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4 **New Castle Town Council Meeting**
5 **Tuesday, April 15, 2014, 7:00 p.m.**
6
7

8 **Call to Order**

9 Mayor Breslin called the meeting to order at 7:00 p.m.
10

11 **Pledge of Allegiance**
12

13 **Roll Call**

14 Present Councilor Russi
15 Councilor Riddile
16 Councilor Metzger
17 Mayor Breslin
18 Councilor Gordon
19 Councilor Leland
20 Councilor Stuckey

21 Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody
22 Harrison, Human Resource Manager Mike Edgar, Town Attorney David McConaughy,
23 Public Works Director John Wenzel, Assistant Public Works Director Dave Gray and
24 Finance Director Lyle Layton.
25

26 **Meeting Notice**

27 Clerk Harrison verified that her office gave notice of the meeting in accordance with
28 Resolution TC-2014-1.
29

30 **Conflicts of Interest**

31 Councilor Riddile told the council that he had a conflict with item D on the agenda
32 regarding reappointment of members to the planning & zoning commission.
33

34 **Agenda Changes**

35 Councilor Leland asked that the Kelley Cox Proclamation on the consent agenda be
36 placed on the regular agenda.

37 **MOTION: Mayor Breslin made a motion to proceed with placing the Cox**
38 **Proclamation on the regular agenda. Councilor Riddile seconded the motion and**
39 **it passed unanimously.**
40

41 **Oaths of Office - Mayor Gordon, Councilor Breslin, Councilor Leland and**
42 **Councilor Riddile**

43 Town Clerk Melody Harrison swore in the newly elected members of the town council:
44 Mayor Bob Gordon, Councilor Frank Breslin, Councilor Bruce Leland and Councilor Art
45 Riddile.
46

47 **Citizen Comments on Item not on the Agenda**

48 Greg Russi, New Castle resident and former council member asked to speak to the
49 council about a grant opportunity. He told the council that there was a resolution on the

1 consent agenda providing support for a LiveWell Colorado grant application. The
 2 deadline for submittal of the application would be before the next regular council
 3 meeting, which is why he was speaking to the council last-minute. Mr. Russi said that
 4 the town had been considering a community garden for several years, and that LiveWell
 5 had grant funds available that could be used to begin the community garden project.
 6 After considering several locations, the front yard area of the River Center had been
 7 chosen for the garden, which was in keeping with the Center's Core Mission.
 8 Additionally, it provided an opportunity for the community to become more involved with
 9 the River Center.

10 The grant application that will be submitted will ask for \$4,000.00 to build the necessary
 11 infrastructure for the garden, including timbers for approximately ten raised beds,
 12 deer/elk fencing and plumbing for irrigation. The town would need to provide 'in-kind'
 13 funding of approximately \$4,105.00, which included equipment and labor costs and a
 14 water meter. Mr. Russi asked the council to consider paying for the water provided to
 15 the garden in perpetuity. Mr. Russi said that the River Center would manage the garden.
 16 The council wanted it open and advertised for public use, and not be an exclusive use for
 17 the River Center. Councilor Metzger said she thought a specific person from the Garden
 18 Club should be assigned management of the garden.

19 **MOTION: Councilor Breslin made a motion to approve support of the grant**
 20 **application to LiveWell Colorado and to approve the 'in-kind' contribution from**
 21 **the town for \$4,100.00. Councilor Riddile seconded the motion.**

22 Discussion: Mr. Russi told the council that two drafts of the funding needs had been
 23 done and he had mistakenly given the council incorrect figures. He said that the in-kind
 24 contribution from the town would be closer to \$4,500.00. Public Works Director John
 25 Wenzel explained that much of the in-kind contribution would be soft expenses such as
 26 staff time, a water meter and top soils the town already owned. The hard expenses will
 27 be fertilizer and soil amendments.

28 **The motion passed on a roll-call vote: Councilor Leland: yes; Councilor Stuckey:**
 29 **yes; Mayor Gordon: yes; Councilor Riddile: yes; Councilor Metzger: yes and**
 30 **Councilor Breslin: yes.**

31
 32 Mr. Russi told the council he would not be present for the consent agenda later in the
 33 meeting, and said he would be glad to answer any questions about the resolution
 34 supporting the grant application. He also asked if the council would pledge a small water
 35 budget for the separately metered garden. The council agreed provided that the users of
 36 the garden were water-conscious. Councilor Leland said the watering schedule and
 37 conservation item will be discussed and decided at a future community garden meeting,
 38 and guidelines will be in place. The council was comfortable with the plan.

40 **Consultant Reports**

41 Consultant Attorney - nothing to report
 42 Consultant Planner - not present
 43 Consultant Engineer - nothing to report

46 **Items for Consideration**

48 **Consider Letters of Interest from Larry Dragon, Merle Means and David**
 49 **Reynolds for vacant council seat**

1 Applicant Larry Dragon was not present at the meeting. The town council interviewed
2 Mr. Merle Means and Mr. Dave Reynolds at length. Mayor Gordon asked the council if
3 they wanted to vote and they did. Councilor Riddile suggested that the vote be done by
4 written ballot. Attorney McConaughy clarified that the ballots are not secret. Each
5 council member should write their name and their selected applicant on the paper. Once
6 Clerk Harrison tallied the result, she will read them aloud. The council cast their ballots.
7 Clerk Harrison read the results: For Larry Dragon, zero votes. For Dave Reynolds, two
8 votes. For Merle Means, four votes.

9 Mayor Gordon asked for a motion to appoint Merle Means as councilor.

10 **MOTION: Councilor Leland made a motion to appoint Merle Means to the**
11 **remaining two years on the open council seat. Councilor Stuckey seconded the**
12 **motion and it passed unanimously.**

13
14 Clerk Harrison swore in the newly appointed council member Merle Means. Councilor
15 Means took a seat at the dais.

16 17 **Consider Staff Recommendation Regarding Municipal Judge Appointments**

18 Clerk Harrison told the council that reappointment of the municipal judge and assistant
19 municipal judge was done every two years per the municipal code. Staff had solicited
20 letters of interest and received two. One from Amanda Maurer who is the currently
21 seated municipal judge, and one from Anna Itenberg who is the currently seated
22 assistant municipal judge. Clerk Harrison told the council that Ms. Itenberg was unable
23 to attend because of a prior engagement. Ms. Maurer greeted the council. She described
24 the changes she implemented to the New Castle municipal codes regarding court and
25 court fees, and explained how these changes have caused some efficiencies in the court
26 process. Judge Maurer requested her salary to be set at \$800 per diem, with the
27 understanding the municipal court is expected to be scheduled for only 1 day per month
28 under normal circumstances. Council agreed with the request. She also asked that the
29 council consider providing a \$1,000.00 allowance for training so she could attend a
30 conference. The council spoke with Ms. Maurer briefly, and asked her specifically about
31 juvenile court, if there were more marijuana-related offenses, and if Ms. Maurer worked
32 with Youth Zone and youth offenders. Ms. Maurer said there were more marijuana
33 offenses since the legalization of marijuana, and that the court regularly worked with
34 Youth Zone. Council asked staff if the proposed monthly rate was within the budget.
35 Staff said that it was.

36 Attorney McConaughy said that he had known Ms. Maurer for several years and highly
37 recommended her reappointment as Municipal Judge.

38 **MOTION: Councilor Riddile made a motion to appoint Amanda Maurer as**
39 **Municipal Judge, and Anna Itenberg as Assistant Municipal Judge. Councilor**
40 **Breslin seconded the motion.**

41 Discussion: Administrator Baker clarified that the monthly flat rate and training
42 allowance proposed by Ms. Maurer was accepted. Councilor Means further clarified that
43 the flat rate was for the judge, not for the assistant. Mayor Gordon said first the council
44 would vote on reappointments of the judge and assistant judge, then they would vote on
45 salaries.

46 **The motion passed unanimously.**

47
48 **MOTION: Councilor Leland made a motion to set the salary for the municipal**
49 **judge at a per diem rate of \$800.00 per month, and to allow a training expense**

1 **account of up to \$1,000.00. Councilor Means seconded the motion and it passed**
2 **unanimously.**

3 4 **Community Resource Housing Development Pro Forma Presentation**

5 Al Gold, Executive Director of Community Resource Housing Development (CRHD),
6 introduced himself to the council. He also introduced Carly Johansson, Director of Real
7 Estate Development for CRHD.

8 Mr. Gold Passed out promotional packets to each council member that described, in
9 depth, the company and their senior and low-income housing developments throughout
10 Colorado.

11 Ms. Johansson greeted the council. She explained to the council the need for senior
12 housing in Garfield County, stating that there was on average a 24% waiting list for
13 senior units in the county. The proposed project is a HUD 202 project. Some of the
14 sources for funding are listed in the pro forma. Ms. Johansson said a design charette had
15 been done in October 2013, but that the proposed design could be modified throughout
16 the development process as needed. She said that CRHD wanted the town involved early
17 on to ensure the project was going in the same direction as all development in the town.
18 Ms. Johansson said the proposed site is on property owned by the town in the Lakota
19 Canyon Ranch development. The designs reflect the look and feel of the Lakota
20 subdivision, and the development will include a senior community center with a laundry,
21 gathering area, library and computer space. There will be thirty-one (31) one-bedroom
22 units, and six (6) two bedroom units. Outside there will be gardens and open space for
23 tenants to gather. All the proposed units are accessible. CRHD was interested in making
24 the units available to people age 55 and up.

25 Ms. Johansson described the various achievable sources of funding being considered for
26 the project. She said CRHD's projected cost will be approximately \$7m. Based on the
27 identified funding sources and development costs, it appeared the project will have a
28 \$600k funding gap. Ms. Johansson did not feel the gap was insurmountable, and other
29 professionals felt the gap was rather small.

30 Ms. Johansson said in effort to close the gap, CRHD was looking for a long-term lease of
31 the land, and a few lease agreement examples were being reviewed. A longer term lease
32 with longer buy-out option may be necessary, or a lease that was in alignment with tax
33 periods. Also, she felt that FMLD funds would assist in closing the gap, and originally
34 they were looking for \$500k. She said she understood that amount was unrealistic, and
35 suggested that in late 2015, and FMLD application be made for a smaller amount,
36 perhaps \$200k. She asked that council consider being on board with the lease and
37 FMLD funds items so CRHD could move forward with the project.

38 Ms. Johansson said CRHD was ready to submit an application to Enterprise for \$50k in
39 pre-development funding. CRHD has been awarded the funds in the past, and felt
40 confident in being awarded funds again. CRHD was hesitant to apply for the funds
41 without a clear understanding that the town of New Castle was interested in a
42 partnership with CRHD to make the project happen.

43 Ms. Johansson reviewed the pro-forma in detail with the council.

44 Administrator Baker clarified with Ms. Johansson that they were looking for an answer
45 regarding a long-term lease, if deferring some development fees was a possibility, or if
46 FMLD funds could be used for the project. A town commitment to partner with CRHD
47 would provide CRHD the impetus to apply for a grant for pre-development money. Ms.
48 Johansson agreed with the statement. Administrator Baker advised the council that they
49 would need to discuss the issues privately. Administrator Baker said the next council
50 meeting was on May 6th, and asked if an answer after that would work. Ms. Johansson

1 said she did not know, but would let Administrator Baker know right away. She also said
2 she would send over a draft of the long-term lease.

3
4 Administrator Baker told the council that based on the information in the presentation
5 from CRHD it was unnecessary to have the executive session. The council agreed.

6
7 **Consider Reappointment of Commission/Committee Members**

8 Clerk Harrison explained to the council that the council was considering reappointing
9 Chuck Apostolik and Graham Riddile to the Planning & Zoning Commission, and Virginia
10 Erikson to the Historic Preservation Commission because their terms were up.

11 **MOTION: Councilor Leland made a motion to reappoint Chuck Apostolik and**
12 **Graham Riddile to the Planning & Zoning Commission, and Virginia Erikson to**
13 **the Historic Preservation Commission. Councilor Stuckey seconded the motion**
14 **and it passed with Councilor Riddile recused.**

15
16 **Consider Appointing Mayor Pro Tem**

17 **MOTION: Mayor Gordon made a motion to nominate Councilor Leland as Mayor**
18 **Pro Tem. Councilor Breslin seconded the motion and it passed unanimously.**

19 **MOTION:**

20
21 **Consider Setting Terms for Council Members on Planning & Zoning Commission,**
22 **Historic Preservation Commission, Economic Advisory Committee, Climate**
23 **Action Advisory Commission, Public Works, Public Safety, Personnel and**
24 **Finance Committees.**

25
26 **Funding Request - West Elk Multi-Use Club**

27 After a brief discussion of the request the council approved the request for funding.

28 **MOTION: Mayor Gordon made a motion to approve funding of \$300.00 to the**
29 **West Elk Multi-Use Club. Councilor Leland seconded the motion.**

30 Discussion: Councilor Means asked if they could be used as a resource on the town
31 website. The council said they could.

