proposed Ordinance and how it will address the proposed changes in Chapter 16. The Ordinance will eliminate certain sections and modify others. Second, the Ordinance will address engineering standards and specifications in Appendix C. This has been reviewed by the Planning Commission and they voted to recommend approval by Council. He noted the Ordinance had not been changed since First Reading.

Scot H. noted this Ordinance is designed as a stop gap measure to allow time to better study the concerns and best to address them.

Public Hearing Opened
No Public Comment
Public Hearing Closed

Motion by Brian E., second by George B., to approve Ordinance No. 02 – Series 2020 (Second Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code as presented. Motion passed 6-0. Note Chelsea W. was excused absent.

DISCUSSION/DIRECTION ITEMS

8. Discussion/Direction Item: Water Regulations & Water System Loss – John Volk (60 min)

Michelle M. updated on the infrastructure needs and the water quality needs being addressed. Tonight will center on water loss, leak detection, and water quality.

John V. reviewed the turbidity issues the plant experiences and how those affect our water quality. Two of the three filters are not covered and native grasses, bushes, and trees can access the water. Additionally, those two filters freeze during the winter months and cannot be cleaned and maintained. This could result in a serious problem if the filters fail and cannot be addressed until spring and the concern has been expressed by CDPHE. This spring an evaporation test will be conducted to ensure the filters integrity. Discussion ensued as to the quality testing and the various test results. John V. did state the filters are very sound and the water is very safe, however, it is an old system that will in the near future face concerns with meeting the increasing purity standards set by the state. As well, future demand will increase the demand placed on the filters which can only produce water up to a certain demand.

George B. asked how many times the town has been out of compliance; a couple times in the past year or so. John V. stated once the filter is cleaned it can take up to several months for the filter to be able to be restored to use as they rely on microbes to purify and those microbes need to grow. Discussion ensued as to how the proposed new filters would work using membranes and the existing sand filters work.

John V. stated the water tank is leaking at the seams and in a number of pinhole leaks. Repairs were addressed on the tank. Below the steel tank is a concrete liner. It is very difficult to

monitor leaks and integrity. He also stated a bolted steel tank contracts and expands with the weather. This affects the life expectancy of the tank.

Discussion ensued as to how long the plant and tank can last. The issue is the growth of the town and how that demand will affect the ability to ask more from the existing infrastructure. The existing filters can produce only so much, the more we demand of them the more we need to clean and maintain the filters, the more they need to be cleaned the more they are out of service which would limit our ability to produce at full demand capacity. The longer the filters and system are down for maintenance due to demand the less effective the entire system will be to meet the demand.

John V. outlined the water loss by showing statistics from 2013 forward. He noted that a 20% loss is based on the water produced. During the winter we are making less water so the loss percentage is greater than in the summer when we are producing more. The value he is most concentrating on each month is the Gallons Per Minute not the percentage. He will begin installing the water loss system in the spring when the snow is not a factor.

9. Discussion/Direction Item: 100 Block Traffic Study – Hunn (60 min)

Scot H. presented a traffic study the town commissioned for the 100 block of Main St in light of the very potential redevelopment in that area. The study covered parking, snow storage, and traffic flow. The study proposed several options and how those would look if instituted to include pros and cons. Concepts explored included land swaps for town owned streets for other land in the area that would make the roads flow more intuitively. Scot H. stated there are a lot of issues and not a lot of solutions. As the 100-block development progresses this study will be used since it does show options and how those options have been fleshed out.

Mr. Ken Mentz, 167 Williams St., discussed his concerns and felt the parking spots laid out do not provide actual access in to the spaces. He also stated to utilize Williams St. with its 15ft ROW is not conducive to more traffic. He stated it could be beneficial if the deliveries were done with smaller trucks that would fit our streets better.

Michelle M. updated that the citizen, Council, and Planning Commission comments will be take back and applied to the study and updated as needed.

10. Discussion/Direction Item: Recycle/Compost update – Metteer/Widerman (20 min)

Note: This item was taken up prior to item #8.

Michelle M. noted the composting membership is open and citizens can enroll on the town website. The Recycle dumpster and the Trash Dumpster have been switched to allow the recycle bin to reside in the enclosure next to the Compost dumpster. The private trash dumpster has been moved to the north end of the building, on Norman St. and the single stream recycling bin is in the dumpster enclosure at the south end of the building on Boulder St. Michelle M. noted the recycle bin at Town Hall is single stream. The recycle available for free at your home is dual stream. Ms. Jennifer Collins from Honeywagon presented and were present for

questions. Honeywagon has provided trash and recycling services to the Town since 2008. Discussion ensued as to why some recycle is single and some is dual stream; single stream goes is shipped to Denver; dual stream is handled at the MRPH located at the landfill.

The town is looking to receive a proposal from Honeywagon for the cost and inclusions of curbside single stream. The direction was to increase the town dumpster (south end of the building) to two dumps per week up from the one dump a week. This will begin immediately.

COUNCIL INFORMATION / UPDATES

11. Staff Updates

- Manager's Report

MINTURN FITNESS CENTER (MFC)

I met with John Hale, COO, SSCV as well as Kris bowers and Jimmy Pritchard of the Minturn Fitness Center this week. The discussion revolved around ongoing concerns by members of the Minturn public and Council regarding ways to improve the public experience at the MFC.

Of primary interest was the opportunity to increase MFC hours for public use. The MFC staff has agreed that increasing accessible hours of operation is critical to the public benefit and has created an action plan of items to review as we gather information toward the potential use of a key-fob system.

A key-fob system would allow public memberships the ability to access the MFC without the need for the MFC to increase labor hours/costs to staff the center. Many gyms utilize this type of system and allow their facilities to be accessible to members when there is no staff on duty.

It remains to be seen if this type of system would provide the benefit the public is looking for within a budget that Minturn can afford - as Minturn would be paying for the necessary upgrades to implement this option.

THE MINTURN COMMUNITY SURVEY IS LIVE!

For anyone without access to email, hard copies are available at the town hall offices. If you are needing a link to the survey (each link is specific for each survey response) please call Cindy Krieg at 970-827-5645 x5 or events@minturn.org. A copy of the Vail Daily survey notice has been included with this update.

PROGRAMMATIC AGREEMENT

The United States Department of Agriculture (USDA) is requesting the White River National Forest (WRNF) be added as a signatory to a National Historic Preservation Act (NHPA) Programmatic Agreement (PA). There is a 30-day comment period on which to provide feedback to this request. I spoke with Mr. Thomas Fuller, Heritage Program Manager, who explained this addition to the PA request is to streamline paperwork for multi-year forest rehabilitation projects. All current required notifications to the public will remain in tack. I anticipate no comments from

Minturn however if Council has specific questions, you're encouraged to call Mr. Fuller directly. A copy of the PA has been included with this update for your review.

WATERSMART GRANT APPLICATION

Unfortunately, Minturn was not awarded funds for the Bureau of Reclamation's 2020 WaterSmart Grant. After reviewing the award recipients, all the Colorado awards went to communities that were able to show a significantly higher water per acre-foot savings than Minturn, so the Bureau was going for the highest "bang for the buck." This seems reasonable given the goal is to save/conservate water, but still difficult news none-the-less.

Grant Application Comparisons (a copy of the grant award recipients has been included in this update for your review).

Minturn water savings expectation: 25.6 acre-feet Grant Recipients water savings expectations:

Aspen: 273 acre-feet

Grand Junction: 741 acre-feet

Greeley: 1,129 acre-feet

Longmont: 361 acre-feet

Thornton 1,165 acre-feet

BATTLE MOUNTAIN OPEN DISCUSSIONS

Battle Mountain / Crave Development will be looking to hold several listening sessions pertaining to the viability of a project at the south end of town and the vision residents and businesses have for that area of the community. For anyone interested in providing feedback please contact Tim McGuire at 970-827-4609 or email tmcguire@battlemountainresort.com.

Michelle M. reminded all that the Holy Cross power line public comment period is only 30 days. The town is trying to get that extended but all are encouraged to comment during this comment period. In order to be part of the press you must comment during the comment period. Once the comment period ends, it is too late. Brian E. stated those individuals that submit now will be the ONLY individuals who will be allowed to comment during the second round as the project continues. Terry A. asked where the maps were and if there are additional maps based on how the project has matured; Michelle M. stated she has requested any new maps but none have been forth coming.

Michelle M. updated the RFP for a Municipal Judge is in the interview stage.

- Future Agenda Items

MISCELLANEOUS ITEMS

12. Future Meeting Dates

- a) Council Meetings:
 - March 4, 2020
 - March 18, 2020
 - April 1, 2020

13. Other Dates:

- Bar Stool Racing – March 7, 2020
- Candidate Forum – March 19, 2020

14. Adjournment

Motion by Earle B., second by Brian E., to adjourn at 9:10pm. Motion passed 6-0. Note Chelsea W. was excused absent.

John Widerman, Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Mayor and Council

From: Jay Brunvand

Date: March 18, 2020

Agenda Item: Resolution 09 – Series 2020

REQUEST:

Council is asked to approve Resolution 09 – Series 2020, a Resolution expressing support for ECO Transits FY2020 FTA 5339(b) buses and bus facilities grant program to acquire tow (2) new 40' transit buses.

INTRODUCTION:

Eco Transit provides rural transit throughout Eagle County that connects communities along the I-70 corridor covering all of Eagle County in all weather. Such service takes a huge toll on equipment and buses. This Resolution supports the submittal of grants to purchase two new buses.

ANALYSIS:

N/A

COMMUNITY INPUT:

2016 Survey indicated safety and pedestrian access as community priorities.

BUDGET / STAFF IMPACT:

N/A

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #3 to sustain and invest in the things that define Minturn as a proud, sturdy mountain town to "Keep Minturn Minturn". Minturn strongly values its full-time resident community. Founded by the working-class, the town continues to emphasize the local's experience and quality of life. To maintain the character of Minturn and its ability to transcend time, the community must continually make strides to emphasize the working class.

RECOMMENDED ACTION OR PROPOSED MOTION:

This Resolution is included in the approval of the Consent Agenda.

ATTACHMENTS:

- Resolution 09 – Series 2020

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 09 – SERIES 2020**

**A RESOLUTION EXPRESSING SUPPORT FOR ECO
TRANSIT'S FY2020 FTA 5339(b) BUSES AND BUSE
FACILITIES GRANT PROGRAM**

WHEREAS, The Town Council of the Town of Minturn acknowledges ECO Transit is a rural transit agency that connects communities along the I-70 corridor including Vail, Avon, Eagle, Gypsum, and Leadville, in west-central Colorado; and,

WHEREAS, The Town Council recognizes ECO Transit service is critical to maintaining economic vitality and quality of life in Eagle County; and,

WHEREAS, The Town recognizes Eagle County's challenging operating environment takes its toll on transit vehicles.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF MINTURN, COLORADO:**

1. The Minturn Town Council encourages favorable review of any and all grant applications and proposals from ECO Transit which authorizes the purchase and acquisition of two new 40' transit buses.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this
18th day of March, 2020.**

TOWN OF MINTURN

By: _____
John Widerman, Mayor

ATTEST:

Jay Brunvand, Town Clerk

TOWN OF MINTURN
301 Boulder St #309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645 Fax: 970-827-5545



Town Council
Mayor – John Widerman
Mayor Pro Tem – Earle Bidez
Councilmember – Terry Armistead
Councilmember – George Brodin
Councilmember – Brian Eggleton
Councilmember – Eric Gotthelf
Councilmember – Chelsea Winters

March 10, 2020

To Whom It May Concern:

I am writing to express support for ECO Transit's FY2020 FTA 5339(b), Buses and Bus Facilities Grant Program grant proposal to acquire two (2) new 40' transit buses. As the Town Council of the Town of Minturn, I encourage you to look favorably upon this project.

ECO Transit is a rural transit agency that connects communities along the I-70 corridor including Vail, Avon, Eagle, Gypsum, and Leadville, in west-central Colorado. ECO service extends for more than 70 miles one-way, and provides over 1 million trips per year to residents and visitors. ECO connects to local transit systems in Vail, Avon, and Beaver Creek, as well as the Eagle County Regional Airport and state-wide Bustang transit service.

ECO Transit service is critical to maintaining economic vitality and quality of life in Eagle County. ECO provides safe, affordable, reliable transportation for a diverse community that faces high housing costs and long commutes to work, school, and health care. It reduces traffic congestion coming into and out of job and entertainment centers such as Vail, Avon, and Beaver Creek. Last but not least, it mitigates the impacts of traffic and population growth on our air quality and natural environment - critical assets for our outdoor-oriented economy.

Eagle County's challenging operating environment takes its toll on transit vehicles. This grant funding vehicles will allow ECO to retire two older, less reliable diesel buses and acquire new cleaner diesel replacements.

Grant funding for capital replacement is critical as demand for transit in our region is growing and local resources are not sufficient to meet all our needs. ECO Transit has a long history of successful transit delivery. The proposed project will not cause duplicative efforts and it ensures efficient and effective use of grant funds. I have full confidence in this project and encourage you to support ECO Transit in their efforts to improve mobility by maintaining their transit fleet in a state of good repair.

Sincerely,

John Widerman, Mayor



To: Mayor and Council

From: Jay Brunvand

Date: March 18, 2020

Agenda Item: Resolution 10 – Series 2020

REQUEST:

Council is asked to approve Resolution 10 – Series 2020, a Resolution providing direction to purchase and implement the Primayer Enigma3m Technology for the use in Minturn's water distribution system as it relates to network management and leak control.

INTRODUCTION:

This Resolution was passed as Resolution 32 – Series 2019. However, at that time the Town had applied for grants to help defer the costs associated with this purchase. That Resolution allowed for the purchase in 2019 using 2019 funds. During the interim the Town was not awarded the grant and we moved into a new fiscal year and the cost of the project has solidified. This Resolution allows Council a second opportunity to deliberate the purchase. Staff continues to support this purchase and recommends approval by the council.

ANALYSIS:

N/A

COMMUNITY INPUT:

BUDGET / STAFF IMPACT:

Although anticipated, this is not currently budgeted. The cost impact to the budget will be \$59,575 and includes training and installation.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #1 to practice fair, transparent and communicative local government.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to approve Resolution 10 – Series 2020, a Resolution providing direction to purchase and implement the Primayer Enigma3m Technology for the use in Minturn's water distribution system as it relates to network management and leak control.

ATTACHMENTS:

- Resolution 10 – Series 2020

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 10 – SERIES 2020**

**A RESOLUTION PROVIDING DIRECTION TO
PURCHASE AND IMPLEMENT THE PRIMAYER
ENIGMA3M TECHNOLOGY FOR THE USE IN MINURN'S
WATER DISTRIBUTION SYSTEM AS IT RELATES TO
NETWORK MANAGEMENT AND LEAK CONTROL**

WHEREAS, The Town Council of the Town of Minturn acknowledges the need to address accurate and ongoing water system and leak maintenance; and,

WHEREAS, The Town Council recognizes the need and desire to more effectively manage and bring into control our general water loss from our existing system; and,

WHEREAS, The Town has researched a cost effective and proven solution provided by Primayer Enigma3m which provides the resources necessary for a water loss detection on an ongoing daily operation.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF MINTURN, COLORADO:**

1. The Minturn Town Council authorizes the purchase and installation of the necessary hardware and software and training necessary as part of the Minturn Capital Improvement Program.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this
18th day of March, 2020.**

TOWN OF MINTURN

**By: _____
John Widerman, Mayor**

ATTEST:

Jay Brunvand, Town Clerk



Matchpoint Water Asset
Management Inc
PO Box 12448
Wilmington NC 28405

Estimate

Date	Estimate #
3/15/2019	505

Name / Address
WQCP LLC John Volk 13863 W LaSalle PL Lakewood, CO 80228

Project

Description	Qty	Cost	Total
Enigma3M with embedded SIM, 1.5m (approx 4 ft) double antenna and 5 years GPRS costs	24	1,995.00	47,880.00
Phocus3 communicator including USB cable and battery charger	1	2,250.00	2,250.00
Phocus3 Transport Crate (60 loggers)	1	195.00	195.00
Mikron3 Alpha Gamma with Pro Processor			5,250.00
2 Days on site Expert Install/Training	2	2,000.00	4,000.00
		Total	USD 59,575.00

Phone #	Fax #
910-509-7225	910-509-7226

Customer Signature

Web Site
www.matchpointinc.us



To: Mayor and Council

From: Brian Eggleton and Eric Gotthelf; Judicial Committee

Date: March 18, 2020

Agenda Item: Resolution 11 – Series 2020

REQUEST:

Council is asked to appoint a Municipal Judge for a two-year term as required by our Town Charter Article 6.1.