32 **The motion passed unanimously.**

33
34 **Consider Authorizing Mayor to Sign Letter to the Public Utilities Commission**

35 Administrator Baker told the council that Garfield Clean Energy had recently discussed
36 the same issue and they endorsed sending the letter to the Public Utilities Commission.

37 **MOTION: Councilor Leland made a motion to authorize the mayor to sign the**
38 **letter to the public utilities commission. Councilor Metzger seconded the**
39 **motion and it passed unanimously.**

40
41 ~~**Executive Session (1) for conference with Town Attorney for purpose of**~~
42 ~~**receiving legal advice on specific legal questions under C.R.S. Section 24-6-**~~
43 ~~**402(4)(b), and (2) for purpose of determining positions relative to matters**~~
44 ~~**that may be subject to negotiations, developing strategy for negotiations,**~~
45 ~~**and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(c) concerning**~~
46 ~~**Community Resource Housing Development**~~

47 The executive session was not needed.

48

1 **MOTION: Councilor Stuckey made a motion to allow the meeting to go past**
 2 **10:00 p.m. Councilor Leland seconded the motion and it passed with Councilor**
 3 **Riddile voting no.**

4
 5 **Kelley Cox Proclamation**

6 Councilor Leland read the Kelley Cox Proclamation into the record.
 7

8 **Consent Agenda**

9 Minutes of the April 1, 2014 council meeting
 10 Resolution TC- 2014-13 - amending the NCPD Employee Manual
 11 Maud's On Main ROW Lease Agreement
 12 Garfield County Trail IGA
 13 Arbor Day Proclamation

14 **MOTION: Councilor Leland made a motion to approve the consent agenda.**
 15 **Councilor Riddile seconded the motion and it passed unanimously.**
 16
 17

18 **Staff Reports**

19 Town Administrator - Administrator Baker told the council that there would be a meeting
 20 about the Community Garden on May 8 at 5:30 p.m. He also asked for a solid
 21 commitment for the Energy Symposium in May. After a brief discussion, he said he
 22 would reserve four seats. He said he would follow up with the specific dates and times.
 23 Last he said he would be going to visit his parents and would be out of town the 18th
 24 through 22nd.

25 Councilor Metzger said she had on her calendar that economic development was
 26 supposed to have been on the evening's agenda. Administrator Baker said that
 27 discussion will be at the retreat on May 6.

28 Town Clerk - nothing to report
 29 Town Planner - not present
 30 Public Works Director - not present
 31

32 **Commission Reports**

33 Planning & Zoning Commission - nothing to report
 34 Historic Preservation Commission - nothing to report
 35 Economic Advisory Committee - nothing to report
 36 Senior Programs - nothing to report
 37 RFTA - nothing to report
 38

39 **Council Comments**

40 Councilor Means thanked the council for appointing him and said he was grateful to be
 41 there

42 Councilor Metzger asked what was happening with the roads in Lakota. Administrator
 43 Baker said he and David McConaughy had spoken to Bob Gibson who is trying to
 44 confirm with Brendan Flaherty when the work will be done. Several ways are being
 45 considered to secure the work, one of those being some acreage. The town has asked
 46 for either cash or a performance bond to secure the work, and they should be back in
 47 touch with the town by the end of the week.

48 Councilor Breslin wanted the wellness program for employees considered at the retreat.
 49 Councilor Leland told the council that large portions of the new website were complete
 50 and that Ann was working hard to get it complete. He said Ann Ramsey, a local writer,

1 had taken a video class and produced a four or five minute video of New Castle's history
2 which she will allow the town to use on the website. He also said he was working on a
3 collective advertising for the local restaurants.

4 Mayor Gordon told the council that he was at a play a few nights earlier, and he realized
5 that his job and the council's job was to do the very best for the people. He said he had
6 served with three excellent mayors during his time as a councilor, and he will do his very
7 best as mayor.

8 Councilor Means asked if there was anything going on with the Walters property. Mayor
9 Gordon said it had recently sold, but did not know if the new owners planned to do
10 anything with it yet.

11

12

13 **MOTION: Councilor Metzger made a motion to adjourn. Councilor Means**
14 **seconded the motion and it passed unanimously.**

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16 The meeting adjourned at 10:22 p.m.

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19 Respectfully Submitted,

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Mayor Bob Gordon

Town Clerk Melody Harrison

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4 **New Castle Town Council Meeting**
5 **Tuesday, May 6, 2014, 6:00 p.m.**
6
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8 **Call to Order**

9 Mayor Gordon called the meeting to order at 6:01

10
11 **Pledge of Allegiance**

12
13 **Roll Call**

14 Present	Councilor Stuckey
	Councilor Leland
	Councilor Breslin
	Mayor Gordon
	Councilor Metzger
	Councilor Riddile
	Councilor Means
21 Absent	None

22
23 Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody
24 Harrison, Public Works Director John Wenzel and Town Finance Director Lyle Layton.
25

26 **Meeting Notice**

27
28 **Conflicts of Interest**

29 There were no conflicts of interest.
30

31 **Agenda Changes**

32 There were no agenda changes.
33
34

35 **Citizen Comments on Item not on the Agenda**

36 Jim Childers, 379 Maroon Court. He explained that the HOA in Villas at the Peaks was
37 having trouble with people violating the parking regulations in the subdivision. He said
38 that the HOA would be willing to pay the town for two police patrols per week to assist
39 with the parking issues. The council said they should not have to pay for regular police
40 patrols on public streets and said that staff would look into the problem. Mayor Gordon
41 asked Town Administrator Tom Baker to schedule a meeting with Police Chief Tony Pagni
42 and Public Works Director John Wenzel to determine the best course of action.
43

44 **Consultant Reports**

45 Consultant Attorney – not present
46 Consultant Planner – not present
47 Consultant Engineer – not present
48
49

1 **Items for Consideration**

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3 **Finance Committee**

4 Town Finance Director Lyle Layton briefly reviewed the third quarter financial report for
5 the council.

6

7 **Retreat Follow-Up**

8

9 **I. Agenda**

10

11 **II a. Memorandum to Review September Actions and Discuss Additional**
12 **Projects**

13

14 The council asked Administrator Baker to find out what the situation was with Chamber of
15 Commerce. If the Chamber was effectively dissolved, Administrator Baker said he could
16 organize a business owner group. He also said the River Center had expressed interest in
17 taking over Burning Mountain Festival. He said he would find out and report back to the
18 council on these items.

19

20

21 **II b. i. Summary Report**

22 **ii. Economic Development Strategies: Council Priorities Feb. 20, 2013**

23 **iii. New Castle Town Council Strategic Plan, October 6, 2012**

24 **iv. New Castle Town Council Strategic Plan Implementation Schedule,**
25 **October 2012**

26 **v. New Castle Project List, March 5, 2013**

27 **III Revise Strategic Plan and Project List**

28 Administrator Baker and the council reviewed and revised the strategic plan and project
29 list. Administrator Baker said he would bring the revisions back to the council for their
30 approval. He said that he would take the revised plan to the Board of County
31 Commissioners for the town's capital planning presentation to them. The council felt that
32 original dates should be left on the plan, and revision dates added so that the BOCC
33 understood the consistency of the council's long-range plan and goals. They also felt that
34 items in the plan that had been accomplished or completed should be left in the plan.

35

36 **IV Review and Consider: New Castle Town Council Commitment - Civic**
37 **Engagement and Social Capital**

38 Administrator Baker asked the council to review the document in the packet at their
39 leisure. The documents is an effort to put into words the council's direction in how staff
40 and council do their jobs with the community. Administrator Baker said the final document
41 could be something put in the employee handbook and on the town website. He asked the
42 council to e-mail him their thoughts.

43

44 **V Information: Business Article on Retailing and Real Estate**

45 Administrator Baker said he found the article in the newspaper and felt that the issue was
46 at the heart of some economic development strategies, however, he felt that New Castle's
47 economic strategy had sustainability.

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49 **VI Schedule Fall Retreat**

50 Council agreed on September 27, 2014

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Consent Agenda

Minutes of the April 15, 2014 council meeting

Minutes of the April 30, 2014 special council meeting

April Bills of \$387,442.60

Garfield County 2014 Mosquito IGA

Municipal Clerk's Week Proclamation

Discussion: Councilor Leland asked about the motion regarding the municipal judge salary being 'per diem' when the proposed rate was a monthly figure. Clerk Harrison said she would listen to the audio of the meeting, make any correction necessary, and bring the minutes back for council approval. The minutes were removed from the consent agenda.

MOTION: Councilor Leland made a motion to approve the consent agenda.

Councilor Riddile seconded the motion and it passed unanimously.

Staff Reports

Town Administrator – Administrator Baker told the council he had spoken with Mike Edgar, and he was doing well. He reminded the council that the Oil and Gas Symposium was May 14 and 15 and asked the council to verify their attendance.

Town Clerk - nothing to report

Town Planner - nothing to report

Public Works Director - nothing to report

Commission Reports

Planning & Zoning Commission - nothing to report

Historic Preservation Commission - nothing to report

Economic Advisory Committee - nothing to report

Senior Programs - nothing to report

RFTA - nothing to report

Council Comments

Councilor Metzger asked what was happening with the road repair in Lakota Canyon Ranch. Administrator Baker said Warrior had ignored the deadline for submitting security, and that the town attorney had called Warrior's attorney. Three contractors had apparently bid the road repair job and it seemed Warrior wished to complete the work.

Councilor Metzger said she was working with Kathy Kopf and the Downtown Group. She felt that Kathy was working very hard, and Councilor Metzger was concerned that the Samuelson, Shrull and Reiger properties were not being kept up. She mentioned that the Reiger property had a lot of vehicles stored on it. Councilor Breslin reminded the council that Reiger had cleaned up the area along Elk Creek. He said he admired those owners who had cleaned up their property the year before under some pressure from the Downtown Group, and although some of the spaces in the downtown were funky, they were part of what made up the character of downtown.

Councilor Metzger said she had met a New Castle Officer named Brian, and she said he was a nice man. She asked if new employees could be introduced to the council at a meeting.

Councilor Metzger said she had heard that realtors in Glenwood Springs did not show properties in New Castle. The council said that several prominent realtors lived in New Castle, and that typically, realtors showed properties listed in the MLS.

1 Councilor Breslin asked if Public Works would be willing to provide tours of town facilities
2 for the council members. Administrator Baker said he would speak with John Wenzel.
3 Councilor Breslin thought that the property adjacent to the public works facility might be
4 good to lease for advertising purposes.
5 Mayor Gordon said that he thought the shed at the south end of Mattivi Avenue could be
6 moved and the area used for public parking.
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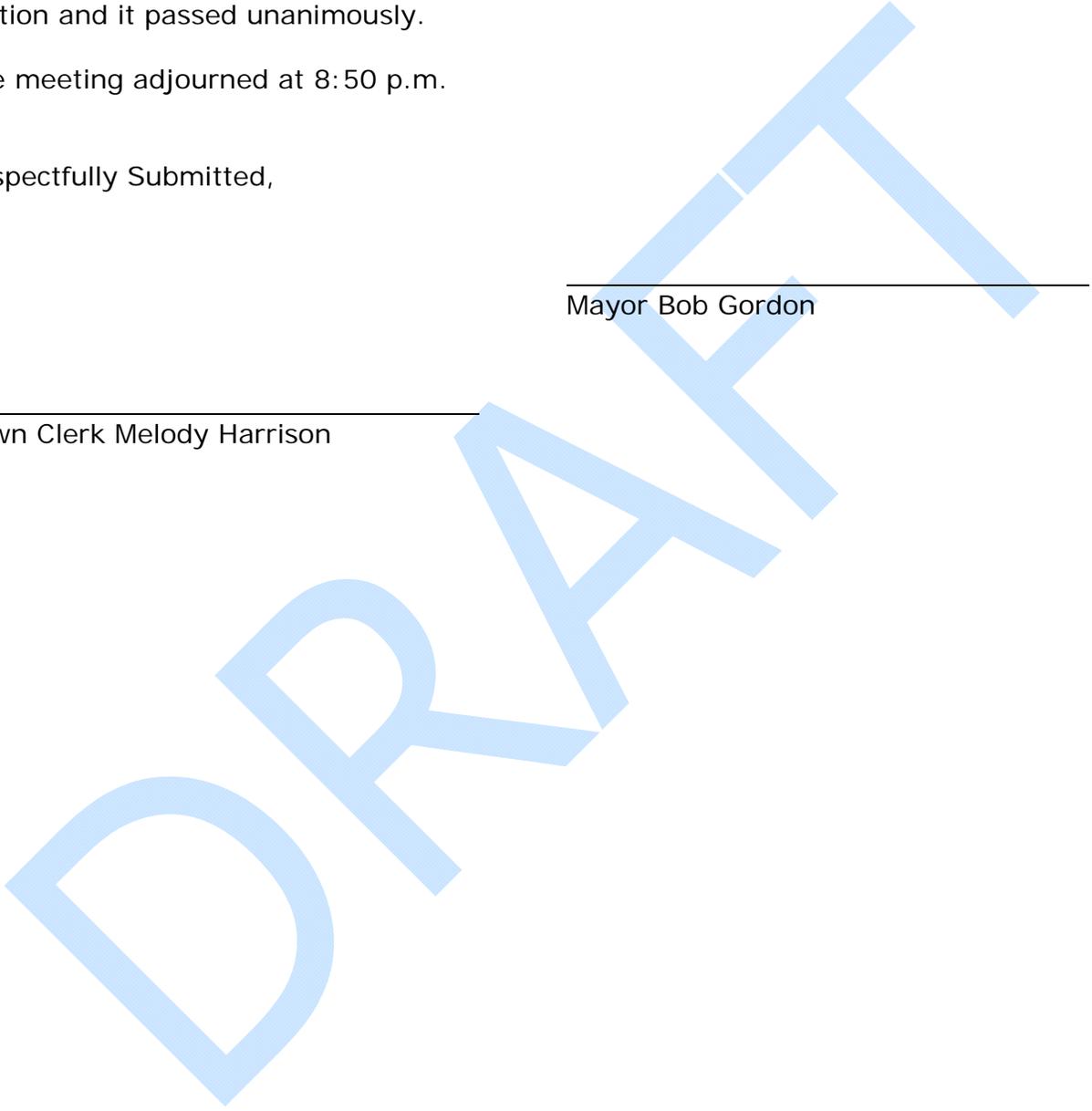
8 MOTION: Councilor Breslin made a motion to adjourn. Councilor Metzger seconded the
9 motion and it passed unanimously.

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11 The meeting adjourned at 8:50 p.m.

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14 Respectfully Submitted,

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18 _____
19 Mayor Bob Gordon

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21 _____
22 Town Clerk Melody Harrison
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**TOWN OF NEW CASTLE
RESOLUTION NO. 2014-16**

A RESOLUTION OF THE TOWN OF NEW CASTLE TOWN COUNCIL APPROVING THE
GRANT AGREEMENT BETWEEN THE TOWN AND THE GARFIELD COUNTY
FEDERAL MINERAL LEASE DISTRICT REGARDING THE DOWNTOWN ALLEYS
AND ASPHALT OVERLAY PROJECT

WHEREAS, the Garfield County Federal Mineral Lease District ("GCFMLD") is an independent public body politic and corporate formed pursuant to the Colorado Federal Mineral Lease District Act, C.R.S. §30-20-1301 *et seq.*, and receives federal mineral lease payments from the Colorado Department of Local Affairs annually for the purpose of disbursing and distributing those payments for specific statutory purposes; and

WHEREAS, the City has applied for and received a grant of \$109,000.00 from GCFMLD to Resurface Downtown Alleys, Expand Parking and Asphalt Overlay (the "Project"), subject to the execution of a grant agreement with GCFMLD detailing the terms and conditions of the grant, including, but not limited to, disbursement of funds for and management of the Project; and

WHEREAS, the Town Council desires to authorize its Town Administrator to execute the grant agreement for the Project on behalf of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO, THAT:

1. Recitals. The Town incorporates the foregoing recitals as findings and determinations of the Town Council.
2. Approval. The Town Council hereby approves the Grant Agreement Contract No. 14-ST-03 in substantively the form attached hereto as Exhibit A, and authorizes the Town Administrator to sign the grant agreement upon final approval of the form by the Town Attorney.
3. Expenditure/Further Acts. The Town Council hereby authorizes the expenditure of funds in 2014 as necessary to meet the terms and obligations of the Grant Agreement and application and authorizes the Town Administrator and Public Works Director to take such further acts as may be necessary to implement the terms and conditions of the Agreement. Nothing herein constitutes or shall be deemed the approval of a multiple fiscal year obligation by the Town.

SO RESOLVED by the New Castle Town Council at a regular meeting held this 20th day of May, 2014.

TOWN OF NEW CASTLE

By _____

Mayor

ATTEST:

Town Clerk



Garfield County
Federal Mineral Lease District
— Established 2011 —

Friday, April 25, 2014

Mr. John Wenzel
Public Works Director
Town of New Castle
P.O. Box 90
New Castle, CO 81647

**Re: Spring 2014 Grant Cycle – Traditional Grant Program
Contract No: 14-ST-03**

Dear Mr. Wenzel,

Enclosed please find one original of the Grant Agreement (“Agreement”) pertaining to your grant award from the Garfield County Federal Mineral Lease District (“GCFMLD”) for the Spring 2014 Grant Cycle based on the Grant Application you submitted. Your award remains contingent on mutual execution of the Agreement.

Execution of the Agreement will require a separate resolution passed by your governing body indicating acceptance of the Grant Agreement and its terms and authority to sign the Agreement on behalf of the governing body.

Please make sure the fully executed Grant Agreement is returned timely and with all necessary attachments to the District office no later than the close of business on May 30, 2014. Please direct any questions regarding the Agreement to info@garfieldfml.org.

Sincerely yours,

**GARFIELD COUNTY FEDERAL MINERAL LEASE DISTRICT
BOARD OF DIRECTORS**

encl: Grant Agreement

cc: file

GRANT AGREEMENT

ORIGINAL

CONTRACT NUMBER: 14-ST-03
PROJECT NAME: Resurfacing Downtown Alleyways and Asphalt Overlay
GRANT: \$109,000.00
AWARD DATE: April 18, 2014
COMPLETION DATE: April 18, 2016

PARTIES TO AGREEMENT:

GRANTOR: Garfield County Federal Mineral Lease District
GRANTEE: Town of New Castle, Colorado

Recitals

- A. Grantor is the Garfield County Federal Mineral Lease District (hereinafter "Grantor" or "GCFMLD"), an independent public body politic and corporate formed pursuant to the Colorado Federal Mineral Lease District Act, C.R.S., § 30-20-1301 *et seq* (2013), as amended (hereinafter "the Act"), and governed by a Board of Directors (hereinafter "Board"). Grantor exercises the essential public function of alleviating social, economic, and public finance impacts resulting from federal mineral leasing activities within Garfield County.
- B. Grantor receives federal mineral lease payments from the Colorado Department of Local Affairs annually and is authorized under the Act and 30 U.S.C. §191 to disburse and distribute those payments for specific statutory purposes.
- C. Grantor may grant only to political subdivisions of the State of Colorado for (1) planning, (2) construction and maintenance of public facilities, or (3) provision of public services. 30 U.S.C. §191.
- D. In 2014, Grantor created a grant program, pursuant to which eligible entities could apply for grants for eligible purposes. Grantee responded to the **Spring 2014 Grant Cycle** by submitting a detailed grant application (hereinafter "Grant Application").
- E. Grantor approved Grantee's Grant Application on **April 18, 2014**, subject to the execution of a detailed grant agreement, and subject to the terms and conditions set forth herein. The Parties intend this agreement to be the detailed final grant agreement (hereinafter "Agreement") required by Grantor and referenced in the Grant Application.

Agreement, Terms, and Conditions

NOW, THEREFORE, for and in consideration of the mutual promises or covenants exchanged herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree to the following terms and conditions:

1. *Incorporation of Recitals.* The Recitals set forth above are hereby incorporated into the terms of this Agreement.
2. *Representations and Warranties of Grantee.*
 - a. Grantee is a political subdivision of the State of Colorado and has full and lawful authority to enter into, and comply with the terms of, this Agreement.
 - b. Grantee warrants that any and all statements and representations including all sources and uses of funds made in the Grant Application are true and correct, and that the Grant Application including all attachments and exhibits thereto is incorporated by this reference into this Agreement as if set forth in full and anew.
 - c. Grantee's governing body has authorized entering into this Agreement as evidenced by the resolution attached hereto as **Exhibit A**.
3. *Representations and Warranties of Grantor.*
 - a. Grantor is a duly organized political subdivision of the State of Colorado and has full and lawful authority to enter into, and comply with the terms of, this Agreement.
 - b. Grantor represents and warrants that as of the date of execution of this Agreement it has available sufficient funds necessary to fully fund the amount of the Grant set forth herein.
 - c. The Board has authorized its President to sign this Agreement.
4. *Grant and Project.* Subject to the terms and conditions set forth in this Agreement, the Board hereby awards to Grantee a sum not to exceed **one hundred and nine thousand dollars and no cents (\$109,000.00)** (the "Grant"). The Grant shall be used by Grantee solely to complete the Project, in substantial conformity with the final plans, specifications, designs and uses approved by Grantor and in conformity with the Grant Application.
5. *Project Scope.* Grantee shall not materially modify the Project or the Project budget (attached hereto as **Exhibit B**, the "Budget") without the prior written approval of the Grantor, or Grantor's designee, and such approval shall be in Grantor's sole discretion. Any material modification to the Project undertaken without Grantor's prior written consent may be deemed a breach of this Agreement by Grantor, entitling Grantor to all

remedies available under this Agreement. If Grantee determines with reasonable probability that the Project will not or cannot be completed as reflected in the Grant Application, Grantee will promptly so advise the Board, and cooperate in good faith to seek a resolution before any further funds are advanced.

6. *Grantee Efforts.* Grantee shall complete the Project in a timely fashion, in a good and workmanlike manner, and consistent with this Agreement and Grantor's approvals related to the Project.
7. *Completion Date.* Grantee shall complete the Project and submit its Final Report no later than **April 18, 2016** (the "Completion Date"), which is two calendar years after the Board's approval of the Project. Grantee may request an extension of the Completion Date. Extensions of up to 90 days may be awarded by GCFMLD staff. Longer extensions are heavily discouraged and are in the exclusive discretion of the Board. If Grantee determines with reasonable probability that the Project will not or cannot be completed by the Completion Date or any extended completion date, Grantee will promptly so advise Grantor, and cooperate in good faith to seek a resolution before any further funds are advanced.
8. *Matching Funds.* Grantee shall obtain the matching cash and in-kind contributions for the Project as reflected in the Budget and as required by Grantor, and shall provide such evidence of the same as Grantor may require in its reasonable discretion. Funds set aside for contingency are not matching funds.
9. *Disbursement of Funds.* Grantee shall select one of the three reimbursement options below regarding disbursement of funds. Grantee shall indicate its selection using the Reimbursement Options Form, **Exhibit C** (attached).
 - a. *Advance Payment:* If Grantee opts to receive a portion of the Grant funds prior to beginning work on the Project (an "Advance Payment"), Grantee shall provide Grantor with the documentation and calculations described in the **Advance Payment Request Form** available from Grantor. Grantor may, in its discretion, request additional documentation to support making an Advance Payment. An Advance Payment shall not exceed Grantor's percentage of expected overall costs (as determined by the Grantor-approved budget) applied to the value of documented eligible expenses or 50% of the Grant, whichever is less. Notwithstanding remedies elsewhere described herein, an Advance Payment shall be considered a reimbursable financial obligation until the Project is completed and Final Payment as defined below has been made; however, the obligation to repay the Advance Payment shall be triggered in the event of breach, payable in the fiscal year of breach. If Grantee opts to receive an Advance Payment, it may not receive a Progress Payment, as defined below.
 - b. *Progress Payment:* If Grantee has opted to forego an Advance Payment and has opted to receive a portion of the Grant funds after starting but prior to completing work on the Project (a "Progress Payment"), Grantee shall provide Grantor with a

progress report detailing expenditures and progress made to date (“Progress Report”). The Progress Report must be submitted using **Grantor’s Progress Report Form** available from Grantor. Grantor may, in its discretion, request additional documentation to support making a Progress Payment. A Progress Payment shall not exceed Grantor’s percentage of expected overall costs, as determined by the Grantor-approved budget, applied to the value of documented eligible expenses or 50% of the Grant, whichever is less. Notwithstanding remedies elsewhere described herein, a Progress Payment shall be considered a reimbursable financial obligation until the Project is completed and Final Payment as defined below has been made; however, the obligation to repay the Progress Payment shall be triggered in the event of breach, payable in the fiscal year of breach. If Grantee received an Advance Payment, it may not receive a Progress Payment, and Grantee is limited to receiving one Progress Payment.

- c. *Final Payment:* Once the Project is complete, Grantee shall submit a final report to Grantor detailing the accomplishments of and expenditures related to the Project (the “Final Report”). The Project is “complete” when, as applicable to the Project, (1) all planning is completed, (2) all public facilities have been built, or maintenance of the public facilities has been completed, and the public facilities are ready for their intended use, or (3) public services have been provided. The Final Report must be submitted using **Grantor’s Final Report Form** available from Grantor. Grantor may, in its discretion, request additional documentation before its approval of the contents of the Final Report. Upon Grantor’s review and approval of the Final Report, Grantor shall pay the outstanding balance on the Grant (the “Final Payment”), subject to any reductions contemplated by any provision of this Agreement.