INTRODUCTION:

Town Council appoints the Presiding Municipal Judge by resolution for an initial term of not less than two years in accordance with state law and the Town's ordinances. The term of the currently appointed Presiding Municipal Judge is set to expire on February 29, 2020. In accordance with the Town's procurement policies, an RFP was sent out and staff received 3 applications.

Of the three applications, one will be appointed to the Municipal Court Judge position.

The Judicial Committee has reviewed the RFP submissions, met with each candidate for in-person interviews and has narrowed down the selection to the top two candidates. During this process the Council will have an opportunity to hear from both applicants, ask questions of the applicants, and then vote to appoint. Voting will be done by ballot and the ballots will be open for public inspection. Once an applicant is selected by ballot earning the highest amount of votes their name will be placed on Resolution 11 – Series 2020. That Resolution will then be approved by vote of the Council for the permanent record. Such appointment will be memorialized by an agreement between the appointed Presiding Municipal Judge and the Town. Re-appointment for additional two-year term(s) will be subject to evaluation by the Town Council.

ANALYSIS:

From the interview process and review of RFP questions, the Judicial Committee scored each applicant based on their answers. From the scoring the top two candidates were Erik Johnson and Inga Causey. Erik Johnson did earn a slight lead in scoring among the applicants. Erik Johnson does have prior experience as a Municipal Court Judge whereas Inga Causey currently does not.

Ultimately the Judicial Committee was impressed with all three candidates and it was a difficult decision to eliminate any of the applicants. One item that was discussed and is worth consideration is selecting or requesting a back-up Judge in the hopefully rare event that our current Municipal Judge is unable to hold session. This is something that is done in other communities.

COMMUNITY INPUT:

Applications have been solicited from the public through RFP and Resolution 4 – Series 2020.

BUDGET / STAFF IMPACT:

The position of Municipal Judge is included in the annual budget.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #1 Practice fair, transparent, and communicative local government.

RECOMMENDED ACTION OR PROPOSED MOTION:

The council is asked to select and appoint the Presiding Municipal Judge for an initial two-year term commencing April 1, 2020.

ATTACHMENTS:

- Resolution
- Resume & RFP Answers

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 11 – SERIES 2020**

**A RESOLUTION APPOINTING TOWN COUNCIL
MEMBERS**

WHEREAS, The Minturn Town Council has requested and reviewed Requests for Proposal of a Minturn Municipal Court Judge; and

WHEREAS, pursuant to Minturn Town Charter Section 6.1 and Town Code Section 2-5-40 the Minturn Town Council Shall appoint the Municipal Judge every two years.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING INDIVIDUALS ARE HEREBY APPOINTED AS INDICATED:

NAME

TERM

April 1, 2020 – March 31, 2022

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this
18th day of March, 2020.**

TOWN OF MINTURN

By: _____
John Widerman, Mayor

ATTEST:

Jay Brunvand, Town Clerk



**REQUEST FOR PROPOSAL
FOR
MUNICIPAL COURT PRESIDING JUDGE**

Date of Issue: January 17, 2020

Proposal Closing Date and Time: February 17, 2020 5:00 p.m.

Proposals to be received by the Deputy Clerk prior to closing date and time above.

RETURN TO:

Town of Minturn
Cindy Krieg, Deputy Clerk
301 Boulder St. # 309
Minturn, CO 81645

courtclerk@minturn.org

THIS REQUEST FOR PROPOSAL ("RFP") IS NOT A COMPETITIVE BID BASED ON PRICE ONLY. The request for proposal allows the Town of Minturn, Colorado (the "Town") to select the service provider that best meets the needs of the Town, taking into consideration proposer qualifications, price, products, and service capabilities and other factors relevant to the Town's policies, programs, administrative resources, and budget.

This RFP is not an offer to contract. Issuance of this RFP and the receipt of responses by the Town do not commit the Town to award a contract to any bidder.

Town of Minturn
301 Boulder St. # 309
Minturn, CO 81645
Phone 970-827-5645

PROPOSER'S CERTIFICATION
and
SIGNATURE PAGE

Note: Return this page with your proposal.

The undersigned, hereby certifies that the proposer (please initial the two lines below):

_____ is familiar with all instructions, terms and conditions, and specifications stated in this RFP;

_____ is qualified to perform the work and services outlined in this RFP

Signature

Printed Name

Street Address

City, State, Zip Code

Phone Number

Email Address

**Town of Minturn
Consent To
Background Check**

Please complete the following information:

I, _____, authorize the Town of
Minturn to perform a police, courts, and general background check.

Have you ever been convicted of a felony? ☐ Yes ☐ No

If so, would you like to explain? _____

Legal Name: _____
 First Middle Last Maiden

Have you ever been employed by the Town of Minturn? Yes No

If yes, give date(s) and position held. _____

Driver's License #: _____ State: _____

Date of Birth: _____ Social Security #: _____

Signature: _____ Date: _____

REQUEST FOR PROPOSAL

The Town of Minturn is seeking a qualified Colorado licensed attorney / judge to serve as the Presiding Judge of the Minturn Municipal Court. The Town is requesting sealed proposals from qualified proposers for an initial two-year term of appointment and contract to start April 1, 2020, subject to future optional renewal terms upon mutual agreement of the Town and the to-be-appointed Municipal Judge.

Proposals are to be addressed and delivered to the Deputy Clerk for the Town of Minturn, in accordance with the Instructions to Proposers and all other requirements as referenced in this RFP. Proposals will be received until the Proposal Closing Date and Time set forth on the cover page of this RFP, at which time a representative of the Town will publicly announce the names of those firms or individuals submitting proposals. No other public disclosure will be made if and until award of contract.

Town Council will conduct interviews on a date and time to be decided.

TOWN OF MINTURN

/s/ Cindy Krieg
Deputy Clerk / Court Clerk

INSTRUCTIONS TO PROPOSERS

1. Proposers responding to this RFP must submit their proposals in the format specified in this solicitation.
2. A copy of the proposal is to be **received** by the Deputy Clerk, on or prior to **February 17, 5:00 p.m.**
 - Electronic copies will be accepted and may be submitted to: courtclerk@minturn.org.
 - Paper copies may be mailed or delivered to:
Town of Minturn
Attn: Deputy Clerk
301 Boulder St. # 309
Minturn, CO 81645
3. Any proposer may withdraw his / her proposal at any time prior to the RFP closing date and time.
4. The content of all proposals must conform to the following:
 - Proposers must respond to the questions in the order presented in this RFP.
 - Proposers may provide additional supporting documentation pertinent to clarification of the proposal.
5. The following information must be included with your proposal in this order and be indexed/tabbed:
 - Proposer's Certification and Signature Page
 - Required Responses as set forth in the Scope of Work to this RFP
6. All changes in the RFP documents shall be through written addendum and furnished to all proposers.
7. Proposers who have questions concerning the submission of proposals or the RFP process must contact:
Cindy Krieg
Deputy Clerk / Court Clerk
Town of Minturn
Telephone: (970) 827-5645 x5
E-Mail: courtclerk@minturn.org

Proposers who have questions concerning the specifications or scope of work, must contact:
Michelle Metteer
Town Manager
Town of Minturn
Telephone: (970) 827-5645 x8
E-Mail: manager@minturn.org

8. The proposals will be reviewed by Town Council. Council may request additional information from proposers or request personal interviews with one or more proposer. The weight to be given to each evaluation criterion will be as determined by the Town Council. Final evaluation and selection may be based on, but not limited to, any or all of the following, and in no particular order of importance:
 - Information presented in the proposal
 - Service reliability and consistency of quality
 - Qualifications and experience of the proposer
 - References
 - Personal interview
 - Pricing / total cost
10. All proposals timely submitted shall become the property of the Town and shall be retained in accordance with the Town's records retention schedule.
11. Public Inspections of Proposals. The Town is a Colorado governmental entity. Therefore, all information included in proposals and other written information submitted by the proposer to the Town is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes Sections 24-72-201, *et seq.* ("CORA"). Proposers should expect that the proposal may be viewed by the general public and competitors once submitted to the Town. Under CORA, trade secrets, privileged information, and/or confidential commercial, financial, geological or geophysical data may not be subject to disclosure under CORA ("Confidential Information").
12. No Waiver of Governmental Immunity. Nothing in this RFP or any resulting agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10 of the Colorado Revised Statutes.

TERMS & CONDITIONS

1. All participating proposers, by signature, agree to comply with all the terms, conditions, requirements, and instructions of this RFP as stated in this RFP. Should the Town omit anything from this document which is necessary to a clear understanding of the work, or should it appear that various instructions are in conflict, the proposer shall contact the Deputy Clerk and secure written instructions at least 48 hours prior to the time and date of the closing of acceptance of the proposals.
2. The Town reserves the right to:
 - Reject any and all proposals received as a result of this RFP.
 - Waive or decline to waive any irregularities in any proposal or responses received.
 - Adopt all or any part of the proposer's proposal.
 - Negotiate changes in the scope of work or services to be provided.
 - Withhold the appointment/award of contract.
 - Select the proposer it deems to be most qualified to fulfill the needs of the Town. The proposer with the lowest priced proposal will not necessarily be the one most qualified, since several factors other than price are important in the determination of the most acceptable proposal.
3. Any individual submitting a signed proposal shall be deemed to have read and understood all the terms, conditions and requirements of this RFP.
4. The Town shall not be liable for any costs incurred by the proposer in the preparation and production of the proposal, contract negotiations or for any work performed prior to the execution of a contract.
5. All proposals and other materials submitted shall become the property of the Town.
6. The successful proposer shall be required to enter into a written contract with the Town in a form approved by the Town Attorney's Office. In the event of any conflict between this RFP and the contract, the terms and conditions of the contract shall control.
7. The Town reserves the right to conduct discussions with proposers, to accept revisions of proposals, and to negotiate price changes. During this discussion period, the Town will not disclose any information regarding proposal submittals. Upon the execution of the contract(s), the proposals will become public record and contents may be disclosed upon request.
8. The successful proposer shall have their insurance company send the Deputy Clerk a currently in-force Certificate of Insurance which indicates that insurance coverage has been obtained, including professional liability, which meets the minimum requirements as may be set forth in the written contract with the Town.
9. The successful proposer shall comply with all applicable federal, state, and local laws, regulations, administrative rulings, and codes, and shall secure all necessary licenses and permits in connection with this RFP and any goods or services to be provided hereunder.
10. By submission of the proposal, the proposer certifies that the proposal has been arrived at independently and submitted without collusion with any other proposer, and that the contents of the proposal have not been communicated by the proposer, or to the proposer's best knowledge and belief, by any one of its employees or agents, to any person not an employee or agent of the proposer, and will not be communicated to any person prior to the official opening of the proposals.
11. The Town reserves the right to solicit or recruit any municipalities, attorney(s) or legal firms directly to request qualifications.

SCOPE OF WORK

The term of the currently appointed Presiding Municipal Judge is set to expire on March 31, 2020. In accordance with the City's procurement policies, this RFP seeks proposals to fill the role of Presiding Municipal Judge for an initial two-year term commencing April 1, 2020, such appointment to be memorialized by an agreement between the appointed Presiding Municipal Judge and the Town. Re-appointment for additional two-year term(s) will be subject to evaluation by the Town Council.

The Town of Minturn is a home rule municipality that operates a municipal court of record that hears and determines cases arising under the Town's Charter and ordinances. The Presiding Municipal Judge must be a currently licensed Colorado attorney, preferably with experience on the bench in a Colorado municipal court of record.

The Town Council appoints the Presiding Municipal Judge by resolution for an initial term of not less than two years in accordance with state law and the Town's ordinances. The Presiding Municipal Judge and is an independent contractor to the Town.

Law enforcement services for the Town are provided by the Eagle County Sheriff's Office. Prosecution services are provided by contractor under agreement with the Town. The Municipal Court handles all municipal violations, including traffic and parking violations, animal control violations and nuisance and building code violations. The Municipal Court does not handle any domestic violence or felony cases.

The Municipal Court is staffed by a court administrator and other Town staff during all regular Town Hall business hours. The Municipal Court currently convenes once per month – the third Monday of each month, at 2pm (except on holidays or other conflicts when court is rescheduled to the second or fourth Monday).

The Average monthly hours of time for the court (in session for arraignments and trials) have been approximately **2 hours/month** over the past year.

Qualifications and Work: The ideal candidate understands that the Court is the face of the Town for many Town residents, and will undertake the role with a desire to facilitate the Town's goals of fostering compliance with applicable laws balanced with the need to ensure that court attendees are comfortable that justice was fairly served. A candidate that demonstrates impeccable character, integrity, reputation, judgment, experience and efficiency is preferred. Involvement in local and statewide municipal court committees is preferred.

The appointed Presiding Municipal Judge is expected to attend all regular court sessions, or to indicate in the proposal the number of sessions annually that he/she will not be in attendance. Presiding Municipal Judge services include, but are not limited to:

- Reliably attending all court dates for arraignment and trials.
- Coordinating with the administrator of the municipal court appointed by the Town Manager, whose responsibilities include oversight of court staff and of all operational aspects of the municipal court, including establishing the necessary standards and procedures for the operation of the court and appointment of a staff member to serve as the daily court clerk when court is in session.
- Remaining abreast of changes in the law that affect the operations of the municipal court and training court staff as appropriate.
- Adhering to the Town's Strategic Plan and Team Values:
 - Strategic Plan Goals Include:
 - Practice Fair, Transparent, and Communicative Local Government
 - Long Term Stewardship of the Natural Beauty and Health of Minturn's Environment
 - Sustain and Invest in the Things that Define Minturn as a Proud, Sturdy Mountain Town (to "Keep Minturn Minturn")
 - Advance Decisions / Projects / Initiatives that Expand Future Opportunity and Viability for Minturn
- Conducting arraignments, trials, hearings, sentencings and case dispositions.
- Issuing written and/or oral findings and judgments when necessary.
- Managing the courtroom when in session to ensure efficiency, orderliness and justice.
- Enforcing the ordinances of the Town as adopted by the Town Council.
- Explaining the laws and legal system to defendants and ensuring that all defendants understand their rights and, if applicable, knowingly waive their rights.
- Evaluating evidence, testimony, and legal pleadings.
- Interpreting and applying appropriate ordinances, municipal code provisions and/or regulations.
- Imposing fines and penalties as prescribed by the municipal code or ordinances.
- Assessing and overseeing collection of penalties with court staff.
- Ordering and enforcing contempt, failure to appear, abatement of nuisance, and other requirements of the municipal code or ordinances.
- Issuing decisions related to abatement hearings on nuisance, zoning and building code violations.
- Being on-call to review arrest and or search warrant affidavits.
- Issuing inspection orders and search warrants and enforcing municipal subpoenas in accordance with applicable laws.
- Administering oaths of office.

REQUIRED RESPONSES

Proposals should address the following issues/questions in the order presented:

1. Proposer's Certification and Signature Page.
2. Town of Minturn Consent to Background Check.
3. A copy of proposer's current resume that describes at a minimum how you meet the following required or desired qualifications:
 - Attorney at law admitted (active) to practice in Colorado.
 - Experience on the bench in a Colorado municipal court of record.
4. Describe your ability, capacity, and skill as a judge and ability to provide the services as outlined in the Scope of Work.
5. Describe how you and others with whom you have worked view your reliability, character, integrity, reputation, judgment, experience, and efficiency.
6. Describe any municipal court judgments that you have issued that were subject to an appeal and the outcome of such appeal(s).
7. Describe how you will keep abreast of current legislation and obtain ongoing education and training in order to remain current on all matters relating to municipal courts and municipal judges and provide training and guidance to the City on compliance. Also describe how, if any, you will charge the Town for these efforts.
8. Describe your ability to, and professional record of, interacting with Town staff, defendants, witnesses and attorneys in a professional, congenial manner.
9. Describe how you envision the working relationship of the judge and the court staff and what your expectations are of the court staff as the Presiding Municipal Judge if selected.
10. Describe your ability to meet the time requirements of being in attendance on the bench by describing your existing workload and any time conflicts in meeting the current docket schedule of the Town. Describe whether your current workload fluctuates in any manner that would make your attendance during scheduled court sessions difficult.
11. Describe your availability and adaptability of services to meet the needs of the Town, including interpreting Town Code / Charter, Changes in Municipal Law, interaction with Eagle County Sheriff's Office, etc.
12. Describe any conflicts of interest you may have with the Town.
13. Provide a list of references with whom you have worked in the past five (5) years. If you have provided municipal court judge services to municipal or government clients in the recent past, please submit municipal or government client references as well. References from court staff and city or town attorneys for municipalities for which you have provided services are favored.
14. Describe any involvement in local and statewide municipal court committees.
15. Describe how you will remain available and be reachable for those (rare) circumstances when review of an arrest or search warrant affidavit and issuance of any warrant are needed.
16. Cost Proposal. Provide detail on billing structure and rates. If you are open to alternative compensation arrangements, please provide detail of acceptable alternatives.