10. *Conditions for Disbursement.* Except as provided in Paragraph 10 below, the Grant is subject to the following requirements and conditions.

- a. The Grant and all matching funds shall be used only for (1) planning, (2) construction and maintenance of public facilities, or (3) provision of public services and consistent with Grantee’s representations in the Grant Agreement. Determinations on eligible and ineligible costs are in Grantor’s sole discretion.
- b. Disbursement of Grant funds shall be made on the basis of costs actually incurred by Grantee and supported by written documentation (receipts, bills, etc.). Grantor may, in its discretion, depending on the nature of the Project, require documentation of mechanics lien waivers or waivers of claims to public project performance bonds as a precondition to any disbursement under this Agreement.
- c. Except as otherwise agreed to in advance by Grantor in accordance with the terms of this Agreement, no material modifications may be made to the Project. Material modifications to the Project to which Grantor has not agreed may result in a reduction in the Grant. “Material modifications” may include, but are not necessarily limited to, a reduction in the total cost of the Project or any other variance from the

Project as presented in the Grant Application. It is the sole responsibility of Grantee to inform Grantor of any such modifications to the Project. Grantor strongly encourages Grantee to contact Grantor in writing when it becomes aware of or wishes to make any such modifications, however seemingly minor, to the Project.

11. *Sufficiency of Grant Funds.* Grantor warrants that Grantor has available sufficient funds to fund the Grant.

12. *Project Operation and Maintenance.*

- a. As applicable to the construction and maintenance of public facilities, Grantee shall operate, manage, and maintain the Project in a reasonable state of repair for the purposes specified in the Grant Application for a period of 25 years from the date of completion of the Project or the useful life of the Project, whichever is less, in accordance with product warranties and/or generally accepted standards applicable to the Project, and provide and maintain access to the Project and to the Property, regardless of the Property's ownership.
- b. Failure to comply with the provisions of Paragraph 12.a. may be deemed a breach by Grantee under Paragraph 20, below.
- c. Grantor shall not be liable for any cost of maintenance, management or operation of the Project.
- d. Within 60 days of a reasonable request by Grantor, Grantee will provide Grantor with adequate records reflecting the operating and maintenance costs of the Project and provide the Board with such other information concerning the use of the Project by the public and the impact of the Project.

13. *Public Access.* As applicable to the construction and maintenance of public facilities, Grantee agrees, for itself and its successors in interest, to allow reasonable public access to the Project given the nature and use of the public facilities, for the term specified in Section 12. Grantee may temporarily close such public access for construction, maintenance, emergency situations, or other reasonable purposes.

14. *Compliance with Regulatory Requirements and Federal and State Mandates.* Grantee hereby assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, permits, approvals, and other similar requirements.

15. *Nondiscrimination.* During the performance of this Agreement, Grantee and its contractors, subcontractors and agents shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, or any other basis prohibited by local, state or federal law. Grantee and its contractors shall ensure

that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Further, during the performance of this Agreement, Grantee and anyone acting on behalf of Grantee shall not engage in any unlawful discrimination in permitting access and use of the Project.

16. Publicity and Project Information.

- a. Grantee shall erect and maintain a sign or signs at a prominent location on the Project site acknowledging the assistance of the Garfield County Federal Mineral Lease District. Grantor will provide such sign(s) at no cost to Grantee. Alternatively, Grantor will provide reproducible samples of its logo to Grantee for custom signage.
 - i. Grantor shall approve in advance the design of any sign(s) materially varying from the sign(s) provided by Grantor. To obtain such approval, Grantee shall submit to Grantor plans describing the number, design, placement, and wording of sign(s) and placard(s). Plans shall be submitted to Grantor for review and approval prior to completion of the Project. Where signage is impractical, a determination in the Grantor's sole discretion, Grantee agrees to proceed pursuant to paragraph 16.a.iii below.
 - ii. Grantor may withhold Final Payment pending evidence of placement of signage.
 - iii. In the case where the Grant is given for planning or public services, Grantee shall prominently display an indoor plaque or other suitable marker acknowledging the assistance of the Garfield County Federal Mineral Lease District. Grantor will provide such signs at no cost to Grantee. The plaque or marker shall be displayed in Grantee's principal place of business or other logical location as determined by Grantor.
 - iv. This requirement may be waived in Grantor's sole discretion.
 - v. Grantee shall inform the GCFMLD of the need for a replacement sign(s) or plaque due to damage, destruction, or disrepair. Grantor's failure to provide a replacement sign(s) or plaque shall relieve Grantee of the obligations of this paragraph.
- b. Grantee shall acknowledge GCFMLD funding in all publicity issued by it concerning the Project.
- c. Grantee shall cooperate with the GCFMLD or its designee in advance in preparing public information pieces related to the Project.
- d. Grantee shall give the GCFMLD the right and opportunity to use information gained from the Project.

- e. Grantee shall give the GCFMLD a minimum 30 days' notice of any Project grand openings, dedications, or other events.
- f. Grantee shall give timely notice of the Project, its inauguration, significance, and completion to the local members of the Colorado General Assembly, members of the board of county commissioners of the county or counties in which the Project is located, as well as to other appropriate public officials, upon request of Grantor.
- g. Grantee shall provide quality digital photographs (or printed photographs, if unable to provide digital photographs) of the completed Project with the Final Report, upon request of Grantor.
- h. At no time shall Grantee represent in any manner to the public or to any party that it is affiliated with the GCFMLD or acting on behalf of the GCFMLD.

17. *Liability.* The Grantor and Grantee acknowledge that each is subject to the constitutional prohibitions against indemnification pursuant to Colorado Constitution article XI, § 1 and that as governmental entities, neither party can agree to indemnify the other. Nothing herein shall be deemed a waiver of the Colorado Governmental Immunity Act for or by either party. C.R.S. § 24-10-101 *et seq.* (1963) as amended.

18. *Audits and Accounting.* Grantee shall maintain standard financial accounts, documents, and records relating to the use, management, and operation of the Project. The accounts, documents, and records related to the Project shall be retained by Grantee for not less than five (5) years following the date of disbursement of funds under this Agreement. Grantor, or its designated agent, shall have the right, upon reasonable notice to Grantee, to audit the books and records of Grantee which pertain to the Project and to the use and disposition of the Grant. While Grantee is not required to use GAAP (Generally Accepted Accounting Principles), Grantee shall use reasonable and appropriate accounting systems in maintaining the required records hereunder.

19. *Inspection.* Throughout the term of this Agreement, Grantor shall have the right to inspect the Project to ascertain compliance with this Agreement.

20. *Breach; Withdrawal of Board Funding; Termination of Agreement.* Anything else in this Agreement or otherwise to the contrary notwithstanding, Grantor may withdraw, in whole or in part, the Grant and/or terminate this Agreement, if the Board determines in its discretion that:

- a. facts have arisen or situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Grant as contemplated infeasible or impractical;
- b. any material modifications in the scope or nature of the Project have occurred from that which was presented in the Grant Application and such material modifications have not received the prior written approval of Grantor;

- c. any statement or representation made by Grantee in the Grant Application, this Agreement, the Advance Payment documentation, the Progress Report, the Final Report, or otherwise is untrue, inaccurate or incomplete in any material respect;
- d. the results of Grantor's review of the Advance Payment documentation, the Progress Report, or the Final Report are not acceptable to Grantor with respect to material representations therein;
- e. the Project will not or cannot be completed by the Completion Date or any extensions granted thereto or delays in the implementation of the Project have occurred which, in Grantor's sole judgment, make the Project impracticable;
- f. the Project will not or cannot be completed within the Budget or any approved modifications, or the total Project cost and/or Grantee's matching funding are reduced;
- g. title to or encumbrances against the Property are or become such that Grantee is unable to complete the Project, or the Project and/or the Property are or become unavailable for public use;

21. *Remedies.*

- a. In the event that Grantee breaches any of the terms, covenants, representations, or conditions of this Agreement, Grantor may elect to enforce any and all remedies available at law or in equity, including without limitation, any of the following:
 - i. Prior to payment of Grant:
 - A. Withdraw the Grant and terminate this Agreement; and,
 - B. Deny Grantee eligibility for participation in future GCFMLD grants, loans or projects.
 - ii. After payment (partial or full) of Grant:
 - A. Deny Grantee eligibility for participation in future GCFMLD grants, loans or projects;
 - B. Seek specific performance of Grantee's obligations under this Agreement;
 - C. Seek reimbursement in full of disbursement made under the Grant.
- b. The foregoing remedies are cumulative and may be exercised independently or in combination and are not exclusive to one another or to any other remedies available at law or in equity.

22. *Good Faith.* There is an obligation of good faith on the part of both parties, including the obligation to make timely communication of information which may reasonably be believed to be material to the other party.
23. *Assignment.* Grantee may not assign its rights under this Agreement without the prior written consent of Grantor, which consent shall be in the discretion of Grantor. Any assignment shall require that, at a minimum, the assignee is eligible to receive grants from Grantor and assumes all of Grantee's ongoing obligations under this Agreement.
24. *Applicable Law.* This Agreement shall be governed by the laws of the State of Colorado and the United States of America, and venue for any dispute hereunder shall lie exclusively in the 9th Judicial District Court, State of Colorado, in Glenwood Springs, CO.
25. *No Joint Venture.* Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee or other relationship between the parties hereto other than independent contracting parties. Except as permitted under the remedies provisions hereunder, neither party shall have the express or implied right to act for, on behalf of, or in the name of the other party.
26. *Severability.* If any provision of this Agreement, or the application thereof, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision, other than those as to which it is found to be invalid, shall remain in full force and effect.
27. *Time is of the Essence.* Time is of the essence in this Agreement.
28. *Survival.* The terms and provisions of this Agreement and the parties' covenants hereunder shall survive the funding of the Grant and the completion of the Project.
29. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one Agreement. In addition, the parties agree to recognize signatures of this Agreement transmitted by telecopy or e-mail as if they were original signatures.
30. *Third Party Beneficiary.* Grantor and Grantee hereby acknowledge and agree that this Agreement is intended only to cover the relative rights and obligations between Grantor and Grantee, and that no third party beneficiaries are intended.
31. *Construction.* Each party hereto has reviewed this Agreement, and therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement.
32. *Waiver.* The failure of either party to enforce a term hereof shall not be deemed a waiver of such term or right of enforcement as to that breach or any subsequent breach

of the same, similar or different nature. No waiver shall be enforceable hereunder unless signed by the party against whom the waiver is sought to be enforced.

33. *TABOR*. No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate either party to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant to or in aid of any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

34. *Entire Agreement*. Except as expressly provided herein or below, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes to this Agreement shall be valid unless made as an amendment to this contract, approved by the Board, and signed by the parties.

Exhibit A – Resolution Approved by Grantee’s Governing Body Authorizing Execution of this Agreement

Exhibit B – Project Budget

Exhibit C – Reimbursement Options Form

35. *No Later Than Start Date*. The GCFMLD’s mission includes the expeditious distribution of funding, which means the projects it funds are started and completed in a timely manner. A “no later than start date” is Grantee’s good faith estimate of the date by which the Project will commence. This date varies depending on the type of project, and is used by the Board for informational and tracking purposes only. Indicate this date below, and briefly describe the action(s) Grantee considers “starting” the Project. Examples: bid award date, groundbreaking, execution of construction contract, date of first program, etc. This date does not alter the Completion Date in paragraph 7 above.

No Later Than Start Date: _____ (mm/dd/yyyy).

Description: _____

36. *Execution.* To be eligible for the Grant, Grantee shall fully execute the original Agreement including all Exhibits listed in paragraph 34 above and deliver the same to Grantor no later close of business on **May 30, 2014**. Thereafter, Grantor will execute the Agreement and retain the original in the GCFMLD offices, returning a photocopy to Grantee.

IN WITNESS WHEREOF, the parties by signature below of their authorized representatives execute this Agreement effective as of the _____ day of May, 2014.

GRANTOR:
GARFIELD COUNTY
FEDERAL MINERAL LEASE DISTRICT

GRANTEE:
TOWN OF NEW CASTLE, COLORADO

By: _____
Gregg Rippy
President, GCFMLD Board

By: _____
Thomas Baker
Administrator, Town of New Castle

ORIGINAL

ATTACH EXHIBIT A

2011-2012
2011-2012
2011-2012

ATTACH EXHIBIT B



Garfield County
Federal Mineral Lease District
Established 2011

EXHIBIT C - Reimbursement Options

The Garfield County Federal Mineral Lease District (“GCFMLD”) offers three payment options for the reimbursement of grants awarded. The payment options have been summarized below. Upon reviewing the options please sign in the appropriate spot to indicate which reimbursement scenario will best accommodate your grant. Return this completed form to the GCFMLD with your executed Grant Agreement.

Option 1 – Advance Payment Prior to Project

- Applicant may request one payment prior to commencement of work on a project, only IF the following situations apply:
- Up to 50% of the grant award may be requested with a signed construction contract between the applicant and a contractor.
- All usual reporting requirements, including documentation of cash and in-kind contributions and the total project and a report comparing the approved budget vs. actual use of funds, must be submitted prior to payment

Option 2 – Partial Payment (as a standard option, rather than only upon request)

- Applicant may request one partial payment during the execution of the Grant Agreement.
- Up to 50% of the grant award may be requested.
- Partial grant payment will reimburse the Grantee for actual expenditures made in the performance of the executed Grant Agreement.
- All partial grant payments shall be based upon approved financial status reports documenting the expenditures made to date. Progress reports and staff review of the reporting may not be as detailed as it will be a final report stage, in order to facilitate payment.
- Final payment will be made upon full completion of the project and submission of all final report documentation. Final report materials include documentation to support all cash and in-kind contributions and the total project cost. Grantees are also required to submit a report comparing the approved budget vs. actual use of funds. The GCFMLD reserves the right to withhold all or a portion of the final payment should we find that ineligible expenses were included either in a progress report or at final report stage.

Option 3 – Final Grant Payment

- The entire grant award will be paid upon full completion of the project and submission of a final report that indicates the project was completed in accordance with the grant agreement.
- A final report including documentation of cash and in-kind contributions and the total project cost a report comparing the approved budget vs. actual use of funds, must be submitted prior to payment.

PLEASE CIRCLE PREFERRED OPTION: OPTION 1 OPTION 2 OPTION 3

Signature

Name and Title (print)

Contract #: _____

ORIGINAL

**TOWN OF NEW CASTLE
RESOLUTION NO. 2014-17**

A RESOLUTION OF THE TOWN OF NEW CASTLE TOWN COUNCIL APPROVING
THE MINI GRANT AGREEMENT BETWEEN THE TOWN AND THE GARFIELD
COUNTY FEDERAL MINERAL LEASE DISTRICT REGARDING SIDEWALK REPAIR
AND REPLACEMENT

WHEREAS, the Garfield County Federal Mineral Lease District ("GCFMLD") is an independent public body politic and corporate formed pursuant to the Colorado Federal Mineral Lease District Act, C.R.S. §30-20-1301 *et seq.*, and receives federal mineral lease payments from the Colorado Department of Local Affairs annually for the purpose of disbursing and distributing those payments for specific statutory purposes; and

WHEREAS, the Town has applied for and received a mini-grant of \$24,840.00 from GCFMLD for the Sidewalk Repair and Replacement Project (the "Project"), subject to the execution of a mini-grant agreement with GCFMLD detailing the terms and conditions of the grant, including, but not limited to, disbursement of funds for and management of the Project; and

WHEREAS, the Town Council desires to authorize its Town Administrator to execute the grant agreement for the Project on behalf of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO, THAT:

1. Recitals. The Town incorporates the foregoing recitals as findings and determinations of the Town Council.
2. Approval. The Town Council hereby approves the Mini-Grant Agreement for contract number 14-SM-08 in substantively the form attached hereto as Exhibit A, and authorizes the Town Administrator to sign the grant agreement upon final approval of the form by the Town Attorney.
3. Expenditure/Further Acts. Subject to budgeting and appropriation the Town Council hereby authorizes the expenditure of funds as necessary to meet the terms and obligations of the Mini-Grant Agreement and application and authorizes the Town Administrator and Public Works Director to take such further acts as may be necessary to implement the terms and conditions of the Agreement. Nothing herein constitutes or shall be deemed the approval of a multiple fiscal year obligation by the Town.

SO RESOLVED by the New Castle Town Council at a regular meeting held this 20th day of May, 2014.

TOWN OF NEW CASTLE

By _____
Mayor

ATTEST:

Town Clerk



Garfield County
Federal Mineral Lease District
— Established 2011 —

Friday, April 25, 2014

Mr. John Wenzel
Public Works Director
Town of New Castle
P.O. Box 90
New Castle, CO 81647

Re: Spring 2014 Grant Cycle – Mini Grant Program – Contract No: 14-SM-08

Dear Mr. Wenzel,

Enclosed please find one original of the Mini Grant Agreement (“Agreement”) pertaining to your grant award from the Garfield County Federal Mineral Lease District (“GCFMLD”) for the Spring 2014 Grant Cycle based on the Grant Application you submitted for the Mini Grant Program. Your award remains contingent on mutual execution of the Agreement.

Execution of the Agreement will require a separate resolution passed by your governing body indicating acceptance of the Agreement and its terms, and authority to sign the Agreement on behalf of the governing body.

Please make sure the fully executed Agreement is returned timely and with all necessary attachments to the District office no later than the close of business on May 30, 2014. Please direct any questions regarding the Agreement to info@garfieldfmlid.org.

Sincerely yours,

GARFIELD COUNTY FEDERAL MINERAL LEASE DISTRICT
BOARD OF DIRECTORS

enc: Mini Grant Agreement

cc: file

ORIGINAL

MINI GRANT AGREEMENT

CONTRACT NUMBER: 14-SM-08
PROJECT NAME: Sidewalk Repair and Replacement
GRANT: \$24,840.00
AWARD DATE: April 18, 2014
COMPLETION DATE: April 18, 2015
PARTIES TO AGREEMENT:

GRANTOR: Garfield County Federal Mineral Lease District

GRANTEE: Town of New Castle, Colorado

Recitals

- A. The Garfield County Federal Mineral Lease District (hereinafter "Grantor" or "GCFMLD") is an independent public body politic and corporate formed pursuant to the Colorado Federal Mineral Lease District Act, C.R.S., § 30-20-1301 *et seq* (2013) (hereinafter "the Act") and governed by a Board of Directors (hereinafter "Board").
- B. Grantee is a political subdivision of the State of Colorado, and is therefore eligible to receive grant funding from Grantor under the Act and 30 U.S.C. §191.
- C. Grantee submitted a grant application (hereinafter "Grant Application") in response to Grantor's **Spring 2014 Grant Cycle** and the Mini Grant Program.
- D. Grantor approved Grantee's Grant Application for a Mini Grant on **April 18, 2014**, conditioned on the execution of this Mini Grant Agreement (hereinafter "Agreement").
- E. The project (hereinafter "Project") is as described in the Grant Application and qualifies for GCFMLD funding as either (1) planning, (2) construction and maintenance of public facilities, or (3) provision of public services.

Agreement, Terms, and Conditions

NOW, THEREFORE, for and in consideration of the mutual promises or covenants exchanged herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. *Incorporation of Recitals.* The Recitals set forth above are hereby incorporated into the terms of this Agreement.

2. *Representations and Warranties of Grantee.*

- a. Grantee has full and lawful authority to enter into, and comply with the terms of, this Agreement.
- b. Grantee warrants that any and all statements and representations including all sources and uses of funds made in the Grant Application are true and correct, and that the Grant Application including all attachments and exhibits thereto is incorporated by this reference into this Agreement as if set forth in full and anew.
- c. Grantee's governing body has authorized entering into this Agreement as evidenced by the resolution attached hereto as **Exhibit A**.

3. *Representations and Warranties of Grantor.*

- a. Grantor has full and lawful authority to enter into, and comply with the terms of, this Agreement.
- b. Grantor represents and warrants that as of the date of execution of this Agreement it has available sufficient funds necessary to fully fund the amount of the Grant set forth herein.
- c. The Board has authorized its President to sign this Agreement.

4. *Grant and Project.* Subject to the terms and conditions set forth in this Agreement, the Board hereby awards to Grantee a sum not to exceed **twenty-four thousand and eight hundred and forty dollars and no cents (\$24,840.00)** (the "Grant"). The Grant shall be used by Grantee solely to complete the Project, in substantial conformity with the final plans, specifications, designs and uses approved by Grantor and in conformity with the Grant Application.

5. *Project Scope.* Grantee shall not materially modify the Project or the Project budget (attached hereto as **Exhibit B**, the "Budget") without the prior written approval of the Grantor, or Grantor's designee, and such approval shall be in Grantor's sole discretion. Any material modification to the Project undertaken without Grantor's prior written consent may be deemed a breach of this Agreement by Grantor, entitling Grantor to all remedies available under this Agreement. If Grantee determines with reasonable probability that the Project will not or cannot be completed as reflected in the Grant Application, Grantee will promptly so advise the Board, and cooperate in good faith to seek a resolution before any further funds are advanced.

6. *Grantee Efforts.* Grantee shall complete the Project in a timely fashion, in a good and workmanlike manner, and consistent with this Agreement and Grantor's approvals related to the Project.

7. *Completion Date.* Grantee shall complete the Project and submit its Final Report no later than **April 18, 2015** (the "Completion Date"), one calendar year after the Board's approval of the Project. Requests for extension of the Completion Date are discouraged but should be directed in writing to the Board.
8. *Disbursement of Funds.* The Grant is subject to the following requirements and conditions:
 - a. The Grant shall be used only for (1) planning, (2) construction and maintenance of public facilities, or (3) provision of public services and consistent with Grantee's representations in the Grant Agreement. Determinations on eligible and ineligible costs are in Grantor's sole discretion.
 - b. Disbursement of Grant funds shall be made on the basis of costs actually incurred by Grantee and supported by written documentation (receipts, bills, etc.). Grantor may, in its discretion, depending on the nature of the Project, require documentation of mechanics lien waivers or waivers of claims to public project performance bonds as a precondition to any disbursement under this Agreement.
 - c. Except as otherwise agreed to in advance by Grantor in accordance with the terms of this Agreement, no material modifications may be made to the Project. Material modifications to the Project to which Grantor has not agreed may result in a reduction in the Grant. "Material modifications" may include, but are not necessarily limited to, a reduction in the total cost of the Project or any other variance from the Project as presented in the Grant Application. It is the sole responsibility of Grantee to inform Grantor of any such modifications to the Project. Grantor strongly encourages Grantee to contact Grantor in writing when it becomes aware of or wishes to make any such modifications, however seemingly minor, to the Project.
9. *Sufficiency of Grant Funds.* Grantor warrants that Grantor has available sufficient funds to fund the Grant.
10. *Project Operation and Maintenance.*
 - a. As applicable to the construction and maintenance of public facilities, Grantee shall operate, manage, and maintain the Project in a reasonable state of repair for the purposes specified in the Grant Application for a period of 25 years from the date of completion of the Project or the useful life of the Project, whichever is less, in accordance with product warranties and/or generally accepted standards applicable to the Project, and provide and maintain access to the Project and to the Property, regardless of the Property's ownership.
 - b. Failure to comply with the provisions of Paragraph 10.a. may be deemed a breach by Grantee under Paragraph 18, below.

- c. Grantor shall not be liable for any cost of maintenance, management or operation of the Project.
 - d. Within 60 days of a reasonable request by Grantor, Grantee will provide Grantor with adequate records reflecting the operating and maintenance costs of the Project and provide the Board with such other information concerning the use of the Project by the public and the impact of the Project.
11. *Public Access.* As applicable to the construction and maintenance of public facilities, Grantee agrees, for itself and its successors in interest, to allow reasonable public access to the Project given the nature and use of the public facilities, for the term specified in Paragraph 10. Grantee may temporarily close such public access for construction, maintenance, emergency situations, or other reasonable purposes.
12. *Compliance with Regulatory Requirements and Federal and State Mandates.* Grantee hereby assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, permits, approvals, and other similar requirements.
13. *Nondiscrimination.* During the performance of this Agreement, Grantee and its contractors, subcontractors and agents shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, or any other basis prohibited by local, state or federal law. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Further, during the performance of this Agreement, Grantee and anyone acting on behalf of Grantee shall not engage in any unlawful discrimination in permitting access and use of the Project.
14. *Publicity and Project Information.* Grantee agrees to acknowledge the assistance of the Garfield County Federal Mineral Lease District in a manner appropriate to the Project.

Grantee agrees to erect and maintain a sign(s) at a prominent location(s) on the Project site during construction, and Grantor will provide such signs at no cost to Grantee. Alternatively, Grantor will provide reproducible samples of its logo to Grantee for custom signs. Grantor may withhold Final Payment pending evidence of placement of signage.

Grantee shall prominently display an indoor plaque or other suitable marker acknowledging the assistance of the Garfield County Federal Mineral Lease District. Grantor will provide such plaque or marker at no cost to Grantee. The plaque or marker shall be displayed in Grantee's principal place of business or other logical location as determined by Grantor.

Grantee shall inform the GCFMLD of the need for a replacement sign or plaque due to damage, destruction, or disrepair. Grantor's failure to provide a replacement sign or plaque shall relieve Grantee of the obligations of this paragraph.