February 11, 2020

VIA Email: courtclerk@minturn.org

Town of Minturn

Attn.: Cindy Krieg, Deputy Town Clerk

301 Boulder Street, #309

Minturn, Colorado 81645

RE: Request for Proposal for Municipal Judge Position

Dear Ms. Krieg,

I am responding to the Town's RFP for the municipal judge position. Below please see responses to your specific questions in the order in which you require.

1. Proposer's Certification and Signage Page.

ATTACHED.

2. Town of Minturn Consent to Background Check.

ATTACHED.

3. A copy of proposer's current resume that describes at a minimum how you meet the following required or desired qualifications . . .

ATTACHED. Please note that I do not have experience on the bench of a municipal court. I have never received any disciplinary complaints or malpractice complaints and my license is in good standing.

4. Describe your ability, capacity, and skill as a judge and ability to provide the services as outlined in the Scope of Work.

As set forth in more detail in my Curriculum Vitae, I have been a municipal prosecutor since 2005. I currently prosecute in Vail, where I have been prosecuting since 2007. I also currently serve as a substitute prosecutor for the Town of Avon. I have been a prosecutor for the towns of Minturn and Basalt as well. All dates of prosecution are more specifically set forth in my C.V. As prosecutor in these municipalities, I have experience in all of the following areas for which you request response:

- Prosecution in municipal court, including familiarity with court rules
- Home rule municipalities
- Code enforcement
- Colorado Municipal Traffic Code
- Animal control laws

I have also drafted municipal ordinances for all municipalities for which I have been employed. In addition to providing municipalities prosecution services, my practice

focuses on general civil litigation, employment, real estate, corporate, some family law and victim representation.

Although I do not have experience as a municipal court judge, I believe my extensive prosecution experience, along with prior experience representing the Town of Avon as their municipal attorney (along with John Dunn), would allow me to serve in this position in an extremely competent manner.

5. Describe how you and others with whom you have worked view your reliability, character, integrity, reputation, judgment, experience and efficiency.

It is my belief and understanding that others view my work as highly competent and further that my character, integrity, reputation, judgment, experience and efficiency are at a high level and extremely positive. I am currently AV rated with Martindale Hubbell, which is the highest rating that can be attained and is only provided with substantial input from the judicial bench and other attorneys.

6. Describe any municipal court judgments that you have issued that were subject to an appeal and the outcome of such appeal(s).

This question is not applicable to me as I have not previously been on the Municipal Court bench. However, I have defended municipal court rulings in appeals to the District Court and have prevailed in each one.

7. Describe how you will keep abreast of current legislation and obtain ongoing education and training in order to remain current on all matters relating to municipal courts and municipal judges and provide training and guidance to the City on compliance. Also describe how, if any, you will charge the Town for these efforts.

I feel that continuing legal education is important and knowledge of current statutes that affect the municipal court is imperative. I would of course maintain a membership with the Colorado Municipal League, if requested, and attend municipal judge conventions and maintain membership therein. These memberships and CLE's would not be billed to the Town unless the Town specifically required that I attend a specific CLE.

8. Describe your ability to, and professional record of, interacting with Town staff, defendants, witnesses and attorneys in a professional, congenial manner.

My history as a prosecutor demonstrates my dedication to engage with staff, defendants, witnesses and attorneys in a professional, congenial manner. It is my belief that most defendants come to municipal courts with their first and only offense(s) and that it is important that they feel heard and they feel that they are being dealt with fairly (while simultaneously attempting to reduce recidivism). I try to ensure that I am fair and professional and balanced with all parties I deal with at a municipal level. My history as prosecutor for Minturn would substantiate this and my current role as Vail Municipal Prosecutor most definitely demonstrates this.

9. Describe how you envision the working relationship of the judge and the court staff and what your expectations are of the court staff as the Presiding Municipal Judge, if selected.

I envision a close working relationship with the court clerk, town staff and town attorney as it relates to scheduling and docket information. I also envision a good working relationship with the sheriff's department and the prosecutor to ensure that the Town has developed standard operating procedures for municipal courts and procedural mechanisms implemented to streamline the court system. If such standard operating procedures have not been developed, then I would work with the court clerk, the prosecutor, the town attorney and the staff to create and implement the same. Additionally, I would like to get a feel for what the Town's goals are with respect to sentencing; alternative forms of sentencing; and general scope of fines expected for various ordinance violations. Of course, I am aware of the fine range permitted by statute, and that such range is from \$0-\$2,650.00. Within that range, however, I would like to work with the Town to determine expected levels of fines – with discretion based upon the circumstances of each case.

10. Describe your ability to meet the time requirements of being in attendance on the bench by describing our existing workload and any time conflicts in meeting the current docket schedule of the Town. Describe whether your current workload fluctuates in any manner that would make your attendance during scheduled court sessions difficult.

Currently, I am a partner with the law firm of Causey & Howard, LLC, with a private civil practice, and I am the prosecutor with the Town of Vail and attend court there the first three Thursdays of each month. I occasionally substitute prosecute for the Town of Avon. Accordingly, attending court the third (or fourth) Monday of each month at 2pm would not constitute any sort of conflict with my schedule and I would be able to attend each court session.

11. Describe your availability and adaptability of services to meet the needs of the Town, including interpreting Town Code/Charter, Changes in Municipal Law, interaction with Eagle County Sheriff's Office, etc.

I currently provide these services to the Town of Vail and constantly interact with law enforcement and provide answers to various questions. I constantly interact with the Town of Vail to interpret various aspects of the Town Code and to discuss current changes in municipal law, such as ability to jail for failing to appear, ability to charge late fees and sealing records directly with the Town.

12. Describe any conflicts of interest you may have with the Town.

NONE.

13. Provide a list of references with whom you have worked in the past five (5) years. If you have provided municipal court judge services to municipal or government clients in the recent past, please submit municipal or government client references as well. References from court staff and city or town attorneys for municipalities for which you have provided services are favored.

1. SEE ATTACHED

14. Describe any involvement in local and statewide municipal court committees.

None at this time.

15. Describe how you will remain available and be reachable for those (rare) circumstances when review of an arrest or search warrant affidavit and issuance of any warrant are needed.

I would provide my cell phone information and work and home phone information to ensure that I am always available.

16. Cost Proposal. Provide detail on billing structure and rates. If you are open to alternative compensation arrangements, please provide detail of acceptable alternatives.

I would bill at \$150.00 per hour. I do not charge for travel time. I would consider a fixed rate agreement. I do not charge for copies or mailings.

I hope that you might consider me for this position. If you have any questions or concerns, please feel free to contact me directly.

CAUSEY & HOWARD, LLC

/s/ Inga Haagenson Causey /s/
Inga Haagenson Causey

ERIK A. JOHNSON LAW OFFICES. P.C.
Attorneys and Counselors at Law

January 24, 2020

VIA EMAIL
courtclerk@minturn.org

RE: RFP Town of Minturn Presiding Judge

TO: Ms. Cindy Krieg, Town of Minturn Deputy Clerk/Court Clerk:

The attached Proposal is in response to the Town of Minturn (the "Town") Request for Proposal ("RFP") for contract Presiding Judge services. Responses are listed in the order of the Town's questions. The objective of the position is to fairly and efficiently administer the municipal code while maintaining a positive impression of the Town and a constructive influence in the community.

1. Certification attached. I am licensed to practice law in Colorado, in good standing.
I am currently serving as the Municipal Judge for Eagle, Colorado.
2. Consent to background check attached.
3. Resume attached.
4. I have nearly 30 years experience successfully handling a wide variety of legal matters. I have tried numerous cases to juries and judges in municipal, county, state district and U.S. federal courts. I have knowledge of criminal and code law and a thorough understanding of the principles, purposes and procedures of adjudication and sentencing. I have successfully and efficiently presided over municipal cases in Eagle, Colorado. As a municipal judge, since March, 2019. I have successfully conducted arraignments that require explaining the laws and legal system to defendants to ensure that all defendants know their rights, understand how to preserve their rights, and only waive certain rights knowingly, and only enter into any plea agreement knowingly and voluntarily. I conduct hearings and trials that require evaluating evidence, the credibility and weight of testimony as well as all legal pleadings. I am fully able and prepared to issue written findings of fact and conclusions of law as necessary or requested. I issue judgments and impose sentences that require imposing fines and other penalties as prescribed by the municipal code and ordinances. Other duties include: Issuing warrants, setting bonds, supervising collections, reviewing compliance with terms and conditions, finding and ordering matters of contempt and failures to appear.

5. I strive to uphold the highest standards of reliability, integrity, and character. I am determined to treat every staff member and all members of the community with the utmost respect and dignity. I understand that, for many people, the municipal court is their first and only contact with Town government. I work diligently to ensure that each person who comes to the court is treated fairly. I do believe that I apply experience and sound judgment in each case. All feedback from court staff, the Town and the public has been positive so far.
6. No municipal court judgments have been subject to appeal.
7. As required by professional standards of conduct I make sure I am advised of ever-changing laws and rules. The Colorado Bar association provides monthly updates. I am a member of the Colorado Municipal Judges Association that provides resources to stay current with changes in municipal court rules, model traffic codes and trends in ordinances. In addition, the Town of Eagle retains town attorneys who provide legal memoranda on changes to the codes and procedural rules as they are proposed and then enacted by the legislature. I am in contact with members of the state house and senate judicial committees and keep apprised of proposed changes to the laws and procedural rules. Any research I perform to stay apprised of changes in the law is considered a professional requirement and I do not charge clients or the Town. If the Town has a retained Town Attorney, I would support and assist in any way that is helpful. Additional expectations in the nature of advising, providing guidance or training for the Town beyond the normal duties of municipal judge should be reviewed as possible separate billable matters.
8. I am comfortable interacting with Town staff, defendants, witnesses and attorneys. I represent to the council that I have, without exception, maintained order, decorum and a safe, respectful and collegial environment.
9. I work with all staff as a team. All members' suggestions and opinions are valued and given serious and equal consideration. The expectation is to work as a team to ensure efficient, fair and positive administration of the court and enforcement of the municipal code.
10. I am currently handling criminal cases ranging from serious felonies to DUI and misdemeanors. Beginning in 2019 I have eliminated certain areas of practice that were very time consuming, and also limited my practice geographically, to conserve time and travel. I can control my schedule to accommodate any foreseeable needs of the Municipal Court.
11. My broad background in most areas of the legal field, including dealing with enforcement, subpoenas, contempt, probation violations; and, also dealing with boards, committees, water boards, regulatory authorities, liquor boards, health departments, government agencies, corporations, insurance companies, legislatures, law enforcement (Sheriffs, town /city police, state police, DEA, Attorney General, U.S. Attorney, CBI, FBI,,,) provide the foundation to adapt to changing circumstances and developing issues. I am personally acquainted with the county sheriff and speak with him frequently regarding a variety of

matters. I have worked with many of the county deputies and other law enforcement.

12. I have no known conflicts of interest with the Town of Minturn.

13. References are attached.

14. I have not been appointed to any formal municipal court committees. I am an active member of the Colorado Municipal Judges Association. I participate in informal legislative, model ordinance and rules committees at their conferences. I have been asked to participate at the state legislature during formal committees and have testified regarding issues that directly affect municipal courts in matters such as bail bonds, expungements of juvenile records and restitution in careless driving accidents.

15. I am always available to the Town as well as clients and associate attorneys via cell phone, text and email.

16. Costs are negotiable. My rate for Municipal Judge of the Town of Eagle is consistent with similar positions throughout Colorado.

I look forward to meeting you.

With best regards,

Erik A, Johnson Law Offices, PC

/s/ Erik A. Johnson

EAJ:db

Encl.



To: Mayor and Town Council
From: Michelle Metteer
Date: March 4, 2020
Agenda Item: Ordinance 3–Series 2020 An Ordinance amending sections of the Mountaintop Agreement

REQUEST:

Council to consider amending the Mountaintop Agreement to designate the primary road along the mountaintop area as private.

INTRODUCTION:

The Mountaintop portion of the Battle Mountain property was zoned in 2017 and included the Mountaintop Agreement outlining understandings of development within the mountaintop area. The main road in and out of the mountaintop was originally designated as a public road with pull-off access to an overlook area.

ANALYSIS:

The road accessing the mountaintop area is long with a narrow and steep ascent/descent. Engineering of the road for public access is prohibitive to development costs and with the anticipated development project of approximately 22 private lots and no ski resort, public access is unnecessary.

With the road becoming private, the Mountaintop HOA will be responsible for all plowing and maintenance, the cost for Eagle County Sheriff Services becomes “negligible” -as determined by Sheriff Van Beek and any costs pertaining to Eagle River Fire Protection District are covered in the building fees when a new permit is pulled.

Although there is minimal to no impact to the town, in order to keep with the spirit of the original 2008 Annexation Agreement, a clause in the Amendment outlines the ability for Minturn residents to take part should a commercially accessible ski lift be installed.

COMMUNITY INPUT:

Ongoing

BUDGET / STAFF IMPACT:

\$0

STRATEGIC PLAN ALIGNMENT:

The ability to bring in funds through real estate transfer taxes, construction use taxes, property taxes and the like is an extremely valuable option for Minturn for a small estimated impact of 22 lots spread out of 3000+ acres.

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION:

- Approve Ordinance 3 Series 2020 An Ordinance amending sections of the Mountaintop Agreement

ATTACHMENTS:

- Ordinance 3 – Series 2020

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 03 – SERIES 2020**

**AN ORDINANCE AUTHORIZING THE MAYOR OF
THE TOWN OF MINTURN, COLORADO TO SIGN
THE APPROVING THE FIRST AMENDMENT TO
MOUNTAIN CONCEPT AGREEMENT.**

WHEREAS, the Town of Minturn (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, the Town Council has authority pursuant to the Home Rule Charter and C.R.S. § 31-16-101, *et seq.* to adopt and enforce all ordinances; and

WHEREAS, , by Ordinances 1-9, Series 2008, the Town of Minturn (" Town") annexed into the Town approximately 4, 340 acres of land commonly known as Battle Mountain (“Battle Property”) which includes the “Mountaintop Area” which is comprised of collectively, the Willow Creek Character Area, the Rock Creels Character Area and the Holy Cross Character Area; and

WHEREAS, the Town approved Ordinance 10, Series 2008, an Ordinance authorizing the Mayor of the Town of Minturn, Colorado, to sign an annexation agreement and vested property rights development agreement, which agreement is recorded in the public records of Eagle County at Reception No. 200806742 (“Original Agreement”); and

WHEREAS, the Town approved Ordinance 2, Series 2017, an Ordinance authorizing the mayor of the Town of Minturn, Colorado, to sign the development agreement implementing the mountain concept alternative within the Mountaintop area of the Battle Mountain Property, which agreement is recorded in the public records of Eagle County at Reception No. 201710379 (“Mountain Concept Agreement”), which amended the Original Agreement to implement the Mountain Concept Alternative; and

WHEREAS, the Town and the Owner having agreed upon acceptable terms and conditions of an amendment to the Mountain Concept Agreement relating to the Red Cliff Overlook, and Commercial and Private Ski Facilities; and

WHEREAS, section 5.3 of the Mountain Concept Agreement requires that any amendment thereto be subject to the same procedures for public notice and public hearing as required for the approval of the Mountain Concept Agreement; and

WHEREAS, WHEREAS, the Town is authorized by the Local Government Land Use Control Enabling Act of 1974, C. R.S. § 29-20- 101 *et seq.* and the Town Charter to plan for and regulate the use of land within the Town’s jurisdiction and to enter into agreements such as the First Amendment to the Mountain Concept Agreement; and

WHEREAS, the Town Council has held public hearings to receive public input on the First Amendment to the Mountain Concept Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO, THAT:

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. The Town Council approves the Mountain Concept Agreement.

SECTION 3. The Mayor is authorized to sign the First Amendment to Mountain Concept Agreement, which is attached hereto as **Exhibit A**.

SECTION 4. This Ordinance shall not take effect until the First Amendment to Mountain Concept Agreement is signed by the representatives of all necessary parties thereto.

SECTION 5. If any part, section, sub-section, clause or phrase in this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. The Town Council hereby finds and determines that this Ordinance and the First Amendment to Mountain Concept Agreement is necessary and proper for the health, safety and welfare of the Town of Minturn.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 18th DAY OF MARCH 2020. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 1ST DAY OF APRIL 2020 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

**THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE
ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY
AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 1st DAY OF
APRIL 2020.**

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

FIRST AMENDMENT TO MOUNTAIN CONCEPT AGREEMENT

THIS FIRST AMENDMENT TO MOUNTAIN CONCEPT AGREEMENT (“**First Amendment**”) is made and entered into as of _____ 2020 (“**Execution Date**”), by and among BATTLE ONE DEVELOPER, LLLP, a Georgia limited liability limited partnership, f/k/a Gin-LA Battle One, Ltd., LLP (together with its successors and assigns, “**Battle One**”), and the TOWN OF MINTURN, COLORADO, a home rule municipal corporation (together with its successors and assigns, the “**Town**”).