Additional terms:

- a. Grantee shall acknowledge GCFMLD funding in all publicity issued by it concerning the Project.
- b. Grantee shall cooperate with the GCFMLD or its designee in advance in preparing public information pieces related to the Project.
- c. Grantee shall give the GCFMLD the right and opportunity to use information gained from the Project.
- d. Grantee shall give the GCFMLD a minimum 30 days' notice of any Project grand openings, dedications, or other events.
- e. Grantee shall give timely notice of the Project, its inauguration, significance, and completion to the local members of the Colorado General Assembly, members of the board of county commissioners of the county or counties in which the Project is located, as well as to other appropriate public officials, upon request of Grantor.
- f. Grantee shall provide quality digital photographs (or printed photographs, if unable to provide digital photographs) of the completed Project with the Final Report, upon request of Grantor.
- g. At no time shall Grantee represent in any manner to the public or to any party that it is affiliated with the GCFMLD or acting on behalf of the GCFMLD.

15. *Liability.* The Grantor and Grantee acknowledge that each is subject to the constitutional prohibitions against indemnification pursuant to Colorado Constitution article XI, § 1 and that as governmental entities, neither party can agree to indemnify the other. Nothing herein shall be deemed a waiver of the Colorado Governmental Immunity Act for or by either party. C.R.S. § 24-10-101 *et seq.* (1963) as amended.

16. *Audits and Accounting.* Grantee shall maintain standard financial accounts, documents, and records relating to the use, management, and operation of the Project. The accounts, documents, and records related to the Project shall be retained by Grantee for not less than five (5) years following the date of disbursement of funds under this Agreement. Grantor, or its designated agent, shall have the right, upon reasonable notice to Grantee, to audit the books and records of Grantee, which pertain to the Project and to the use and disposition of the Grant. While Grantee is not required to use GAAP (Generally Accepted Accounting Principles), Grantee shall use reasonable and appropriate accounting systems in maintaining the required records hereunder.

17. *Inspection.* Throughout the term of this Agreement, Grantor shall have the right to inspect the Project to ascertain compliance with this Agreement.
18. *Breach; Withdrawal of Board Funding; Termination of Agreement.* Anything else in this Agreement or otherwise to the contrary notwithstanding, Grantor may withdraw, in whole or in part, the Grant and/or terminate this Agreement, if the Board determines in its discretion that:
- a. facts have arisen or situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Grant as contemplated infeasible or impractical;
 - b. any material modifications in the scope or nature of the Project have occurred from that which was presented in the Grant Application and such material modifications have not received the prior written approval of Grantor;
 - c. any statement or representation made by Grantee in the Grant Application, this Agreement, the Advance Payment documentation, the Progress Report, the Final Report, or otherwise is untrue, inaccurate or incomplete in any material respect;
 - d. the results of Grantor's review of the Advance Payment documentation, the Progress Report, or the Final Report are not acceptable to Grantor with respect to material representations therein;
 - e. the Project will not or cannot be completed by the Completion Date or any extensions granted thereto or delays in the implementation of the Project have occurred which, in Grantor's sole judgment, make the Project impracticable;
 - f. the Project will not or cannot be completed within the Budget or any approved modifications, or the total Project cost and/or Grantee's matching funding are reduced;
 - g. title to or encumbrances against the Property are or become such that Grantee is unable to complete the Project, or the Project and/or the Property are or become unavailable for public use;

19. *Remedies.*

- a. In the event that Grantee breaches any of the terms, covenants, representations, or conditions of this Agreement, Grantor may elect to enforce any and all remedies available at law or in equity, including without limitation, any of the following:
 - i. Prior to payment of Grant:
 - A. Withdraw the Grant and terminate this Agreement; and,

- B. Deny Grantee eligibility for participation in future GCFMLD grants, loans or projects.
 - ii. After payment (partial or full) of Grant:
 - A. Deny Grantee eligibility for participation in future GCFMLD grants, loans or projects;
 - B. Seek specific performance of Grantee's obligations under this Agreement;
 - C. Seek reimbursement in full of disbursement made under the Grant.
 - b. The foregoing remedies are cumulative and may be exercised independently or in combination and are not exclusive to one another or to any other remedies available at law or in equity.
- 20. *Good Faith.* There is an obligation of good faith on the part of both parties, including the obligation to make timely communication of information which may reasonably be believed to be material to the other party.
- 21. *Assignment.* Grantee may not assign its rights under this Agreement without the prior written consent of Grantor, which consent shall be in the discretion of Grantor. Any assignment shall require that, at a minimum, the assignee is eligible to receive grants from Grantor and assumes all of Grantee's ongoing obligations under this Agreement.
- 22. *Applicable Law.* This Agreement shall be governed by the laws of the State of Colorado and the United States of America, and venue for any dispute hereunder shall lie exclusively in the 9th Judicial District Court, State of Colorado, in Glenwood Springs, CO.
- 23. *No Joint Venture.* Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee or other relationship between the parties hereto other than independent contracting parties. Except as permitted under the remedies provisions hereunder, neither party shall have the express or implied right to act for, on behalf of, or in the name of the other party.
- 24. *Severability.* If any provision of this Agreement, or the application thereof, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision, other than those as to which it is found to be invalid, shall remain in full force and effect.
- 25. *Time is of the Essence.* Time is of the essence in this Agreement.
- 26. *Survival.* The terms and provisions of this Agreement and the parties' covenants hereunder shall survive the funding of the Grant and the completion of the Project.

27. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one Agreement. In addition, the parties agree to recognize signatures of this Agreement transmitted by telecopy or e-mail as if they were original signatures.
28. *Third Party Beneficiary.* Grantor and Grantee hereby acknowledge and agree that this Agreement is intended only to cover the relative rights and obligations between Grantor and Grantee, and that no third party beneficiaries are intended.
29. *Construction.* Each party hereto has reviewed this Agreement, and therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement.
30. *Waiver.* The failure of either party to enforce a term hereof shall not be deemed a waiver of such term or right of enforcement as to that breach or any subsequent breach of the same, similar or different nature. No waiver shall be enforceable hereunder unless signed by the party against whom the waiver is sought to be enforced.
31. *TABOR.* No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate either party to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant to or in aid of any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.
32. *Entire Agreement.* Except as expressly provided herein or below, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes to this Agreement shall be valid unless made as an amendment to this contract, approved by the Board, and signed by the parties.

Exhibit A – Resolution Approved by Grantee’s Governing Body Authorizing Execution of this Agreement

Exhibit B – Project Budget

33. *No Later Than Start Date.* Part of the GCFMLD’s mission is the expeditious distribution of funding, which means the projects it funds are started and completed in a timely manner. A “no later than start date” is Grantee’s good faith estimate of the date by which the Project will commence. This date varies depending on the type of project, and is used by the Board for informational and tracking purposes only. Indicate this date below, and briefly describe the action(s) Grantee considers “starting” the Project. Examples: bid award date, groundbreaking, execution of construction contract, date of first program, etc. This date does not alter the Completion Date in paragraph 7 above.

No Later Than Start Date: _____ (mm/dd/yyyy).

Description: _____

34. *Execution.* To be eligible for the Grant, Grantee shall fully execute the original Agreement including all Exhibits listed in paragraph 32 above and deliver the same to Grantor no later close of business on **May 30, 2014**. Thereafter, Grantor will execute the Agreement and retain the original in the GCFMLD offices, returning a photocopy to Grantee.

IN WITNESS WHEREOF, the parties by signature below of their authorized representatives execute this Agreement effective as of the ____ day of May, 2014.

GRANTOR:
GARFIELD COUNTY
FEDERAL MINERAL LEASE DISTRICT

GRANTEE:
TOWN OF NEW CASTLE, COLORADO

By: _____
Gregg Rippy
President, GCFMLD Board

By: _____
Thomas Baker
Administrator, Town of New Castle

ORIGINAL

ATTACH EXHIBIT A

ATTACH EXHIBIT B

Project Budget: Town of New Castle 2014 FMILD Mini Grant Sidewalk Repair

Source of Funds	Date Secured	GCFMILD Grant Request	Applicant Match (\$)	Partner Match (\$)	Total Funding (\$)
Garfield County Federal Mineral Lease District	5/23/2014	\$24,839.68			\$24,839.68
Town of New Castle					
Town of New Castle	3/1/2014		3,800.00		\$3,800.00
TOTAL SOURCE OF FUNDS		\$24,839.68	\$3,800.00	\$0.00	\$28,639.68

Project Budget: Town of New Castle 2014 FMILD Mini Grant Sidewalk Repair

Use of Funds	Number of Units	Cost Per Unit	GCFMILD Funds	Applicant Funds	Partner Funds	Total Funding (\$)
CATEGORY 1						
<i>Concrete Contractor</i>						
	3,201.00	4.93	\$15,780.93			\$15,780.93
	113.00	30.00	\$3,390.00			\$3,390.00
CATEGORY 2						
<i>Subgrade material supplier</i>						
	15.00	11.25	\$168.75			\$168.75
CATEGORY 3						
<i>Tree removal company</i>						
	2.00	1,000.00	\$2,000.00			\$2,000.00
CATEGORY 4						
<i>Landfill</i>						
	50.00	20.00	\$1,000.00			\$1,000.00
USE OF FUNDS - CASH SUBTOTAL			\$22,339.68	\$0.00	\$0.00	\$22,339.68

Project Budget: Town of New Castle 2014 FMILD Mini Grant Sidewalk Repair

Use of Funds	No. of Units / Hours	Cost Per Unit / Hour	GCFMILD Funds	Applicant Funds	Partner Funds	Total Funding (\$)
IN-KIND						

Professional Services									
<i>Town of New Castle</i>	Project Management		40.00	\$35.00				\$1,400.00	\$1,400.00
<i>Town of New Castle</i>	Labor to remove demo/remove existing sidewalks		80.00	\$30.00				\$2,400.00	\$2,400.00
									\$0.00
	USE OF FUNDS - IN-KIND SUBTOTAL							\$3,800.00	\$3,800.00
	<i>10% Contingency</i>						\$2,500		
	TOTAL PROJECT COST						\$24,839.68	\$3,800.00	\$28,639.68

Memorandum

To: Mayor and Council
From: Tom Baker, Town Administrator
Date: May 20, 2014
Re: Resolution TC-2014-18: Accepting Public Service Company Property Deed for 335 Trail

Purpose: The purpose of this item is to adopt resolution TC-2014-18 accepting the attached property deed to build/extend the 335 trail through PSCO property.

Background and Discussion: Nicole Garrimone-Campagna, Garfield and Hecht, has been working with Jim Hanson, PSCO, to secure an agreement to allow construction of the 335 trail through PSCO property. During those discussions, the parties determined that all interests would be best served if PSCO deeded 0.1325 acres to the Town of New Castle to allow trail construction, see attachment.

As you may remember, the CR 335 Trail IGA between the Town and County requires the Town to secure all necessary easements by June 1, 2014. At this time we feel that we can meet this deadline; however, staff may request a brief special meeting just prior to June 1 to finalize documents, if amendments are required.

PSCO is currently reviewing the deed language. While the Town is receiving the deed, we will not record it until PSCO has obtained the release from Indenture, which may take several weeks.

Recommendation: Staff recommends approval.

**TOWN OF NEW CASTLE
RESOLUTION NO. 2014-18**

A RESOLUTION OF THE TOWN OF NEW CASTLE, COLORADO
ACCEPTING THE CONVEYANCE OF PROPERTY TO THE TOWN BY
PUBLIC SERVICE COMPANY OF COLORADO.

WHEREAS, pursuant to the Intergovernmental Agreement Regarding New Castle Pedestrian Trail between the Town of New Castle and Garfield County, the Town intends to construct and install a pedestrian trail from Apple Tree Park to a proposed pedestrian bridge over Interstate 70 and the Colorado River (the “Trail”); and

WHEREAS, Public Service Company of Colorado (“Public Service Company”) owns a parcel of land within the Town located on County Road 335 and designated as Garfield County Parcel No. 2123-314-00-004 (the “PSCo Parcel”); and

WHEREAS, Public Service Company desires to convey in fee to the Town a portion of the PSCo Parcel, which is described on the proposed deed of conveyance attached hereto as **Exhibit 1** and incorporated herein by reference (the “Dedication Property”), for the Town’s Trail construction and use; and

WHEREAS, Section 16.04.040 of the Town of New Castle Municipal Code recognizes an exclusion to the subdivision regulations for a conveyance of land to the Town which is accepted by the Town; and

WHEREAS, the donation by Public Service Company of the Dedication Parcel is solely for the benefit of the Town in order to construct the Trail and is not in consideration of nor connected to any development requirement or exaction placed on Public Service Company by the Town; and

WHEREAS, the Town desires to accept conveyance of the Dedication Property from Public Service Company to the Town pursuant to this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO, THAT:

1. Recitals. The Town incorporates the foregoing recitals as findings and determinations of the Town Council.
2. Acceptance. The Town Council hereby accepts conveyance of the Dedication Property from Public Service Company to the Town in the form of the proposed deed attached hereto as Exhibit 1.
3. Exclusion from Subdivision Regulations. Pursuant to Section 16.04.040 of the Municipal Code, conveyance of the Dedication Property from Public Service Company to the Town shall be excluded from requirements of the Town’s subdivision regulations. Upon

conveyance, the Dedication Property shall removed from the PSCo Parcel and considered a separate legally defined parcel.

4. Authorization and Further Acts. The Town Council authorizes the Mayor and Town Administrator to take such further acts as may be necessary to finalize conveyance of the Dedication Property to the Town.

SO RESOLVED by the New Castle Town Council at a regular meeting held this 20th day of May, 2014.

TOWN OF NEW CASTLE

By _____
Mayor

ATTEST:

Town Clerk

EXHIBIT 1

NO CONSIDERATION CONVEYANCE

AFTER RECORDING, RETURN TO:

Garfield & Hecht, P.C.
420 Seventh Street, Suite 100
Glenwood Springs, CO 81601

BARGAIN AND SALE DEED

PUBLIC SERVICE COMPANY OF COLORADO, a Colorado corporation, whose street address is 1800 Larimer Street, Suite 400, Denver, Colorado 80202 (“Grantor”), for good and valuable consideration of the sum of less than Ten Dollars (\$10.00), the receipt and adequacy of such consideration is acknowledged, hereby sells and conveys to the TOWN OF NEW CASTLE, COLORADO, a Colorado home rule municipality whose address is P.O. Box 90, New Castle, Colorado 81647 (“Grantee”), the real property located in the County of Garfield, State of Colorado, described on Exhibit A, attached hereto and incorporated herein by reference, together with all its appurtenances.

Dated this _____ day of May, 2014.

PUBLIC SERVICE COMPANY OF COLORADO,
a Colorado corporation

By: _____
_____ (name)
_____ (title)

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of May, 2014 by _____ as _____ of Public Service Company of Colorado, a Colorado corporation.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Legal Description

A parcel of land situated in Parcel B as described in the Warranty Deed recorded as Reception No. 619633 in the office of the Garfield County Clerk and Recorder, being more particularly described and shown on the Public Service Company Architectural Survey, recorded as Deposit No. 857 in the office of the Garfield County Surveyor, all being in the NW1/4SE1/4, Section 31, Township 5 South, Range 90 West of the Sixth Principal Meridian, Garfield County, Colorado and being more particularly described as follows:

Beginning at a point on the west line of said Parcel B, also being the easterly most corner of that parcel of land described in the Special Warranty Deed recorded as Reception No. 737823, being monumented with a rebar and aluminum cap, LS No. 36574 from which the southwest corner of Parcel B, being monumented with a rebar and plastic cap, LS No. 13501 bears S 02°24'56" E a distance of 237.04 feet (Basis of Bearings for this description):

Thence N 02°24'56" W along the west line of Parcel B a distance of 59.34 feet to the northwest corner of Parcel B;

Thence N 76°53'00" E along the north line of Parcel B a distance of 103.66 feet to the northeast corner of Parcel B;

Thence S 02°32'36" E along the east line of Parcel B a distance of 53.92 feet;

Thence S 73°59'00" W a distance of 104.92 feet to the Point of Beginning, containing 0.1325 acres more or less.



EXHIBIT A

Colorado River

Parcel No. 2123-314-00-017
Town of New Castle
Reception No. 737823

P.O.B.
Rebar and Aluminum Cap
LS 36574

Town of New Castle Dedication Parcel
0.1325 Acres ±

N76°53'00"E
103.66'

S02°32'36"E
53.92'

S73°59'00"W
104.92'

N02°24'56"W
59.34'

Rebar and Plastic Cap
LS 13501
Witness Corner

12.62'
Fence

Parcel No. 2123-314-00-004
Public Service Company of Colorado
550 15th St., Suite 1000
Denver, CO 80202-4256
Parcel B, Reception No. 619633
Deposit No. 857

Parcel No. 2123-314-00-012
Public Service Company of Colorado
550 15th St., Suite 1000
Denver, CO 80202-4256
Parcel A, Reception No. 619633
Deposit No. 857

Gravel

Building

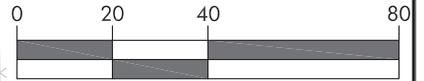
Parcel No. 2123-314-00-005
Carpenter Leasing, Inc.
17459, Denver, CO 80217-0459
P.O. Box Reception No. 414351
Deposit No. 17

237.04'
Basis of Bearings

Rebar and Plastic Cap
LS 13501



Graphic Scale



In Feet: 1" = 40'

CR 335



Q:\1993\93128A-219_CR335_Trait\dwg\PSC_Esmnt.dwg

SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgm-inc.com

Public Service Company
of Colorado

Job No.	93128A-219
Drawn by:	reb
Date:	5 / 08 / 14
Approved:	reb
File:	PSC_Esmnt

Town Of New Castle
Dedication Parcel

Sht. 1
of 1

**WATER RIGHTS DEDICATION
AND TAP FEE AGREEMENT**

THIS WATER RIGHTS DEDICATION AND TAP FEE AGREEMENT (“Agreement”) is made this 20th day of May, 2014 by and among SAMUEL P. AND LETICIA GARCIA, (collectively “Garcia”), the TOWN OF NEW CASTLE, COLORADO, (“Town”), and the TOWN OF NEW CASTLE WATER AND SEWER ENTERPRISES (“Enterprise”).

RECITALS

WHEREAS, Garcia is the owner of Lot 13, Block 3 of the Original Townsite of New Castle, also known as 201 W. Main Street (the “Premises”); and

WHEREAS, Garcia desires to locate a business, Hacienda El Patron on the Premises; and

WHEREAS pursuant to the EQR table set forth at Section 13.20.060 of the New Castle Municipal Code, Garcia’s proposed business would generate usage and demand equal to 2.056 EQRs; and

WHEREAS, the Premises already have one (1) water tap and one (1) sewer tap allocated to it, which means that Garcia will need to purchase the equivalent of 1.056 additional EQRs from the Town; and

WHEREAS, Garcia is therefore subject to total water and sewer tap fee of \$12,672.00; and

WHEREAS, the Town finds that the Premises are located in the Town’s urban enterprise zone, and that the operation of a business at that location would support the Town’s continued economic growth; and

WHEREAS, the parties desire to enter into this Agreement to address the issues connected with providing the necessary additional water and sewer service to the Premises.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are incorporated herein as material representations and acknowledgments of the parties.

2. Water Rights Dedication. Given Garcia’s location in the downtown core, the Town and Enterprise hereby expressly waive the requirement of additional water rights dedication as a requirement of receiving water service.

3. Water and Sewer Tap Fees. The parties hereby agree that Garcia's proposed use requires the delivery of an additional 1.056 EQRs of water and sewer service to the Premises. Garcia therefore would owe the Enterprise water and sewer tap fees in the amount of \$12,672.00. The Town agrees to pay the Enterprise the amount of \$12,672.00 from the general fund on behalf of Garcia, contingent on the terms and conditions of repayment outlined below. Garcia and Landlord understand and agree that the additional tap purchased as contemplated herein is connected to and remains with the Premises and is non-transferrable and non-refundable, except as provided in this Agreement.

4. Garcia Promise to Pay. Garcia agrees and promises to pay to the order of the Town the amount of twelve thousand, six hundred seventy-two dollars (\$12,672.00)("Principal") on an annual basis over the course of five (5) years.

5. Interest. Interest will accrue and be charged on unpaid Principal commencing on the date this Agreement is executed and will continue until the full amount of Principal has been paid. Interest accrues at an annual rate of **4.0%**, compounded annually.

6. Payment Due Dates. Commencing June 1, 2014 Garcia shall repay the remaining balance in equal monthly payments of two hundred and thirty three dollars and thirty seven cents (\$233.37) until paid in full. If not sooner paid, the entire Principal and all accrued interest shall be due no later than May 1, 2019.

Payments are to be made by the first day of each month to the **Town of New Castle, P.O. Box 90, New Castle, CO 81647.**

Garcia shall pay the Town a late charge of \$50.00 for any payment not received by the Town within 5 days after the payment is due.

Payments received for application to this Agreement shall be applied first to the payment of late charges, if any, second to the payment of accrued default interest at the rate specified below, if any, third to accrued interest on principal first specified above, and the balance applied in reduction of the Principal amount hereof.

If any payment required by this Agreement is not paid when due the indebtedness shall bear interest at the rate of 10% per annum from the date of default.

Such payments are in addition to, not in lieu of, the normal water and wastewater bills generated for the Premises during this period. All use of potable water at the Premises shall be metered, and Garcia shall pay the Enterprise such water and wastewater service fees as may be generally adopted by the Town from time to time.

7. Garcia Right to Prepay. Garcia has the right to make payments of Principal at any time before such payments are due. A payment of Principal only is known as a "prepayment." When Garcia makes a prepayment, Garcia will tell the Town in writing that it is doing so, and the annual payments outlined above will be adjusted accordingly.

Garcia may make a full prepayment or partial prepayments without paying any charge. The Town will use all prepayments to reduce the amount of Principal that Garcia owes under this Agreement.

8. Garcia Failure to Pay

(A) Default

If Garcia does not pay the full amount of each payment on the date it is due, Garcia will be in default.

(B) Notice of Default and Acceleration

If Garcia is in default, the Town may send a written notice telling Garcia that if it does not pay the overdue amount by a certain date, the Town may require it to pay immediately the full amount of Principal which has not been paid and all the interest that is owed on that amount. That date must be at least 10 days after the date on which the notice is delivered or mailed to Garcia.

(C) Other Remedies

If Garcia is in default, the Town may exercise any rights and remedies available to it. Such remedies may include, without limitation, a discontinuance of service or transfer of a prorated portion of the taps for which the Town has not been reimbursed from the Premises to any other property designated by the Town. In the event of such transfer, the Premises may be disconnected or limited in water and sewer usage to the remaining EQRs allocated to the Premises according to the procedures outlined in the Town Code for the disconnection of water service.

(D) No Waiver By Town

Even if, at a time when Garcia is in default, the Town does not require Garcia to pay immediately in full as described above, the Town will still have the right to do so if Garcia is in default at a later time.

(E) Payment of Town's Costs and Expenses

If Garcia is in default of the Agreement as described above, the Town will have the right to be paid back for all of its costs and expenses in enforcing this Agreement to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

9. Joint and Severable Obligations. Each person signing below is fully and personally obligated to the Town to keep all of the promises made in this Agreement, including the promise to pay the full amount owed. Any person who takes over these

obligations, including the obligations of a guarantor, surety or endorser of the Agreement, is also obligated to keep all of the promises made in this Agreement. The Town may enforce its rights under this Agreement against each person individually or against all together. This means that any signor may be required to pay all of the amounts owed under this Agreement.

10. Waiver. Garcia and any other person who has obligations under this Agreement waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Town to demand payment of amounts due. "Notice of dishonor" means the right to require the Town to give notice to other persons that amounts due have not been paid.

11. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

12. Binding Effect. This Agreement runs with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

13. Invalid Provision. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then the remainder of this Agreement shall be interpreted to as fully as possible give force and effect to the intent of the parties as evidenced by the original terms and conditions of this Agreement, including the invalidated provision.

14. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Garfield County, Colorado.

15. Attorney Fees; Survival. Should this Agreement become the subject of litigation to resolve a claim of default, the prevailing party shall be entitled to attorney fees, expenses, and court costs.

16. Authority. Each person signing this Agreement represents and warrants that he or she is fully authorized to enter into and execute this Agreement, and to bind the party he/she represents to the terms and conditions hereof.

17. Notice. Unless applicable law requires a different method, any notice that must be given to Garcia under this Agreement will be given by delivering it or by mailing it registered or certified mail, return receipt requested, postage prepaid, to the addresses below. Any notice that must be given to the Town under this Agreement will be given by mailing it by first class mail to the Town at the address stated below or a different address if Garcia is given a notice of that different address.

Notice to Town:

Town of New Castle

P.O. Box 90
New Castle, CO 81647

With a copy to:

David H. McConaughy, Esq.
Garfield & Hecht, P.C.
420 Seventh Street, Suite 100
Glenwood Springs, CO 81601

Notice to Garcia:

Samuel Garcia
201 W. Main Street
New Castle, CO 81647

18. Appropriation. No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate either Party to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant to or in aid of any person, company or corporation within the meaning Colorado law.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

WHEREFORE, the parties hereto have executed this Agreement on the day and year first written above.