RECITALS

This First Amendment is made with reference to the following facts:

A. Pursuant to Ordinance No. 2-Series 2017, Town Council approved that certain Development Agreement Implementing the Mountain Concept Alternative Within the Mountaintop Area of the Battle Mountain Property (as defined therein, the “**Mountain Concept Agreement**”).

B. Except as expressly provided otherwise in this First Amendment, capitalized terms used in this First Amendment have the meanings assigned to such terms in Exhibit E of the Mountain Concept Agreement.

C. The Town and Battle One (individually, a “**Party**” and, collectively, the “**Parties**”) executed the Mountain Concept Agreement as of March 15, 2017, and caused the Mountain Concept Agreement to be Recorded on June 1, 2017, at Reception No. 201710379, as an encumbrance burdening and benefiting the Mountaintop Area, which Mountaintop Area is legally described and graphically depicted in Exhibit A of the Mountain Concept Agreement and in Exhibit A of this First Amendment.

D. The Parties desire, in accordance with Section 5.3 of the Mountain Concept Agreement, to amend certain provisions of the Mountain Concept Agreement to better align with changed conditions subsequent to execution of the Mountain Concept Agreement and their mutual interests and intent in addressing such matters.

E. Pursuant to clause (i) of Section 5.3a of the Mountain Concept Agreement, Battle One and the Town are the only Parties whose consent is required to execute and enter into this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into and made substantive provisions of this First Amendment.

2. Amendments. From and after the Effective Date, the Mountain Concept Agreement is amended as follows:

(a) Section 2.2f.ii. Section 2.2f.ii, regarding the Red Cliff Overlook, is deleted in its entirety.

(b) Section 2.2f.iv. The last sentence of Section 2.2f.iv is deleted in its entirety (i.e., ~~The Town will have no obligation to maintain the roadway to the Red Cliff Overlook regardless of whether such road is located in a public access easement or whether any public recreation use occurs on or across such roadway.~~).

(c) Section 2.2h. A new Section 2.2h. is inserted to read in its entirety as follows:

h. Commercial Ski Facilities; Private Ski Facilities. In connection with the processing and approval of any Development Application that proposes to establish Commercial Ski Facilities or Private Ski Facilities within the Mountaintop Area, the Town, whether acting through Town Council or otherwise:

i. may condition its approval of a Development Application that proposes to establish Commercial Ski Facilities on Town residents being permitted to access and utilize such Commercial Ski Facilities on the same terms and conditions, including payment of the specific fees or charges therefor at the same rate, as apply to other non-Landowner guests and/or members of the general public who utilize such Commercial Ski Facilities; and

ii. may not condition its approval of a Development Application that proposes to establish Private Ski Facilities on Town residents having, and the Town may not deny such Development Application on the basis that Town residents are not permitted, access to and utilization of such private facilities.

(d) Exhibit C. The form of Exhibit C attached to the Mountain Concept Agreement is deleted and replaced with the amended form of Exhibit C that is attached to this First Amendment, which amended form of Exhibit C is modified only by deletion of any reference to or depiction of the “Red Cliff Overlook public access area.”

(e) Exhibit E. Exhibit E attached to the Mountain Concept Agreement is amended by the insertion, in the appropriate alphabetical locations at pages Exhibit E-1 and Exhibit E-4, of the following defined term:

Commercial Ski Facilities means, as distinguished from Private Ski Facilities, the following ski facilities located within the Mountaintop Area, if any, for which non-Landowner guests, invitees and/or members of the general public must pay a unique and specific fee or charge to access and utilize: (i) Nordic and cross-country ski trails and related huts, structures and infrastructure; (ii) Alpine ski trails and related lifts, pulls, motorized uphill transit, structures and infrastructure; and (iii) lifts or aerial tramways that connect and enable access to the Vail Ski Resort.

Private Ski Facilities means, as distinguished from Commercial Ski Facilities, the following ski facilities located within the Mountaintop Area, if any, which are restricted to the sole and exclusive use of Landowners and their social guests and invitees (i.e., guests who, while they may pay to rent, lease or occupy accommodations, are not required to pay an additional separate and unique fee or charge specifically to use such private ski and recreational facilities): (i) Nordic and cross-country ski trails and related huts, structures and infrastructure; and (ii) Alpine ski trails and related lifts, pulls, motorized uphill transit, structures and infrastructure.

3. Effect of Amendment. Except as expressly modified by this First Amendment, the Mountain Concept Agreement is unmodified, is hereby ratified and affirmed, and will remain in full force and effect in accordance with its terms. If there is any inconsistency between the terms of this First Amendment and the terms of the Mountain Concept Agreement, the provisions of this First Amendment will govern and control.

4. Governing Law. This First Amendment will be governed by and construed in accordance with the laws of the State of Colorado.

5. Effectiveness and Recording. Pursuant to Section 5.3b of the Mountain Concept Agreement, this First Amendment will be legally effective and binding upon the later to occur of (i) execution by the Parties, or (ii) the effective date of the ordinance by which Town Council approves this First Amendment. Promptly after this First Amendment becomes effective, the Parties will cause it to be Recorded. Upon Recording, this First amendment will be legally effective and will be binding on the Mountaintop Area, and on all Landowners and other Parties. As between the Town and Battle One, the validity or enforceability of this First Amendment will not be affected by and delay in or failure to Record this First Amendment.

6. Counterparts. This First Amendment may be executed in one or more counterparts, each of which will be deemed to be an original, and all such counterparts taken together will constitute one and the same instrument.

[Signature Pages and Exhibits Follow This Page]

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be duly executed as of the Effective Date.

TOWN:

TOWN OF MINTURN
a home rule municipal corporation
of the State of Colorado

By: _____
Name: John Widerman, IV
Title: Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Title: Town Clerk

By: _____
Title: Town Attorney

Battle One Developer, LLLP,
a Georgia limited liability limited partnership

By: _____
Name: Lorne Bassel
Title: President

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Lorne Bassel, President of Bassel Battle Investment, Corp., a Colorado corporation, as General Partner of Battle One Developer, LLLP, a Georgia limited liability limited partnership.

My commission expires: _____

Battle One's Signature Page to First Amendment

EXHIBIT A
Legal Description and Graphic Depiction of Mountaintop Area
(Not modified by this First Amendment)

Tract 9-A of Battle Mountain Annexation Parcel No. 9, being legally described and graphically depicted as follows:

A PARCEL OF LAND LOCATED IN SECTIONS 1, 12, 13 AND 24, TOWNSHIP 6 SOUTH, RANGE 81 WEST; AND SECTIONS 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21 AND 29, TOWNSHIP 6 SOUTH, RANGE 80 WEST, ALL IN THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36 BETWEEN THE SOUTHWEST SECTION CORNER, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 36; THENCE S63°38'37"E A DISTANCE OF 2534.07 FEET TO CORNER No. 2 AT THE TOPAZ LODE (MS No. 20461), A 1 1/2 INCH ALUMINUM CAP, LS No. 24325, FOUND IN PLACE, BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE 2-3 LINE OF SAID TOPAZ LODE S53°54'23"E, A DISTANCE OF 1499.98 FEET TO CORNER No. 3, A STONE MONUMENT FOUND IN PLACE, ALSO BEING A POINT ON THE 1-2 LINE OF THE QUAKER LODE (MS No. 20461); THENCE ALONG SAID 1-2 LINE N59°25'24"E, A DISTANCE OF 455.97 FEET TO CORNER No. 2 OF SAID QUAKER LODE, A STONE MONUMENT FOUND IN PLACE; THENCE S44°59'52"E, A DISTANCE OF 1860.88 FEET ALONG THE EASTERLY LINE OF SAID QUAKER LODE, THE OXIDE LODE (MS No. 20641) AND THE LIME LODE (MS No. 20641) TO CORNER No. 2 OF SAID LIME LODE, A 1 1/2 INCH ALUMINUM CAP, LS #24325, FOUND IN PLACE, ALSO BEING A POINT ON THE 1-2 LINE OF THE JEROME LODE (MS No. 20461); THENCE N59°06'09"E, A DISTANCE OF 403.30 FEET TO CORNER No. 2 OF SAID JEROME LODE, A STONE MONUMENT FOUND IN PLACE; THENCE ALONG THE EASTERLY LINE OF SAID JEROME LODE, THE HANOVER LODE (MS No. 20461), THE FRANKLIN LODE (MS No. 20461), THE DE PUE LODE (MS No. 20461) AND THE BLENDE LODE (MS No. 20461) S45°07'20"E, A DISTANCE OF 3098.66 FEET TO CORNER No. 3 OF SAID BLENDE LODE, A 1 1/2 INCH ALUMINUM CAP, LS #24325, FOUND IN PLACE, ALSO BEING A POINT ON THE 2-3 LINE OF THE COLORADO LODE (MS No. 20355); THENCE ALONG SAID 2-3 LINE N 59°25'36"E, A DISTANCE OF 139.32 FEET TO CORNER No. 3 OF SAID COLORADO LODE, A STONE MONUMENT FOUND IN PLACE; THENCE S45°08'40"E, A DISTANCE OF 127.73 FEET TO A POINT ON THE WEST LINE OF TRACT 37, FROM WHICH ANGLE POINT No. 3 OF SAID TRACT 37, A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, BEARS S00°02'47"E, A DISTANCE OF 144.88 FEET; THENCE ALONG SAID WEST LINE N00°02'47"W, A DISTANCE OF 1191.77 FEET TO ANGLE POINT No. 2 OF SAID TRACT 37, A 2 1/2

INCH BRASS G.L.O. MONUMENT FOUND IN PLACE; THENCE ALONG THE NORTH LINE OF SAID TRACT 37, S89°56'44"E, A DISTANCE OF 2629.96 FEET TO ANGLE POINT No. 1 OF SAID TRACT 37, A 2 1/2 INCH BRASS G.L.O. MONUMENT, FOUND IN PLACE; THENCE ALONG THE EAST LINE OF SAID TRACT 37 S00°10'09"E, A DISTANCE OF 1321.68 FEET TO ANGLE POINT No. 4 OF SAID TRACT 37, A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE; THENCE ALONG THE SOUTH LINE OF SAID TRACT 37 N89°50'57"W, A DISTANCE OF 648.90 FEET TO A POINT ON THE 3-4 LINE OF THE LONG BOY No. 4 LODE (MS No. 20705); THENCE ALONG SAID 3-4 LINE S53°57'39"E 603.06 FEET TO CORNER No. 4 OF SAID LONG BOY No. 4 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE, ALSO BEING A POINT ON THE 3-4 LINE OF THE LONG BOY No. 10 LODE (MS No. 20705); THENCE ALONG SAID 3-4 LINE AND THE 3-4 LINE OF THE LONG BOY No. 11 LODE (MS No. 20705) N59°21'03"E, A DISTANCE OF 1146.41 FEET TO CORNER No. 3 OF SAID LONG BOY No. 11 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE; THENCE S30°38'37"E, A DISTANCE OF 1500.54 FEET TO CORNER No. 2 OF SAID LONG BOY No. 11 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE; THENCE S59°22'29"W, A DISTANCE OF 600.36 FEET TO CORNER No. 1 OF SAID LONG BOY No. 11 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE, ALSO BEING CORNER No. 1 OF THE FORESIGHT No. 9 LODE (MS No. 20705); THENCE S30°45'22"E, A DISTANCE OF 1509.39 FEET TO CORNER No. 4 OF SAID FORESIGHT No. 9 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE, ALSO BEING A POINT ON THE 1-2 LINE OF THE FORESIGHT No. 8 LODE (MS No. 20705); THENCE N58°01'34"E, A DISTANCE OF 277.76 FEET ALONG SAID 1-2 LINE TO CORNER No. 1 OF SAID FORESIGHT No. 8 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE; THENCE S30°34'48"E, A DISTANCE OF 1172.96 FEET ALONG THE 1-4 LINE OF SAID FORESIGHT No. 8 LODE TO A POINT ON THE WEST LINE OF TRACT 38, FROM WHICH ANGLE POINT No. 3, A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE BEARS S00°02'13"E, A DISTANCE OF 1765.71 FEET; THENCE ALONG SAID WEST LINE OF TRACT 38 N00°02'13"W, A DISTANCE OF 869.50 FEET TO ANGLE POINT No. 2, A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE; THENCE N89°46'58"E, A DISTANCE OF 1319.01 FEET TO ANGLE POINT No. 1 OF SAID TRACT 38, A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE; THENCE S00°05'00"E, A DISTANCE OF 1446.69 FEET ALONG THE EAST LINE OF SAID TRACT 38 TO A POINT ON THE 2-3 LINE OF THE FORESIGHT No. 4 LODE (MS No. 20747), FROM WHICH ANGLE POINT No. 4 OF SAID TRACT 38 BEARS S00°05'00"E, A DISTANCE OF 1193.84 FEET; THENCE ALONG SAID 2-3 LINE S89°52'48"E, A DISTANCE OF 485.90 FEET TO CORNER No. 2 OF SAID FORESIGHT No. 4 LODE, A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE; THENCE ALONG THE 1-2 LINE OF SAID FORESIGHT No. 4 LODE S00°12'31"W, A DISTANCE OF 330.30 FEET TO CORNER No. 1 OF THE FORESIGHT No. 16 LODE (MS No. 20747), A 4 1/2 INCH ALUMINUM CAP FOUND IN PLACE; THENCE S00°12'31"W, A DISTANCE OF 6472.29 FEET; THENCE N89°43'20"W, A DISTANCE OF 2900.08 FEET; THENCE S00°14'38"E, A DISTANCE OF 2315.26 FEET; THENCE S56°07'00"W, A DISTANCE OF 450.29 FEET; THENCE N10°48'47"W, A DISTANCE OF 1490.53 FEET; THENCE S79°11'13"W, A DISTANCE OF 149.11 FEET; THENCE S63°58'49"W, A DISTANCE OF 64.05 FEET; THENCE N08°55'47"W, A DISTANCE OF 40.30 FEET; THENCE S49°10'13"W, A DISTANCE OF 184.08 FEET; THENCE S07°49'47"E, A DISTANCE OF 69.57 FEET; THENCE S62°15'43"W, A DISTANCE OF 161.07 FEET; THENCE N08°03'47"W, A DISTANCE OF 150.22 FEET; THENCE S81°06'18"W, A DISTANCE OF 136.51 FEET; THENCE S06°49'41"E, A DISTANCE OF 1111.96 FEET TO A POINT ON THE 1-4 LINE OF THE UTE No. 7 LODE (MS No. 20763); THENCE ALONG SAID 1-4 LINE N29°02'56"W, A DISTANCE OF 732.01 FEET TO A POINT ON THE 2-3 LINE OF THE METALIC LODE (MS No. 20763); THENCE ALONG SAID 2-3 LINE N74°05'33"W, A DISTANCE OF 92.93 FEET TO A POINT ON THE 1-2 LINE OF THE OVEE LODE (MS No. 4129); THENCE ALONG SAID 1-2 LINE S04°56'46"E 1249.39 FEET TO CORNER No. 1 OF SAID OVEE LODE; THENCE ALONG THE 1-4 LINE OF SAID OVEE LODE S85°03'14"W, A DISTANCE OF 98.77 FEET TO CORNER No. 4 OF SAID OVEE LODE, A 1 1/2 INCH ALUMINUM CAP, LS NO. 11204, FOUND IN PLACE, ALSO BEING A POINT ON THE 2-3 LINE OF THE SILURIAN LODE (MS No. 14400); THENCE ALONG SAID 2-3 LINE S03°21'20"E, A DISTANCE OF 199.00 FEET TO CORNER No. 2 OF SAID SILURIAN LODE; THENCE ALONG THE 1-2 LINE OF SAID SILURIAN LODE S75°35'00"W, A DISTANCE OF 103.60 FEET TO CORNER No. 1 OF SAID SILURIAN LODE ALSO BEING A POINT ON THE 3-4 LINE OF THE MOUNTAIN EAGLE LODE (MS No. 14401); THENCE ALONG SAID 3-4 LINE S04°54'52"E, A DISTANCE OF 53.93 FEET TO CORNER No. 4 OF SAID MOUNTAIN EAGLE LODE; THENCE ALONG THE 1-4 LINE OF SAID MOUNTAIN EAGLE LODE S74°57'39"W, A DISTANCE OF 41.06 FEET TO ANGLE POINT No. 1 OF THE RED CLIFF TOWN BOUNDARY, A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE; THENCE CONTINUING ALONG SAID 1-4 LINE S74°57'39"W, A DISTANCE OF 95.95 FEET TO CORNER No. 1 OF SAID