TOWN OF NEW CASTLE, COLORADO,
a Colorado home rule municipality

By _____
Mayor

ATTEST:

Town Clerk

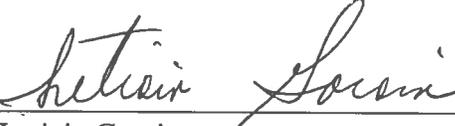
TOWN OF NEW CASTLE, COLORADO,
WATER AND SEWER ENTERPRISE

By _____

Chairman



Samuel Garcia



Leticia Garcia

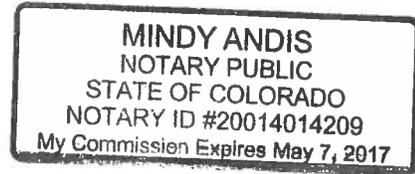
STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me the 15th day of May, 2014, by Samuel Garcia.

WITNESS my hand and official seal.

My commission expires: May 7, 2017

Mindy Andis
Notary Public



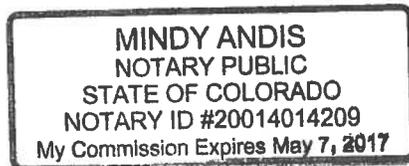
STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me the 15th day of May, 2014, by Leticia Garcia.

WITNESS my hand and official seal.

My commission expires: May 7, 2017

Mindy Andis
Notary Public



Memorandum

To: Mayor and Council
From: Tom Baker, Town Administrator
Date: May 20, 2014
Re: Carpenter Leasing (RAC Transport) CR 335 Trail Easement Agreement

Purpose: The purpose of this item is to approve the above easement agreement.

Background and Discussion: Nicole Garrimone-Campagna, Garfield and Hecht, has been working on both the Public service and RAC Transport easement agreements. As you may remember, the CR 335 Trail IGA between the Town and County requires the Town to secure all necessary easements by June 1, 2014. At this time we feel that we can meet this deadline; however, staff may request a brief special meeting just prior to June 1 to finalize documents, if amendments are required.

This agreement is currently being reviewed by RAC Transport.

Recommendation: Staff recommends approval.

EASEMENT AGREEMENT

This EASEMENT AGREEMENT (“Agreement”) is made this ____ day of May, 2014, by and between **Carpenter Leasing, Inc.**, a Colorado corporation whose address is P.O. Box 17459, Denver, Colorado 80217 (“Carpenter”) and the **Town of New Castle, Colorado**, a Colorado home rule municipality whose address is P.O. Box 90, New Castle, Colorado 81647 (the “Town”).

Recitals

WHEREAS, Carpenter owns that certain real property located in the County of Garfield, State of Colorado, described on **Exhibit A** attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, the Town desires to construct, install, use and maintain a public pedestrian and bicycle trail (the “Trail”) on the Property, to obtain a temporary construction easement on the Property for the Trail construction and installation work, and to obtain a permanent easement on the Property for the use and maintenance of the as-built Trail, all of which Carpenter is willing to grant on the terms and conditions set forth herein; and

WHEREAS, the parties desire to enter into this Agreement to address the foregoing matters as set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are incorporated herein by reference as if set forth in full.

2. Authority to Construct Trail. Subject to the terms and conditions of this Agreement, Carpenter hereby authorizes the Town to access, construct, install, and maintain, at the Town’s expense, a public pedestrian and bicycle Trail on the Property. The Town shall construct and install the Trail within the Temporary Construction Easement, as defined in Paragraph 3 below.

3. Grant of Temporary Construction Easement. Carpenter hereby grants to the Town a temporary construction easement in, on, and across the Property in the location depicted on **Exhibit B**, attached hereto and incorporated herein by reference (the “Temporary Construction Easement”). The scope of the Temporary Construction Easement shall be thirty (30) feet in width, extending from the east Property line to the west Property line, and may be used for access to and for design, construction, and installation of the Trail on the Property. The Temporary Construction Easement includes the right to stage and store construction vehicles and equipment within the easement boundaries during Trail construction.

4. As-Built Survey. Within sixty (60) days of completion, the Town shall cause a survey of the as-built Trail and permanent easement description to be prepared and submitted to Carpenter (the “As-Built Easement Survey”). The permanent easement shall be 20 feet in

width and shall extend from the east Property line to the west Property line. Upon completion of the As-Built Easement Survey, the Town shall provide a copy of such survey to Carpenter for its review and approval, which approval shall not be withheld provided that it complies with the scope of permanent easement as provided herein. Carpenter shall have ten (10) days to review and object in writing to the As-Built Easement Survey, following which the As-Built Easement Survey shall be deemed approved.

5. Grant of Permanent Easement. Within ten (10) days of approval of the As-Built Easement Survey, Carpenter shall grant and convey the Town a perpetual easement for the access, use, maintenance, repair, and replacement of the Trail by executing and delivering to the Town an easement deed in the form attached hereto as **Exhibit C** and incorporated herein by this reference (the "Trail Easement Deed"). The As-Built Easement Survey drawing and legal description shall be attached to and become part of the Trail Easement Deed. The Town, at its expense, shall record the Trail Easement Deed in the real property records for Garfield County, Colorado.

6. Revegetation. Following construction and installation of the Trail, the Town, at its expense, shall cause all surface areas of Property disturbed by Trail construction and installation work to be graded, compacted, and revegetated. Revegetation shall be consistent with the vegetation existing within the location of the Temporary Construction Easement as of the start of construction and shall be completed within one growing season following completion of the Trail installation.

7. Entire Agreement; Modifications. The Agreement constitutes the entire and complete agreement of the parties on the subject matter hereof. All prior and contemporaneous negotiations of the parties on the subject matter hereof are fully integrated herein. This Agreement shall not be amended except by subsequent written and signed agreement of the parties.

8. Invalid Provision. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then the remainder of this Agreement shall be interpreted to as fully as possible give force and effect to the intent of the parties as evidenced by the original terms and conditions of this Agreement, including the invalidated provision.

9. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Garfield County, Colorado.

10. Attorney Fees and Costs; Survival. Should either party commence legal action to enforce the terms of this Agreement, the prevailing party shall be entitled to attorney fees, expenses, and court costs. All rights concerning remedies and/or attorneys shall survive any termination of this Agreement.

11. Notices. All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by U.S. First Class mail, postage prepaid, to the addresses of the

parties herein set forth. All notices so given shall be considered effective three (3) mail delivery days after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

Notice to Town: Town of New Castle
 Attn: Tom Baker, Town Administrator
 P.O. Box 90
 New Castle, CO 81647

With a copy to: David H. McConaughy, Esq.
 Garfield & Hecht, P.C.
 The Denver Centre
 420 Seventh Street, Suite 100
 Glenwood Springs, CO 81601

Notice to Carpenter: Howard Perea
 Carpenter Leasing, Inc.
 P.O. Box 17459
 Denver, CO 80217

WHEREFORE, the parties have entered into the Agreement on the day and year first written above.

TOWN OF NEW CASTLE, COLORADO,
a Colorado home rule municipality

By: _____
Mayor

ATTEST:

Town Clerk

Carpenter Leasing, Inc.,
a Colorado corporation

By: _____
_____ (name)
_____ (title)

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged, signed, and sworn to before me this day
_____ of May, 2014 by _____ as _____ of
Carpenter Leasing, Inc., a Colorado corporation.

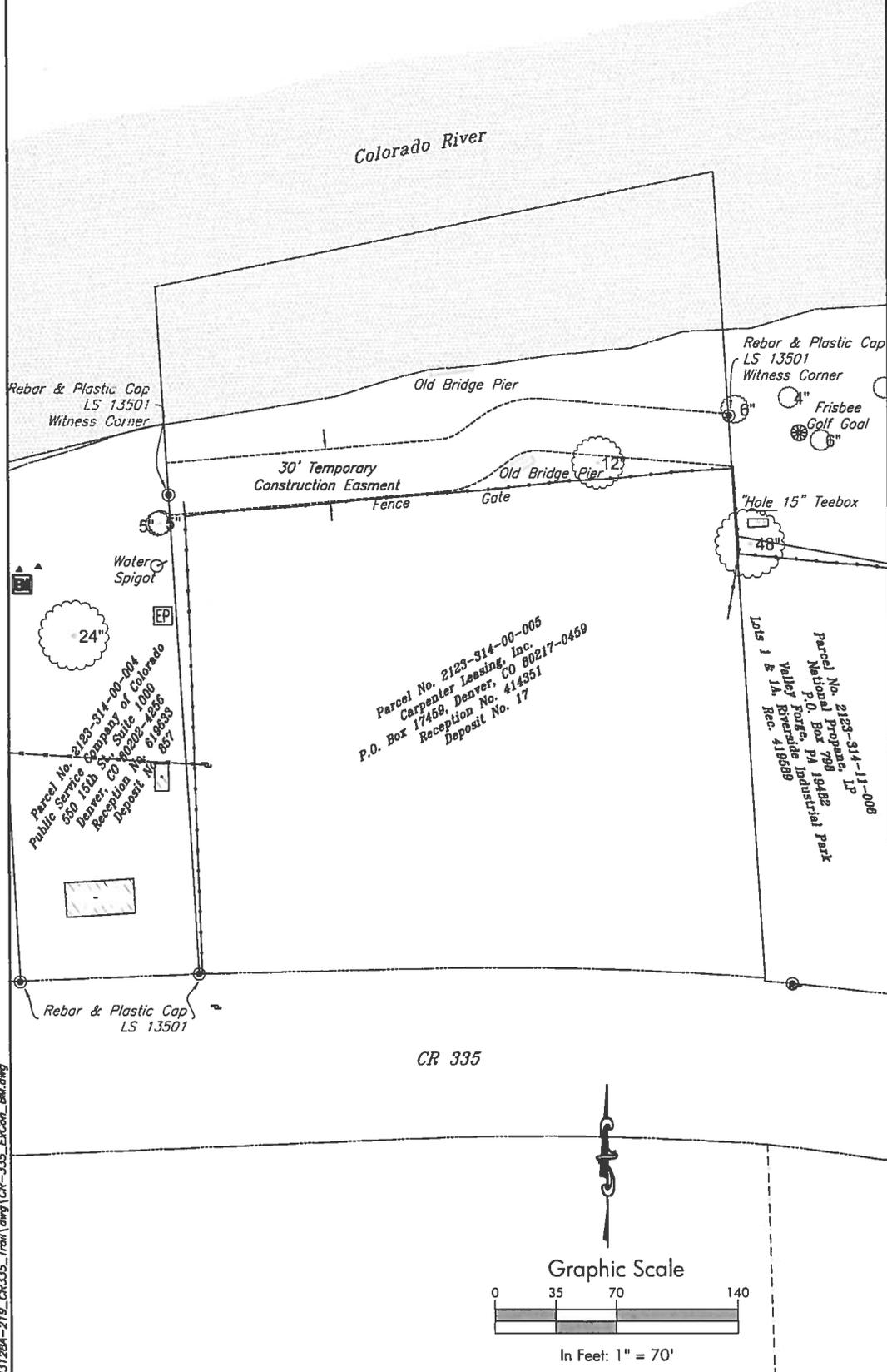
Witness my hand and official seal.
My commission expires:

Notary Public

EXHIBIT A
(Legal Description of the Property)

A Portion of NW1/4SW1/4
Section 31, T. 5 S., R. 90 W., 6th P.M.

EXHIBIT B



Q:\1997\93728A-219_CR335_Trail.dwg | CR-335_ExtCon_BM.dwg

SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgm-inc.com

Town of New Castle

Job No.	93128A-219
Drawn by:	reb
Date:	05 / 15 / 14
Approved:	reb
File:	CR335_ExtCon_BM

Carpenter Leasing, Inc.
Temporary Construction Easement

Sht. 1
of 1

EXHIBIT C
(Trail Easement Deed)

RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:
Garfield & Hecht, P.C.
420 Seventh Street, Suite 100
Glenwood Springs, CO 81601

EASEMENT DEED

This Easement Deed is made by **Carpenter Leasing, Inc.**, a Colorado corporation (“Grantor”), to the **Town of New Castle, Colorado**, a Colorado home rule municipality whose address is P.O. Box 90, New Castle, Colorado 81647 (“Grantee”).

NOTICE THAT for ten dollars (\$10.00) and other good and valuable consideration, in hand paid, Grantor hereby grants, sells and conveys to the Grantee a non-exclusive easement, twenty feet (20’) in width, for the access, use, maintenance, repair, and replacement of a public pedestrian and bicycle trail located in, on, and across that certain real property described on Exhibit A, attached hereto and incorporated herein by reference (the “Trail Easement”). The Trail Easement, located in the County of Garfield, State of Colorado, is legally described on Exhibit B attached hereto and incorporated herein by this reference and depicted on Exhibit C attached hereto and incorporated herein by this reference.

Signed this ____ day of _____, 2014.

GRANTOR:
Carpenter Leasing, Inc.,
a Colorado corporation

By: _____
_____ (name)
_____ (title)

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Easement Deed was acknowledged, signed, and sworn to before me this day ____ of _____, 2014 by _____ as _____ of Carpenter Leasing, Inc., a Colorado corporation.

Witness my hand and official seal.
My commission expires:

Notary Public