MOUNTAIN EAGLE LODE; THENCE ALONG THE 1-2 LINE OF THE SAID MOUNTAIN EAGLE LODE N05°00'00"W 1376.71 FEET TO A POINT ON THE 1-4 LINE OF THE PORTAL LODE (MS No. 20763); THENCE ALONG SAID 1-4 LINE S47°20'15"W, A DISTANCE OF 189.26 FEET TO A POINT ON THE 2-3 LINE OF THE CARIBOE LODE (MS No. 6509); THENCE CONTINUING ALONG SAID 2-3 LINE OF THE SAID CARIBOE LODE N04°59'45"W A DISTANCE OF 210.35 FEET; THENCE ALONG THE 1-2 LINE OF SAID CARIBOE LODE S75°17'00"W A DISTANCE OF 152.18 FEET; THENCE ALONG THE 1-4 LINE OF SAID CARIBOE LODE S05°00' 01"E A DISTANCE OF 789.27 FEET; THENCE DEPARTING SAID LINE 2-3 OF THE CARIBOE LODE THE FOLLOWING THREE (3) COURSES:

- 1) N89°43'20"W, A DISTANCE OF 1990.32 FEET;
- 2) S00°15'04"E, A DISTANCE OF 783.95 FEET;
- 3) N89°43'20"W, A DISTANCE OF 1522.70 FEET TO A POINT ON THE 1-4 LINE OF THE IRON WILL LODE (MS No. 3686); THENCE ALONG SAID 1-4 LINE AND THE 1-2 LINE OF THE BUENA VISTA LODE (MS No. 1569) N38°32'00"W, A DISTANCE OF 272.50 FEET TO A POINT ON THE 2-3 LINE OF THE UTE No. 5 LODE (MS No. 20763); THENCE ALONG SAID 2-3 LINE S51°30'40"W, A DISTANCE OF 52.29 FEET TO CORNER No. 3 OF SAID UTE No. 5 LODE; THENCE ALONG THE 3-4 LINE OF SAID UTE No. 5 LODE N03°56'57"W, A DISTANCE OF 133.01 FEET TO A POINT ON THE 1-2 LINE OF THE ASPEN LODE (MS No. 698); THENCE ALONG SAID 1-2 LINE OF SAID ASPEN LODE AND THE 1-2 LINE OF THE SILVER LODE (MS No. 2958) N38°35'00"W, A DISTANCE OF 224.32 FEET TO CORNER No. 1 OF SAID SILVER LODE; THENCE ALONG THE 1-4 LINE OF SAID SILVER LODE TO CORNER No. 1 OF THE MOUNTAIN CHIEF LODE (MS No. 3675) N51°25'00"E, A DISTANCE OF 119.68 FEET; THENCE ALONG THE 1-4 LINE OF SAID MOUNTAIN CHIEF LODE N38°35'00"W, A DISTANCE OF 93.04 FEET TO A POINT ON THE 2-3 LINE OF THE ANNIE MURPHY LODE (MS No. 7821); THENCE ALONG SAID 2-3 LINE S34°58'37"W, A DISTANCE OF 166.62 FEET TO A POINT ON A THE EASTERLY RIGHT-OF-WAY OF HIGHWAY 24; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING FIFTEEN (15) COURSES:

- 1) N28°05'00"W, A DISTANCE OF 121.67 FEET;
- 2) N47°30'00"W, A DISTANCE OF 462.90 FEET;
- 3) N19°48'00"W, A DISTANCE OF 581.90 FEET;
- 4) N03°40'00"W, A DISTANCE OF 333.00 FEET;
- 5) N07°41'00"W, A DISTANCE OF 232.60 FEET;
- 6) N49°19'00"W, A DISTANCE OF 291.60 FEET;
- 7) N83°54'00"W, A DISTANCE OF 454.00 FEET;
- 8) N55°57'43"W, A DISTANCE OF 146.85 FEET;
- 9) N37°42'56"W, A DISTANCE OF 213.60 FEET;
- 10) N10°40'49"W, A DISTANCE OF 136.59 FEET;
- 11) N09°21'27"E, A DISTANCE OF 480.63 FEET;
- 12) N11°11'11"W, A DISTANCE OF 278.62 FEET;
- 13) N50°18'11"W, A DISTANCE OF 436.10 FEET;
- 14) N17°26'22"E, A DISTANCE OF 497.17 FEET;
- 15) N08°33'40"E, A DISTANCE OF 396.11 FEET TO A POINT ON THE 3-4 LINE OF THE BERTHA LODE (MS No. 603); THENCE ALONG SAID 3-4 LINE N80°30'00"E, A DISTANCE OF 736.01 FEET TO A POINT ON THE 1-4 LINE OF THE IOLA No. 2 LODE (MS No. 19933); THENCE ALONG SAID 1-4 LINE N10°03'30"W, A DISTANCE OF 193.53 FEET; THENCE DEPARTING SAID 1-4 LINE S80°30'00"W, A DISTANCE OF 671.02 FEET THROUGH A PORTION OF THE CORA LODE (MS No. 780) TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY No. 24; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THIRTY-NINE (39) COURSES:

- 1) N08°33'40"E, A DISTANCE OF 578.22 FEET;
- 2) N20°41'20"W, A DISTANCE OF 363.17 FEET;
- 3) N70°19'07"W, A DISTANCE OF 691.51 FEET;
- 4) N41°02'07"W, A DISTANCE OF 419.40 FEET;
- 5) N02°07'07"W, A DISTANCE OF 355.11 FEET;
- 6) N22°43'19"E, A DISTANCE OF 1002.98 FEET;
- 7) N05°39'56"E, A DISTANCE OF 1357.95 FEET;
- 8) N69°04'20"W, A DISTANCE OF 318.29 FEET;

9) S63°41'26"W, A DISTANCE OF 707.60 FEET;
 10) S71°31'26"W, A DISTANCE OF 392.25 FEET;
 11) S59°57'26"W, A DISTANCE OF 458.94 FEET;
 12) N50°36'34"W, A DISTANCE OF 174.78 FEET;
 13) N07°13'26"E, A DISTANCE OF 277.86 FEET;
 14) N08°28'34"W, A DISTANCE OF 578.02 FEET;
 15) N46°17'34"W, A DISTANCE OF 455.74 FEET;
 16) N04°25'26"E, A DISTANCE OF 274.36 FEET;
 17) N15°53'34"W, A DISTANCE OF 140.88 FEET;
 18) N43°37'34"W, A DISTANCE OF 187.17 FEET;
 19) N27°17'34"W, A DISTANCE OF 291.16 FEET;
 20) N10°28'34"W, A DISTANCE OF 657.71 FEET;
 21) N19°45'26"E, A DISTANCE OF 311.86 FEET;
 22) N46°06'00"E, A DISTANCE OF 361.20 FEET;
 23) N04°28'00"E, A DISTANCE OF 295.90 FEET;
 24) N40°26'00"W, A DISTANCE OF 635.90 FEET;
 25) N00°47'00"W, A DISTANCE OF 586.60 FEET;
 26) N46°40'00"E, A DISTANCE OF 610.60 FEET;
 27) N08°09'00"E, A DISTANCE OF 434.30 FEET;
 28) N26°14'00"E, A DISTANCE OF 678.10 FEET;
 29) N18°56'00"E, A DISTANCE OF 397.60 FEET;
 30) N04°24'00"E, A DISTANCE OF 582.46 FEET;
 31) N24°42'00"E, A DISTANCE OF 282.70 FEET;
 32) N30°21'00"W, A DISTANCE OF 179.10 FEET;
 33) N59°06'00"W, A DISTANCE OF 202.50 FEET;
 34) N88°47'00"W, A DISTANCE OF 261.00 FEET;
 35) S20°56'00"W, A DISTANCE OF 286.70 FEET;
 36) S21°45'00"E, A DISTANCE OF 383.10 FEET;
 37) S36°30'00"W, A DISTANCE OF 913.50 FEET;
 38) S54°28'00"W, A DISTANCE OF 258.32 FEET;
 39) N25°22'00"W, A DISTANCE OF 83.85 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF THE DENVER AND RIO GRANDE WESTERN RAILROAD; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING FOUR (4) COURSES:

1) N14°33'51"E, A DISTANCE OF 729.22 FEET;
 2) S06°02'22"E, A DISTANCE OF 162.45 FEET;
 3) N14°47'55"E, A DISTANCE OF 1324.74 FEET TO A POINT OF CURVATURE;
 4) 184.82 FEET ALONG THE ARC OF SAID CURVE TURNING TO THE LEFT HAVING A CENTRAL ANGLE OF 06°47'03", A RADIUS OF 1560.93 FEET, AND A CHORD WHICH BEARS N11°24'24"E, A DISTANCE OF 184.71 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY N59°22'34"E, A DISTANCE OF 150.42 TO CORNER No. 3 OF THE RUBY LODE (MS No. 20461); THENCE ALONG THE 2-3 LINE OF SAID RUBY LODE N53°54'26"W, A DISTANCE OF 142.60 FEET TO SAID DENVER AND RIO GRANDE WESTERN RAILROAD RIGHT-OF-WAY; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES:

1) 595.06 FEET ALONG THE ARC OF A NON-TANGENT CURVE TURNING TO THE LEFT HAVING A CENTRAL ANGLE OF 21°50'32", A RADIUS OF 1560.93 FEET, AND A CHORD WHICH BEARS N08°49'42"W, A DISTANCE OF 591.46 FEET;
 2) N19°44'57"W, A DISTANCE OF 710.56 FEET TO THE 1-2 LINE OF THE SAPPHIRE LODE (MS No. 20461); THENCE DEPARTING SAID RIGHT-OF-WAY N59°20'47"E, A DISTANCE OF 415.86 FEET TO CORNER No. 2 OF SAID SAPPHIRE LODE A STONE MONUMENT FOUND IN PLACE, ALSO BEING CORNER No. 1 OF SAID TOPAZ LODE; THENCE N59°23'18"E, A DISTANCE OF 653.72 FEET TO SAID CORNER No. 2 OF SAID TOPAZ LODE AND THE TRUE POINT OF BEGINNING.

SAID TRACT CONTAINS 3714.634 GROSS ACRES OF LAND MORE OR LESS.

LESS AND EXCEPT ALL OF THE FOLLOWING DESCRIBED PARCELS:

U.S. FOREST SERVICE PARCEL 1 DESCRIPTION:

A PARCEL OF LAND LOCATED IN SAID SECTION 12, TOWNSHIP 6 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHWEST SECTION CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE AN ANGLE POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHWAY No. 24 BEARS N81°24'01"W, A DISTANCE OF 414.57 FEET AND THE SAID SOUTH QUARTER CORNER OF SECTION 36 BEARS N13°07'03"W, A DISTANCE OF 7435.09 FEET; THENCE S45°13'00"E, A DISTANCE OF 71.00 FEET; THENCE S56°45'00"W, A DISTANCE OF 34.67 FEET; THENCE N17°13'30"W, A DISTANCE OF 72.26 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.028 ACRES OF LAND MORE OR LESS.

U.S. FOREST SERVICE PARCEL 2 DESCRIPTION:

A PARCEL OF LAND LOCATED IN SAID SECTION 6, TOWNSHIP 6 SOUTH, RANGE 80 WEST OF THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHWEST SECTION CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE CORNER 3, OF SAID TRACT 37 BEARS N89°50'57"W, A DISTANCE OF 126.38 FEET; THENCE S89°50'57"E, A DISTANCE OF 247.44 FEET; THENCE S59°22'48"W, A DISTANCE OF 179.81 FEET; THENCE N45°08'40"W, A DISTANCE OF 130.77 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.261 ACRES OF LAND MORE OR LESS.

U.S. FOREST SERVICE PARCEL 3 DESCRIPTION:

A PARCEL OF LAND LOCATED IN SAID SECTION 18, TOWNSHIP 6 SOUTH, RANGE 80 WEST OF THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHWEST SECTION CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE CORNER 3, OF SAID TRACT 38 BEARS N64°03'15"E, A DISTANCE OF 4206.15 FEET; THENCE S30°46'00"E, A DISTANCE OF 42.36 FEET; THENCE S59°14'00"W, A DISTANCE OF 15.50 FEET; THENCE N10°40'00"W, A DISTANCE OF 45.10 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.008 ACRES OF LAND MORE OR LESS.

U.S. FOREST SERVICE PARCEL 4 DESCRIPTION:

A PARCEL OF LAND LOCATED IN SAID SECTION 17, TOWNSHIP 6 SOUTH, RANGE 80 WEST OF THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHWEST SECTION CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE CORNER 3, OF SAID TRACT 38 BEARS N01°46'33"W, A DISTANCE OF 5083.39 FEET; THENCE N90°00'00"E, A DISTANCE OF 129.62 FEET; THENCE S69°00'00"W, A DISTANCE OF 130.90 FEET; THENCE N08°59'00"W, A DISTANCE OF 47.49 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.070 ACRES OF LAND MORE OR LESS.

U.S. FOREST SERVICE PARCEL 5 DESCRIPTION:

A PARCEL OF LAND LOCATED IN SAID SECTION 17, TOWNSHIP 6 SOUTH, RANGE 80 WEST OF THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHWEST SECTION CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE THE COMMON ANGLE POINT ON THE 1-4 LINE OF THE IRON WILL LODGE (MS No. 3686) AND THE 2-3 LINE OF THE CONTEST LODGE (MS No. 17399) BEARS S74°27'25"W, A DISTANCE OF 272.37 FEET; THENCE N76°00'00"E, A DISTANCE OF 105.19 FEET; THENCE S15°32'00"E, A DISTANCE OF 37.13 FEET; THENCE N84°44'00"W, A DISTANCE OF 112.48 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.045 ACRES OF LAND MORE OR LESS

MATCHLESS AND POCAHONTAS EXCLUSION

A PARCEL OF LAND LOCATED IN SAID SECTION 19, TOWNSHIP 6 SOUTH, RANGE 80 WEST OF THE SIXTH PRINCIPAL MERIDIAN, WITH THE BEARINGS DESCRIBED HEREIN, BASED ON A BEARING OF N89°58'30"E AND A DISTANCE OF 2694.32 FEET FOR THE SOUTH LINE OF SAID SECTION 36, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHWEST SECTION CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE AND THE SOUTH QUARTER CORNER OF SAID SECTION 36, BEING A 2 1/2 INCH BRASS G.L.O. MONUMENT FOUND IN PLACE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 80 WEST OF THE SIXTH PRINCIPAL MERIDIAN WHENCE THE SAID SOUTH QUARTER CORNER OF SAID SECTION 36 BEARS N20°23'11"W A DISTANCE OF 15813.29 FEET; THENCE S03°48'06"E A DISTANCE OF - 3629.45 FEET TO THE NORTHWESTERLY CORNER OF THE MATCHLESS LODGE (MS NO. 3664), SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE ALONG THE NORTH LINE OF SAID MATCHLESS LOAD (MS NO. 3664) N55°08'00"E A DISTANCE OF 1500.40 FEET TO THE NORTHEAST CORNER OF SAID MATCHLESS LOAD (MS NO. 3664); THENCE ALONG THE NORTHEASTERLY LINE OF SAID MATCHLESS LOAD (MS NO. 3664) S36°00'00"E A DISTANCE OF 300.00 FEET TO A POINT ALONG THE NORTHERLY LINE OF THE POCAHONTAS LODE (MS NO. 3520); THENCE ALONG THE NORTH LINE OF SAID POCAHONTAS LODE (MS NO. 3520) THE FOLLOWING TWO (2) COURSES:

- 1) N55°08'00"E A DISTANCE OF 256.79 FEET;
- 2) THENCE N75°00'00"E A DISTANCE OF 418.60 FEET TO THE SOUTHEAST CORNER OF SAID POCAHONTAS LODE (MS No. 3520); THENCE ALONG THE NORTH LINE OF SAID POCAHONTAS LODE (MS NO. 3520) THE FOLLOWING TWO (2) COURSES:

- 1) S55°08'00"W A DISTANCE OF 1500.00 FEET;
- 2) S75°00'00"W A DISTANCE OF 418.60 FEET TO A POINT ALONG THE SOUTH LINE OF SAID MATCHLESS LOAD (MS NO. 3664); THENCE ALONG SAID SOUTH LINE OF SAID MATCHLESS LOAD (MS NO. 3664) S55°08'00"W A DISTANCE OF 257.19 FEET TO THE SOUTHWEST CORNER OF SAID MATCHLESS LOAD (MS NO. 3664); THENCE ALONG THE WEST LINE OF SAID MATCHLESS LOAD (MS NO. 3664) N36°00'00"W A DISTANCE OF 300.00 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 15.230 ACRES OF LAND MORE OR LESS

Graphic Depiction of Mountaintop Area **(comprised of Tract 9-A Only)**

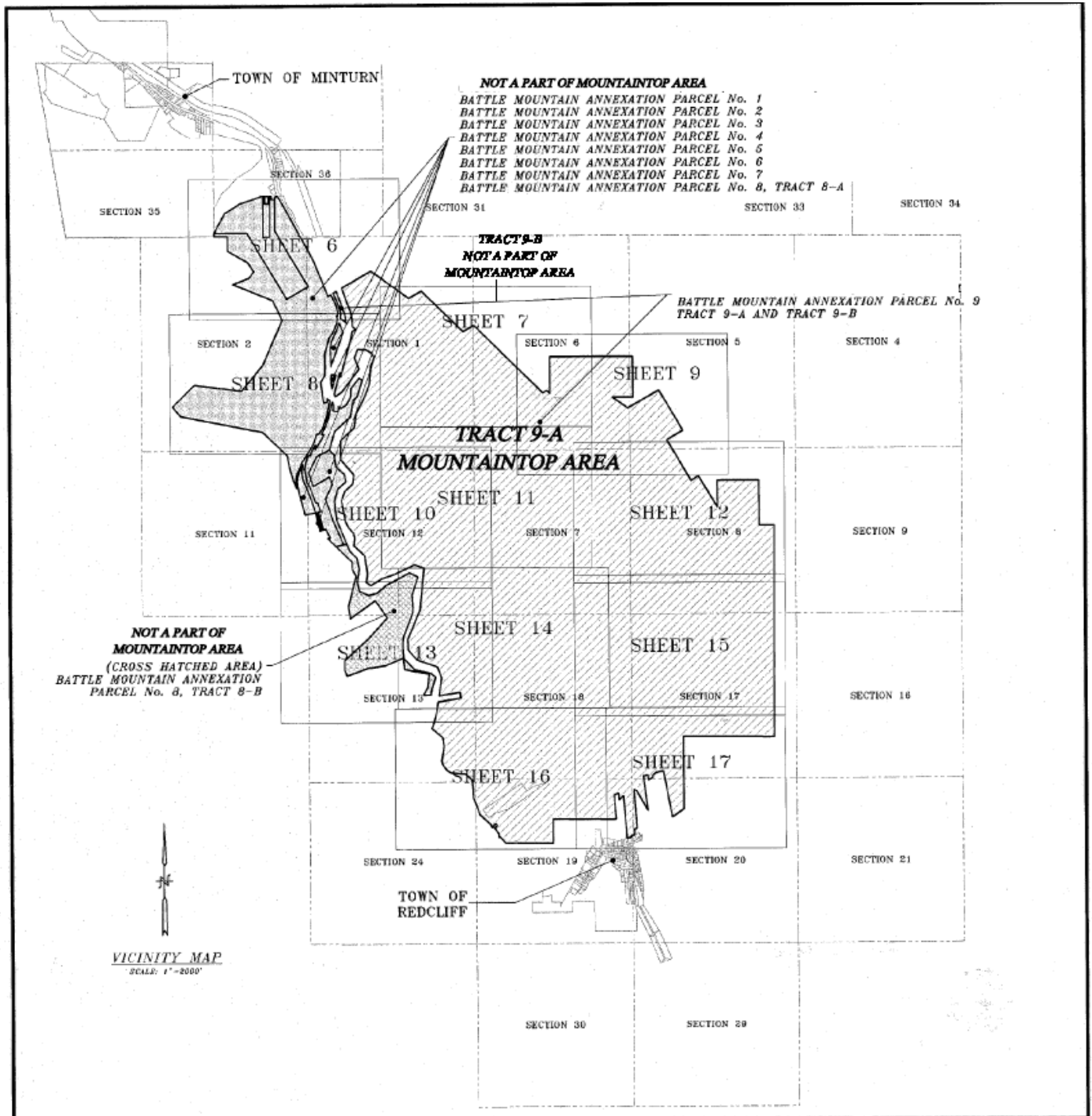
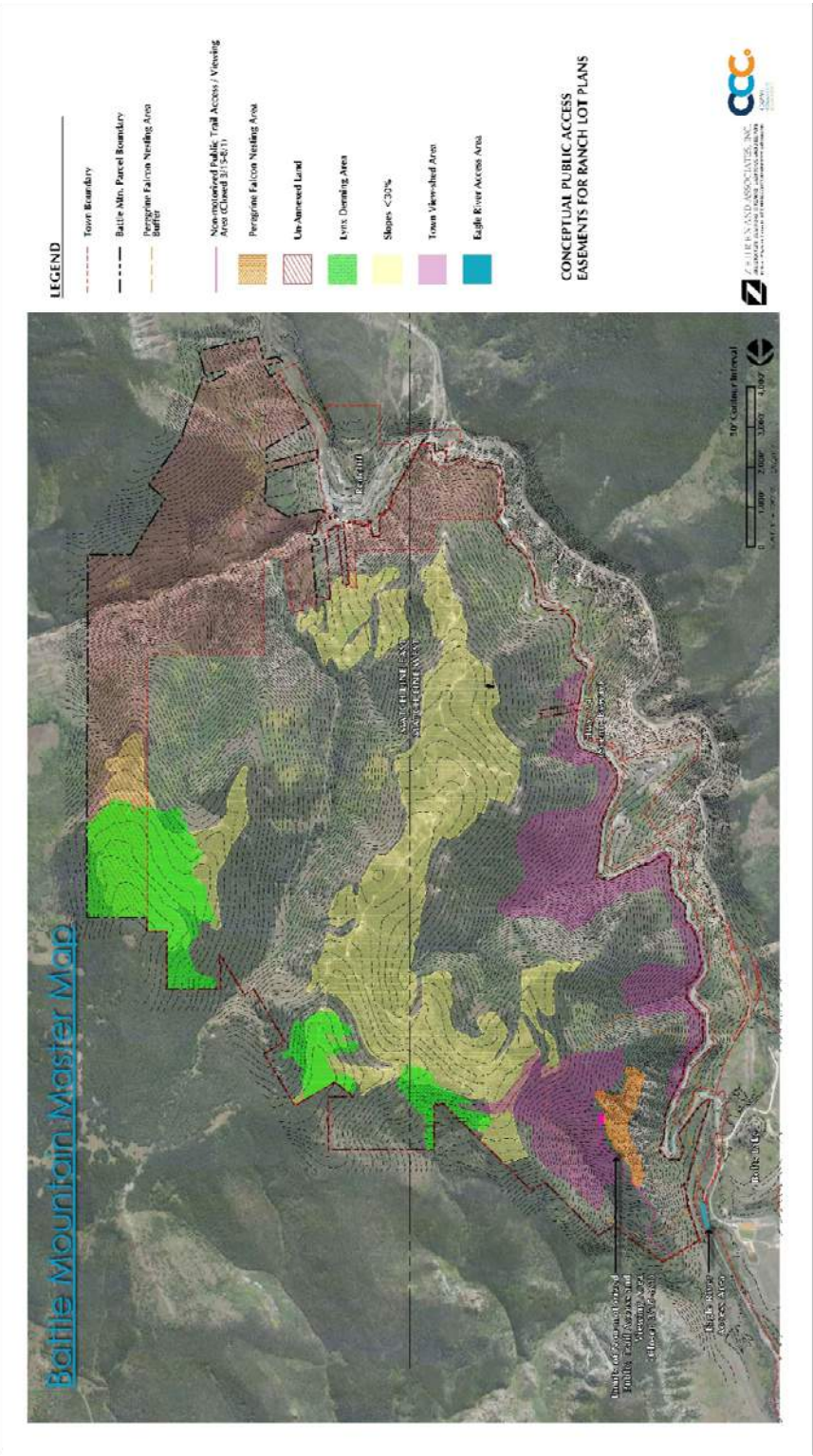
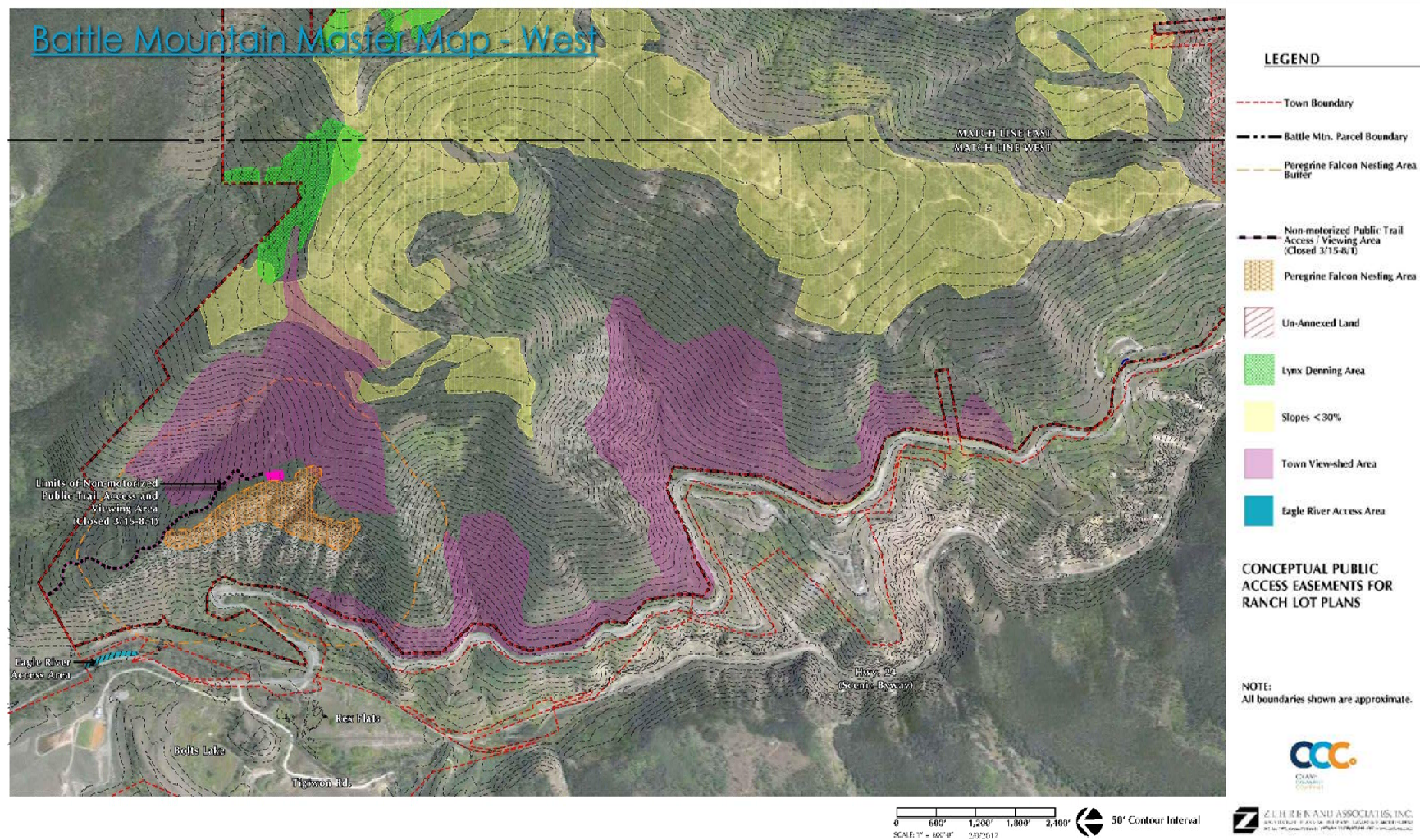


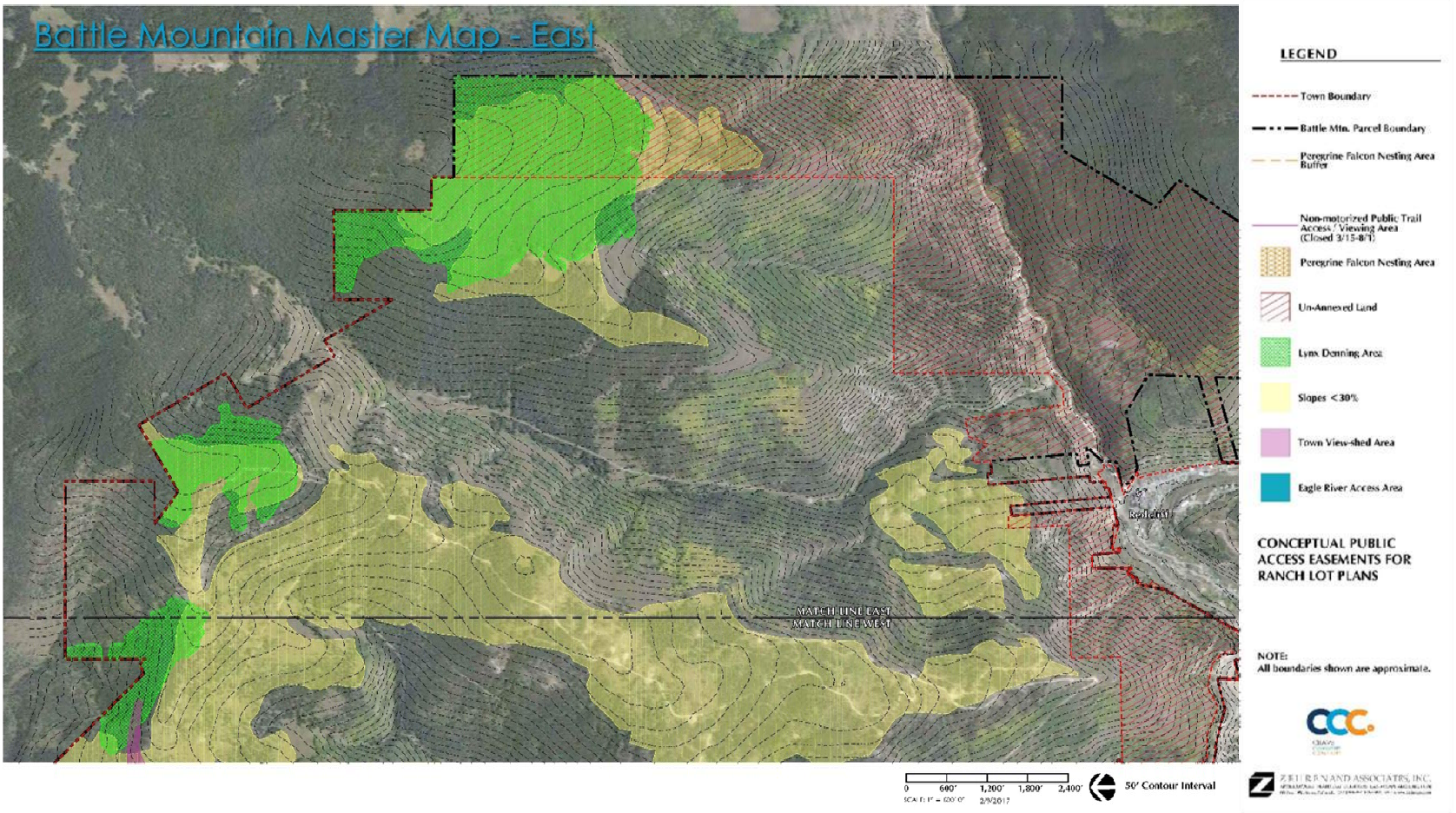
Exhibit A- 1
 (unmodified)

EXHIBIT C
Map Depicting Conceptual Public Access Easement Locations
(Amended Form)



Amended Form of Exhibit C-1





Section 2.2 Mountain Concept. If Battle One or any successor Landowner(s) elect(s) to pursue development pursuant to the Mountain Concept in the manner described in Section 2.1c.i and Section 2.1e, and subject to the terms and conditions set forth in Section 4.2b:

a. Subdivision. The Mountaintop Subdivision Regulations and related components of the Mountain Concept Code Provisions will govern and control with respect to the creation of Estate Lots pursuant to the Estate Lot Process and the creation of Ranch Lots pursuant to the Ranch Lot Process.

b. Zoning. The Mountaintop Zoning Regulations and related components of the Mountain Concept Code Provisions will govern and control zoning and development of Estate Lots and/or Ranch Lots.

c. Water and Wastewater. The Mountaintop Utilities Regulations and related components of the Mountain Concept Code Provisions will govern and control with respect to the provision of water and wastewater services for development of Estate Lots and/or Ranch Lots. If any disputes arises with respect to the Town's denial of approval pursuant to Section 13-7-45 of the Mountain Concept Code Provisions, such dispute may be submitted for resolution pursuant to Section 4.10.

d. Traffic and Roads. The Mountaintop Road Standards and related components of the Mountain Concept Code Provisions will govern and control with respect to the provision of roads, and maintenance thereof, for development of Estate Lots and/or Ranch Lots.

e. Building; Impact Fees. The International Codes (as defined in Section 18-1-10 of the Town Code, and inclusive of such Town-specific amendments of general applicability thereto as Town Council may adopt from time to time), the Mountaintop Building Code Regulations, and related components of the Mountain Concept Code Provisions will govern and control with respect to issuance of building permits and certificates of occupancy for, and imposition of impact fees relating to, development of Estate Lots and/or Ranch Lots.

f. Public Access and Recreational Easements. The Original Agreement contemplates certain public access to the portion of the Battle Property that comprises the Mountaintop Area and regarding Shrine Pass Road (located within adjacent non-annexed property). Due to the differences between development under the Original Development Concept and development under the Mountain Concept, easements for public access to and recreational purposes within the Mountaintop Area pursuant to the Mountain Concept will be Dedicated to the Town as set forth in this Section 2.2f.

i. Peregrine Falcon and Eagle River Trails. Within sixty (60) days after the Effective Date, the Town will prepare for Battle One's review and approval draft legal descriptions and draft forms of the non-vehicular public access and recreational easements described in and consistent with the criteria set forth in this Section 2.2f.i. Within ninety (90) days after the Effective Date, Battle One and the Town will finalize, execute and Record the following easements:

(1) in the approximate area depicted on Exhibit C as “Peregrine Falcon public access area,” a non-vehicular public access and recreational easement, generally along the existing Xcel pipeline easement, for pedestrian/hiking access along a trail to the base of the cliffs below the peregrine falcon nesting area (but prohibiting access to within not less than ¼ mile of the peregrine falcon nesting area during the nesting period (roughly March 15 through August 1)); and

(2) a non-vehicular recreational public access easement along the Eagle River (such area being located in small portion of the northwestern part of the Mountaintop Area in the vicinity of the Peregrine Falcon Nesting Area buffer as designated on Exhibit C) that will (A) establish an easement area that is parallel to and on each side of the Eagle River for that portion of such Ranch Lot Plat or Estate Lot Plat that is (I) twenty (20) feet (or such lesser distance as corresponds to the applicable boundary of the Mountaintop Area) from the ordinary high water mark (as determined in accordance with the definition thereof set forth in the Floodplain Stormwater and Criteria Manual published by the Colorado Water Conservation Board in effect as the date on which the river access easement is executed), and (II) parallel to and on each side of the Eagle River; and (B) be limited in scope to non-motorized public recreational use for picnicking, walking, hiking, fishing, kayaking, rafting, canoeing, and tubing.

ii. Red Cliff Overlook. Battle One or such successor Landowner who seeks approval for a Ranch Lot Plat that includes any portion of the “Red Cliff Overlook public access area” approximately depicted on Exhibit C will Dedicate to the Town a vehicular and non-vehicular recreational access easement between Highway 24 and generally terminating at a viewing area overlooking the southerly view toward the Town of Red Cliff. Said easement will encumber the full width of the roadway (to be constructed pursuant to the Mountaintop Road Standards) together with sufficient area at the Red Cliff Overlook for a picnic/viewing and recreational use area, parking for at least six (6) vehicles and a vehicle turn around area.

iii. Method of Dedication. The easements described in this Section 2.2f will not be Dedicated by plat, but will be Dedicated and accepted by Recording of separate easement documents. The exact locations of the designated easement areas, and the limitations and other terms applicable thereto, will be described in such public access and recreational easements. The areas designated on Exhibit C as “public access,” “river access” or similarly described areas are approximate and are not surveyed locations.

iv. General Terms of Easements. The Parties intend that each such easement document will be made expressly subject to and within the scope of C.R.S. §§ 33-41-103 and 13-21-115, being Dedicated to the Town for recreational purposes and related public access. In accordance with the exception from the definition of “subdivision” in

Section 17-2-10 of the Town Code, fee ownership of the easement areas may subsequently be conveyed by metes and bounds legal description (to be coincident with the legal descriptions of the easement areas) to a District or to an Association, such conveyances will not be construed to constitute a “subdivision” within the meaning of the Town Code, and may be accomplished

without the requirement of being platted under the Town's subdivision regulations: provided, however, the instrument of conveyance must, *inter alia*, expressly state (A) the conveyance is for the purpose of creating permanent open space; (B) the property is subject to a use restriction for only public access, permanent open space, recreational purposes and utilities; and (C) the conveyance is expressly subject to the encumbrance of the applicable easement document and dominant estate created thereunder in accordance with the terms and conditions of such easement document. The fee owner, from time to time, of property subject to such easements will have no obligation to maintain the easement areas or to maintain trails or improvements, if any, located within the easement areas. The Town will have no obligation to maintain the roadway to the Red Cliff Overlook regardless of whether such road is located in a public access easement or whether any public recreation use occurs on or across such roadway.

Shrine Pass Road. Shrine Pass Road passes through certain property that Battle One owns and which is located in unincorporated Eagle County and generally adjacent to the Mountaintop Area. Concurrently with complying with their respective obligations pursuant to Section 2.2f.i and within the timeframes set forth therein, the Town and Battle One will draft, agree upon, execute and cause to be Recorded as an encumbrance on the applicable portion of such un-annexed adjacent property a covenant which runs with title to such land that will have the effect of imposing a servitude for the purpose of assuring that neither Battle One nor any subsequent owner of such property will cause Shrine Pass Road to be closed to the public through such property, and that any realignment or other changes to Shrine Pass Road must be made in accordance with applicable U.S. Forest Service rules, regulations and policies. The Signatories expressly intend that the obligations under such covenant will be enforceable by the Town, in accordance with its terms, against the applicable portion of the adjacent, un-annexed property, but further expressly intend that no subsequent Landowner of any portion of the Mountaintop Area will have (or deemed to have) any obligation under this Section 2.2g and that this Section 2.2g will not be construed to encumber any portion of the Mountaintop Area (such obligation being expressly a personal contractual obligation of Battle One and any successor owner(s) of the adjacent, non-annexed property).



To: Mayor and Council

From: Jay Brunvand

Date: March 18, 2020

Agenda Item: Ordinance 04 – Series 2020

REQUEST:

Council is asked to approve Ordinance 04 – Series 2020, an Ordinance adopting the 2020 Model Traffic Code.

INTRODUCTION:

Periodically the Model Traffic Code is revised by the State of Colorado. This Ordinance is designed to ensure Minturn is on the most recent code for uniformity purposes. The Town has included amendments to the State version designed to best fit Minturn's situation.

ANALYSIS:

N/A

COMMUNITY INPUT:

2016 Survey indicated safety and pedestrian access as community priorities.

BUDGET / STAFF IMPACT:

N/A

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #1 to practice fair, transparent and communicative local government.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to approve Ordinance 04 – Series 2020 an Ordinance for the regulation of traffic by the Town of Minturn Colorado; adopting by reference the 2020 edition of the "Model Traffic Code" repealing all Ordinances in conflict therewith; and providing penalties for violation thereof.

ATTACHMENTS:

- Ordinance 04 – Series 2020

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 04 – SERIES 2020**

**AN ORDINANCE FOR THE REGULATION OF TRAFFIC
BY THE TOWN OF MINTURN COLORADO; ADOPTING
BY REFERENCE THE 2020 EDITION OF THE "MODEL
TRAFFIC CODE" REPEALING ALL ORDINANCES IN
CONFLICT THEREWITH; AND PROVIDING PENALTIES
FOR VIOLATION THEREOF.**

WHEREAS, the Town of Minturn ("Town") is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council ("Town Council") is authorized to act; and

WHEREAS, Chapter 8 of the Minturn Municipal Code (the "Code") provides for certain the regulation of Vehicles and Traffic on the public roads and highways within the Town; and

WHEREAS, The Colorado Department of Transportation has published the 2020 edition of the Model Traffic Code that relates to comprehensive traffic control regulations within the state; and

WHEREAS, the Minturn Town Council finds and believes that it is necessary and proper to amend the Minturn Town Code to adopt the most recent version of the Model Traffic Code and adopt other amendments necessary to conform therewith.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. Article 1, Chapter 10 of the Minturn Municipal Code is hereby amended as set forth in **Exhibit A**, with additions shown in double underlined text. Sections of Chapter 8 which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

SECTION 3. Article 4, Chapter 8 is hereby repealed.

SECTION 4. Article 5, Chapter 8 is hereby repealed

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 18th DAY OF MARCH, 2020. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 1ST DAY OF APRIL, 2020 AT 6:30p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

**THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE
ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY
AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 1ST DAY OF
APRIL, 2020.**

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

ARTICLE 1 - Model Traffic Code

Sec. 8-1-10. - Adopted by reference.

Pursuant to parts 1 and 2 of article 16 of title 31 and part 4 of article 15 of title 30, C.R.S., there is hereby adopted by reference the 2020 edition of the "Model Traffic Code" promulgated and published as such by the Colorado Department of Transportation, Traffic Engineering and Safety Branch, 2829 W Howard Place, Denver, CO 80204. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City, Town, County. The purpose of this Ordinance and the Code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation.

Sec. 8-1-20. - Copy on file.

Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Town Clerk and may be inspected during regular business hours.

Sec. 8-1-30. - Amendments.

(a) The 2020 edition of the Model Traffic Code is adopted as if set out at length, save and except the following Articles and/or Sections which are declared to be inapplicable to this municipality and are therefore expressly deleted: none. The Model Traffic Code as adopted by the Town is subject to the following additions or modifications:

(1) Section 105, Local traffic control devices, is hereby amended as follows:

"(a) Local authorities shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this Code or local traffic ordinances or to regulate, warn, or guide traffic, subject in the case of state highways to the provisions of Sections 42-2-110 and 43-2-135(1)(g), C.R.S. All such traffic control devices shall conform to the state manual and specifications for statewide uniformity as provided in Section 42-4-104, C.R.S.

"(b) The Town Police Chief or designated law enforcement official in consultation with the Town Administrator may direct the erection of temporary parking and traffic control signs. On any street or at any place within the Town where official signs (whether permanent or temporary in nature) are posted giving notice of stopping, standing, or parking restrictions or prohibitions, no person shall stop, stand, or park a vehicle in any manner in violation of the provisions contained on such signs except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or other traffic control device or official, and except for the purpose of loading or unloading passengers when such standing does not obstruct, impede, or endanger any traffic or pedestrian.

"(c) The Town Police Chief or designated law enforcement official in consultation with the Town Administrator shall have the right to place and maintain such parking control signs and devices they deem necessary for regulating parking in the Town. Such parking control signs and devices may deviate from the state manual

and specifications for statewide uniformity to accommodate the unique physical constraints that exist in the Town's right-of-ways and alleys."

(2) Section 1101(2) is hereby repealed and reenacted to read as follows:

"(2) Except when a special hazard exists that requires a lower speed, the following speeds shall be lawful:

"(a) Fifteen (15) miles per hour on streets and highways owned by the Town of Minturn unless otherwise posted."

"(b) Any speed not in excess of a speed limit designated by an official traffic control device."

(b) Additions. The 2020 Model Traffic Code is hereby adopted in full, as amended above, and with the following additions:

(1) A new Section 1203, Illegal parking, is hereby adopted to read as follows:

" 1212. Illegal parking.

"(a) It is unlawful for any person to park or place any vehicle in any posted 'No Parking' area.

"(b) It is unlawful for any person to leave any vehicle unattended on any portion of a street or highway right-of-way in the Town of Minturn for a period of seventy-two (72) hours or longer. Vehicles left on any portion of a street or highway right-of-way in the Town of Minturn for a period in excess of seventy-two (72) hours or longer shall be considered abandoned and may be towed at the expense of the owner and/or given a citation to appear in municipal court.

"(c) Vehicles not registered and insured shall be considered abandoned and may be towed at the expense of the owner and/or given a citation to appear in municipal court for failure to register or insure a vehicle.

"(d) It is unlawful for any person to leave in the public right-of-way any pickup camper, boat or detached trailer for longer than seventy-two (72) hours. Such detached trailers may be towed by, or at the direction of, the Town and such pickup campers and boats may be removed and impounded at the expense of the owner. For purposes of this section, 'trailer' means any wheeled vehicle without motor power and designed to be drawn by a motor vehicle. A 'pickup camper' means a camper body capable of being loaded or unloaded from or to the bed of a pickup truck.

"(e) It is unlawful for any person to leave unattended on any portion of a street or highway right-of-way in the Town of Minturn any 'oversized vehicles,' except for the purposes of temporary loading and unloading. Such 'oversized vehicles' may be towed by, or at the direction of, the Town and may be removed and impounded at the expense of the owner. For the purposes of this section, 'oversized vehicles' include semi-trucks, large delivery trucks, buses, heavy construction equipment, and any vehicles greater than thirty-five (35) feet in length."

- (2) A new section 1213, Hazard parking violations, is hereby adopted to read as follows:

"1213. Hazard parking violations. Any vehicle parked or placed such that it creates an immediate hazard or affects the flow of traffic in any travelled right-of-way is in violation of this Section and may be towed without prior notice to the owner by the Town, or otherwise, at the owner's expense, and the owner of said vehicle shall pay the towing and storage fees for the vehicle's release."

- (3) A new section 1214, Towing, is hereby adopted to read as follows:

" 1214. Towing. Any vehicle parked or left in violation of this chapter, but that does not appear to create an immediate hazard in the opinion of the Police Department may be either (1) towed by, or at the direction of, the Town after an officer of the Town has conspicuously affixed to such vehicle a parking violation notice informing the user or owner that a particular parking or stopping violation has occurred at that time and place and after the violation has not been corrected within 24 hours (in which case the owner of the vehicle shall pay the actual towing and storage fees for the release of the vehicle); or (2) assess a parking violation fine to be paid by the owner of such vehicle within 20 days of the date of such notice. The notice shall set forth the nature of the violation, the fine for the particular violation, and the procedure for payment or dispute of the charge. The owner receiving said notice shall pay the fine within 20 days of the date of such notice or contact the Clerk of the Municipal Court and sign a written request in order to dispute the charge. Failure to pay the fine or dispute the charge within 20 days of the date of such notice shall cause a late penalty to be added to the fine and cause the assessment to be submitted to a collection agency for the collection of the delinquent fees plus the cost of collection or be grounds for issuance of a bench warrant."

Sec. 8-1-40. - Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park and every other public way, public place or public parking area, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413 and Part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality.

Sec. 8-1-50. - Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and the adopted code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section thereof.

Sec. 8-1-60. - Repeal.

Existing or parts of the Code covering the same matters as embraced in this Article are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution

or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Article.

Sec. 8-1-60. - Penalties.

The following penalties, herewith set forth in full, shall apply to this Article:

- (1) It is unlawful for any person to violate any of the provisions adopted in this Article.
- (2) Every person convicted of a violation of any provision adopted in this ordinance shall be punished by a surcharge in accordance with 42-4-1701(4)(e)(II), C.R.S.
- (3) Every person convicted of a violation of any provision adopted in this Article shall be punished in accordance with section 1-4-20 of the Code.

Glenwood Springs – Main Office

201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen

323 W. Main Street
Suite 301
Aspen, CO 81611

Montrose

1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Office: 970.945.2261

Fax: 970.945.7336

**Direct Mail to Glenwood Springs*

DATE: March 13, 2020
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Emergency COVID-19 Resolutions

Attached please find two resolutions, which are intended to put the Town in the best position possible to address COVID-19 on an ongoing basis.

The Emergency Declaration resolution grants the Town Manager the authority to declare a local disaster emergency related to the COVID-19 outbreak. While the manager has this authority, it is limited to seven days without ratification. To ensure continuity of operations, it is advisable to grant the Town Manager this authority at this time. The declaration of a local disaster emergency is an administrative tool to enable the receipt and spending of certain available funds. The resolution also lifts the cap on the Town Manager's spending authority to ensure that emergency response operations can be conducted. Such expenditures will require later Council ratification.

The Emergency Electronic Participation Policy supplements the Municipal Code's existing policies regarding electronic participation. It appears likely that Town business will need to be conducted telephone and video conference for the foreseeable future. As such, it is advisable to adopt policies to permit a quorum to meet via such methods to limit in-person contacts. Furthermore, this policy makes accommodations for quasi-judicial proceedings that require presentation of materials and opportunities for public comment. This policy will only be invoked by the Town Manager's declaration of a local disaster emergency or the Governor's state of emergency, and does not modify the existing code section 2-2-50.

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**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 12 – SERIES 2020**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
OF MINTURN, COLORADO, ADOPTING AN
ELECTRONIC PARTICIPATION POLICY FOR USE IN
THE EVENT OF A LOCAL EMERGENCY DECLARATION**

WHEREAS, the Town of Minturn (“Minturn” or the “Town”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Minturn Home Rule Charter (the “Charter”); and

WHEREAS, Section 2-2-50 of the Minturn Municipal Code provides for electronic participation in Town Council meetings, but does not permit such attendance to constitute a quorum; and

WHEREAS, pursuant to Section 24-33.5-709 of the Colorado Revised Statutes, the Town Manager and Town Council have authority to declare a local disaster emergency; and

WHEREAS, pursuant to the powers inherent in the office, the Governor of Colorado has authority to declare a state of emergency; and

WHEREAS, Town government must continue to operate during a local disaster or emergency, while taking measures to protect the health and welfare of its employees and officials; and

WHEREAS, It is the intent of this resolution to supplement Code section 2-2-50 in the event of an emergency declaration; and

WHEREAS, Town Council has determined that it is in the best interest of the public health, welfare, and safety of the residents of the Town of Minturn to adopt an Emergency Electronic Participation Policy.

NOW, THEREFORE, IT IS RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO, THAT:

Section 1. The above recitals are hereby incorporated as findings by the Town Council of the Town of Minturn.

Section 2. The Town Council of the Town of Minturn hereby adopts the Emergency Electronic Participation Policy, attached hereto as **Exhibit A**.

Section 3. The Electronic Participation Policy adopted herein shall only apply declaration of a local disaster emergency pursuant to Section 24-33.5-709 of the Colorado Revised Statutes, or the declaration of a state of emergency by the Governor of Colorado.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 18th day of March, 2020.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

Jay Brunvand, Town Clerk

**ELECTRONIC PARTICIPATION POLICY
AT TOWN COUNCIL MEETINGS DURING A LOCAL DISASTER EMERGENCY OR
STATE OF EMERGENCY**

I. Purpose.

The purpose of this Policy is to specify the circumstances and means under which the Town Council shall conduct regular and special meetings by telephone or other electronic means of participation, such as video-conferencing that is clear, uninterrupted and allows two way communication for the participating members ("Electronic Participation"). Electronic Participation has inherent limitations because Electronic Participation effectively precludes a member of the Town Council from contemporaneously observing documentary information presented during meetings; from fully evaluating a speaker's non-verbal language in assessing veracity or credibility; and from observing non-verbal explanations during a speaker's presentation or testimony. The Town Council finds that these limitations, inherent in Electronic Participation, may produce inefficiencies in meetings, increase the expense of meetings, and alter the decision-making process. As such, the Town Council shall only utilize the policies contained herein upon the adoption by the Town Council of a resolution declaring, or the Town Manager declaring, a local disaster emergency pursuant to Section 24-33.5-709, Colorado Revised Statutes, or by the declaration of a State of Emergency by the Governor of Colorado.

II. Statement of General Policy.

The Town Council or Planning Commission may conduct a regular or special meeting by electronic means only in accordance with this Policy.

A. Emergency Situations.

In the event a quorum is unable to meet at the day, hour, and place fixed by the rules and procedures of the Town Council because meeting in-person is not practical or prudent due to an emergency affecting the Town, meetings may be conducted by telephone, electronically, or by other means of communication so as to provide maximum practical notice. Meetings may be held by telephone, electronically, or by other means of communication if all of the following conditions are met:

1. A local disaster emergency has been declared pursuant to Section 24-33.5-709, Colorado Revised Statutes, or a State of Emergency declared by the Governor; and
2. The Town Manager or the Town Council determines that meeting in person is not practical or prudent, because of matters related to the declaration of local disaster emergency or state of emergency affecting the Town; and
3. All members of the Town Council, and at least one Town staff member can hear one another or otherwise communicate with one another and can

hear or read all discussion and testimony in a manner designed to provide maximum notice and participation; and

4. Members of the public can hear the Town Council's proceedings and are afforded opportunities to participate in public comment; and

5. All votes are conducted by roll call; and

6. Minutes of the meeting are taken and promptly recorded, and such records are open to public inspection; and

7. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, the fact that some members of the Town Council may participate by telephone, and the right of the public to monitor the meeting from another location.

III. Arranging for Electronic Participation.

A. The Town Manager shall contact Council members at least twenty-four hours in advance of a regular or schedule meeting to provide notice of a meeting conducted under this policy.

B. The Town shall initiate the Electronic Participation not more than ten (10) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the Town Clerk shall make at least three attempts to re-initiate the connection.

IV. Effect of Electronic Participation.

A. Quasi-Judicial Matters.

In the event that a pending application is scheduled for a public hearing that is quasi-judicial in nature at a meeting at which this policy is in effect, the Town shall advise the applicant of such circumstances and present the applicant with options for proceeding with the application. The applicant shall authorize the Town, in writing, to proceed with one of the following options.

1. Conduct the public hearing under this policy with accommodations made for electronic public participation; or

2. Suspend any and all review and decisions deadlines until such time that the local disaster emergency or state of emergency is lifted and the Town Council schedules a regular meeting at which a quorum will be physically present.

B. Executive Sessions.

In the event that the Town Council holds an executive session pursuant to Section 24-6-402, Colorado Revised Statutes and Section 4.10 of the Minturn Home Rule Charter, participants shall be authorized to attend via Electronic Participation. Any executive

Exhibit A

session conducted under this policy shall be recorded electronically as provided for by statute.

V. Limited Applicability of Policy.

This Policy shall only apply to regular and special meetings (including work sessions) of the Town Council and Planning Commission of the Town of Minturn. For the purposes of the Planning Commission's use of this policy, the word "Council" shall mean "Commission".

VI. Reasonable Accommodations.

The Town shall provide reasonable accommodation and shall waive or modify provisions of this Policy to provide handicapped members of the Town Council and Planning Commission full and equal access to Town Council and Planning Commission meetings.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 13 – SERIES 2020**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
OF MINTURN, COLORADO, IN SUPPORT OF THE
GOVERNOR DECLARING A STATEWIDE EMERGENCY
AND AUTHORIZING EXPENDITURES.**

WHEREAS, the Governor of the State of Colorado has declared a statewide emergency regarding the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from the 2019 Novel Coronavirus (“COVID-19”) on March 10, 2020; and

WHEREAS, the cost and magnitude of responding to and recovery from the impact of COVID-19 may be in excess of the Town’s available resources; and

WHEREAS, the Town may need to expend resources not previously budgeted or approved; and

WHEREAS, it is in the public interest for the Town to have emergency resources available to work to safeguard the health and safety of the community; and

WHEREAS, it would be appropriate and in the interests of the public health and safety, and would further protect property, for the Town to support the State and Eagle County in their efforts to respond to the emergency; and

WHEREAS, pursuant C.R.S. § 24-33.5-709 the Town Council or Town Manager is authorized to declare a local disaster emergency.

NOW, THEREFORE, IT IS RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO, THAT:

Section 1. This resolution shall become effective if the Town Council or Town Manager declares pursuant to C.R.S. § 24-33.5-709 that there is a local disaster emergency in Minturn, due to the imminent threat of widespread or severe damage, injury or loss of life or property resulting from COVID-19 requiring emergency action to respond to and protect the life, health and safety of the citizens of Minturn.

Section 2. The effect of such declaration shall be to authorize the furnishing of aid and assistance under all applicable local and interjurisdictional disaster emergency plans.

Section 3. In the event of such declaration, the Town Manager is hereby authorized to expend funds in response to the emergency not to exceed \$100,000 without prior Town Council approval provided that such expenditures are ratified by Town Council within 30 days. The Town Manager is further authorized to suspend or modify the adopted policies of the Town including, but not limited to, procurement and employment in order to respond to COVID-19.

BE IT FURTHER RESOLVED that such declaration shall be effective from the date of the declaration until the Town Council determines an emergency no longer exists. Two copies of the declaration will be filed promptly with the Colorado Office of Emergency Management.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 18th day of March, 2020.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Mayor and Town Council
From: Michelle Metteer
Date: March 4, 2020
Agenda Item: Ordinance 05–Series 2020 An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three Single Family Equivalents (SFE)

REQUEST:

Council to consider the adoption of Ordinance 05 - Series 2020 An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three Single Family Equivalents (SFE)

INTRODUCTION:

Minturn has conducted public discussions covering all aspects of the water system for the last several years (and longer). In those discussions, the limitations of Cross Creek’s volumetric supply have been at the forefront and the creek is nearing its capacity. The Water Capital Improvement Plan cites the ability for Cross Creek to serve *approximately* 70 additional SFEs. Until such time that the Town has implemented a secondary water source and water treatment infrastructure, new building of larger construction projects requiring new taps is limited.

ANALYSIS:

An application for a preliminary planned unit development has been submitted to Minturn Town Hall. This application has gone through the pre-application meeting, two conceptual reviews at Planning Commission and a conceptual review with the Town Council. Planning Commission unanimously recommended the applicant proceed to the preliminary plan process.

Minturn has been aware that the last remaining taps and the Town’s ability to serve from the current single water source is limited. The time has arrived where the last remaining taps are being requested through application. It is important to distinguish, that the *approximately* 70 SFE’s remaining is data taken from the worst-case scenario drought in the winter months. What this means is that there is an amount of “wiggle-room” for Minturn to allocate additional taps using extreme conservation.

This Ordinance would allow builders and construction projects to apply for new builds up to three taps. The Town would not be able to accept any applications for projects exceeding three new taps.

COMMUNITY INPUT:

Imp

BUDGET / STAFF IMPACT:

\$0

STRATEGIC PLAN ALIGNMENT:

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION:

- Approve Ordinance 05–Series 2020 An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three Single Family Equivalents (SFE)

ATTACHMENTS:

- Ordinance 05–Series 2020 An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three Single Family Equivalents (SFE)

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 05 - SERIES 2020**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO ENACTING A MORATORIUM ON THE
ALLOCATION OF WATER TAPS FOR NEW BUILD
CONSTRUCTION PROJECTS REQUIRING MORE
THAN THREE SINGLE FAMILY EQUIVALENT UNITS.**

WHEREAS, the Town of Minturn (“Town”) is a legal and political subdivision of the State of Colorado for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, new construction projects and projects increasing the footprint or the area of an existing structure proposed to be undertaken within the Town are subject to a water service application review pursuant to Section 13-2-10 of the Minturn Municipal Code (“Code”) to ensure that the proposed structures and additions are constructed in compliance with the Code, including the Town's Municipal Utilities, and other regulations adopted by the Town; and

WHEREAS, the Town Council approved Resolution 40 – Series 2019 A Resolution to approve a Capital Improvements Plan (CIP) for the Minturn Water Plant and system within the Town of Minturn; and

WHEREAS, the 2019 Water System CIP Table 3 Development Summary acknowledges approximately 70 remaining water taps, or Single Family Equivalent (“SFE”) units for use within the Town of Minturn with the current water infrastructure and single water source utilized; and

WHEREAS, the 2019 Water System CIP Table 3 Development Summary acknowledges the approximately 70 remaining taps are in addition to the already allocated 120 remaining taps to be designated for the Eagle County School District Maloit Park area as outlined in Ordinances 1-4, Series 2011; and

WHEREAS, Resolution 40 – Series 2019, Section 1 acknowledges the adoption of “Option 2” by the Minturn Town Council supporting the growth scenario of an additional 330 SFEs; and

WHEREAS, Ordinance 11 – Series 2019 An Ordinance adopting the fee schedule for fiscal year 2020, adopted the water utilities fee schedule based on the Option 2 growth scenario water rate modeling conducted by Ehlers Municipal Financial; and

WHEREAS, Minturn Crossing LLC (the “Applicant”) conducted pre-application meetings for the Minturn Crossing Conceptual Development Plan for Planned Unit Development with the Town on September 4, 2019 and October 24, 2019; and

WHEREAS, the Applicant submitted a Conceptual Development Plan for PUD application (the “Concept Plan”) to the Town on November 18, 2019; and

WHEREAS, the Applicant participated in required public conceptual plan review meetings during regularly scheduled Minturn Planning Commission meetings on the following dates: December 11, 2019 and January 8, 2020 and received approval; and

WHEREAS, the Applicant participated in a voluntary public conceptual plan review meeting at a regularly scheduled Minturn Town Council meeting held on December 18, 2019 and received conceptual level support; and

WHEREAS, at its regularly scheduled meeting of January 8, 2020, the Minturn Planning Commission voted unanimously to recommend to the Town of Minturn Planning Director that the Conceptual Plan met the standards for a Conceptual Development Plan for PUD pursuant to the Code, and that the Applicant should proceed to Preliminary Plan for PUD application; and

WHEREAS, the Town received an application (the “Application”) for the Minturn Crossing Preliminary Plan for PUD (the “PUD”) on March 13, 2020; and

WHEREAS, the Code requires the Town to determine completeness of the Application within ten (10) business days following receipt of a land use application; and

WHEREAS, the Application is for a residential PUD in general conformance with the Concept Plan and proposes up to 162 SFEs or a total buildout of 184 single-family, duplex, and multi-family dwelling units to be constructed in multiple phases, with the first phase to consist of a maximum of 70 dwelling units or SFEs; and

WHEREAS, based upon water utility capacity to serve, the water necessary to serve the first phase of the PUD is currently available; and

WHEREAS, municipalities have the authority to enact moratoria in order to preserve the status quo and promote orderly development so long as it is not contrary to a statewide regulatory scheme or policy; and

WHEREAS, the Town Council hereby finds and determines that a moratorium on the issuance of water taps for new projects requiring more than 3 SFEs after April 8, 2020 preserves the status quo in such a manner as to promote orderly development within the Town and is not contrary to any statewide regulatory schemes or policies, and furthermore provides sufficient assurance as to the availability of water taps for a pending application while protecting the Town’s ability to adequately serve existing utility customers, thereby protecting the Town’s water infrastructure and water source.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. A moratorium commencing on April 8, 2020 is hereby imposed on the acceptance and processing by the Town of land use development applications submitted pursuant

to Minturn Municipal Code Chapter 16 for new construction projects within the Town's water service area that will require more than three (3) new Single Family Equivalents, as defined in Minturn Municipal Code Chapter 13, Article 1.

SECTION 3. If any section, subsection, clause, phrase, or provision of this ordinance, or the application thereof to any person or circumstance shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 18th DAY OF MARCH 2020. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 1ST DAY OF APRIL 2020 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 1ST DAY OF _____ 2020.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

Jay Brunvand
 Clerk/Treasurer
 301 Pine St #309 ♦ 302 Pine St
 Minturn, CO 81645
 970-827-5645 x1
treasurer@minturn.org
www.minturn.org



Town Council
 Mayor – John Widerman
 Mayor Pro Tem – Earle Bidez
 Council Members:
 Terry Armistead
 George Brodin
 Brian Eggleton
 Eric Gotthelf
 Chelsea Winters

Below reflects proposed topics to be scheduled at future Town Council meetings and is informational only. Dates and topics are subject to change.

REGULAR TOWN COUNCIL MEETINGS	
March 18, 2020	
Ordinance No. 03 - Series 2020 (First Reading) an Ordinance amending sections of the Minturn Municipal Code pertaining to the “Mountaintop area” - RJP	
Ordinance No. 04 - Series 2020 (First Reading) An Ordinance Amending Chapter 8 of the Minturn Municipal Code to Adopt the 2020 Model Traffic Code for Colorado with Local Amendments	
Resolution 11- Series 2020 A Resolution appointing a municipal judge	
April 1, 2020	
Special Presentation – Minturn 2020 Community Survey Results – Intercept Insights/Metteer	
Ordinance No. 05 – Series 2020 (Second Reading) An Ordinance of the Town of Minturn enacting a moratorium on the allocation of water taps for new build construction projects requiring more than three single family equivalents (SFEs)	
Ordinance No. 03 - Series 2020 (First Reading) an Ordinance amending sections of the Minturn Municipal Code pertaining to the “Mountaintop area” - RJP	
Ordinance No. 04 - Series 2020 (First Reading) An Ordinance Amending Chapter 8 of the Minturn Municipal Code to Adopt the 2020 Model Traffic Code for Colorado with Local Amendments	
April 15, 2020	
Swearing in of new Council members and mayor - Brunvand	
Work Session – Minturn Fitness Center Discussion	
Discussion/Direction – Leash Law review – Eagle County Animal Control	
Discussion/Direction – Short Term Rental Regulations Review - Metteer	
Discussion/Direction – General Fund Capital Improvement Plan Public Comment & Feedback	
May 6, 2020	
July 1, 2020	
<u>Public Hearing/Action Item:</u> Ordinance 08 – Series 2019 (Second Reading) An Ordinance approving Disconnection of Real Property from the Town of Minturn – Battle Mountain Bolts Lake Property – Sawyer	