



ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT made and entered into this 7th day of August, A.D. 2000 by and between Verzub Ranch, Inc., a Colorado corporation, hereinafter referred to as "ANNEXOR", and the Town of Crested Butte, a municipal corporation, of the County of Gunnison, State of Colorado, hereinafter referred to as the "TOWN".

WITNESSETH:

WHEREAS, ANNEXOR is the owner of the property described in **Exhibit A**, attached hereto (the "Property") and Annexor has filed a petition to annex said Property to the TOWN; and

WHEREAS, the parties mutually agree pursuant to the Town Annexation Ordinance that the annexation of the Property to the TOWN satisfies the criteria for Annexation Decision set forth in Paragraph 15-4-8.B.2 of the 1987 Crested Butte Municipal Code, and shall not create any additional cost or impose additional burden on the existing residents of the TOWN to provide public facilities and services to the Property after annexation.

In consideration of the foregoing premises and the covenants, promises and agreements of each of the parties hereto, to be kept and performed by each of them,

IT IS AGREED:

I

ANNEXATION

The TOWN agrees to the annexation of the whole parcel representing the Property.

II

DEFINITIONS

2.1 "Annexor" shall mean and refer to the ANNEXOR, and its heirs, successors, assigns, and designees.

2.2 "Community Park" shall mean the 4.29 acre parcel of land shown as "COMMUNITY PARK" on the Plat.

2.3 "Donated Developable Land" shall mean the 13.435 acre parcel shown as "DONATED DEVELOPABLE LAND" on the Plat.

2.4 "Final Subdivision Plat" or "Plat" shall mean the Final Plat of the Verzuh Ranch Annexation as finally approved by the TOWN. The Plat, recorded as Reception No. ~~2008~~ and all that is depicted thereon is incorporated by reference into this Annexation Agreement.

2.5 "Final Plan" shall mean all final documents and those documents approved at Preliminary Plan, except for the Plat, submitted to and approved by the TOWN in connection with the annexation and subdivision of the Property, including, without limitation, this Annexation Agreement, the Subdivision Improvements Agreement, the Land Conservation Covenant and all plans and specifications for Public Improvements.

2.6 "Future Development Land/Park" shall mean the 1.65 acre parcel shown as "FUTURE DEVELOPMENT LAND/PARK" on the Plat.

2.7 "Greenway" shall mean all areas shown as "GREENWAY/SNOW STORAGE" on the Plat.

2.8 "Guidelines" shall mean the Town of Crested Butte 1995 Affordable Housing Guidelines, 2000 Edition, Part VI, Verzuh Annexation.

2.9 "Land Conservation Covenant" means the Land Conservation Covenant attached hereto as **Exhibit G**.

2.10 "Platted Property" shall mean that part of the Property platted and developed by ANNEXOR.

2.11 "Private Open Space" shall mean the 40.548 acres shown as "PRIVATE OPEN SPACE" on the Plat.

2.12 "Public Improvements" shall mean all streets and alleys, curbs and gutters, water mains and service lines to each tract, sewer mains and service lines to each tract, hydrants, gas lines, electric lines, cable TV lines, telephone utility installations, irrigation pipelines and ditches, gravel, fencing, storm drainage improvements, street lights, signage, including regulatory and identification signs, Elk Avenue cattleguard and, subject to paragraph 5.4, fiber optic conduit.

2.13 "South of Elk Avenue" shall mean south of the north right of way boundary of Elk Avenue.

2.14 "Subdivision Improvements Agreement" shall mean the Varzuh Ranch Annexation Subdivision Improvements Agreement by and between the TOWN and ANNEXOR, the terms of which are incorporated into this Annexation Agreement by reference.

2.15 "The McCormick Ranch Plat" shall mean the plat of The McCormick Ranch recorded as Reception No. 504295

III

STREETS AND ALLEYS

3.1 ANNEXOR shall dedicate and convey by warranty deed the right-of-way for all streets and alleys shown on the Plat for the full width thereof, and design and fully improve such streets and alleys, curbs and gutters, in conformance with the Final Plan and as shown on the Final Subdivision Plat for the Platted Property, and subject to approval by the Town's Director of Public Works or his designee of the materials used, and to his final inspection. Such dedication of streets and alleys shall occur at the time of subdivision platting. In addition, ANNEXOR shall construct and pave that portion of Ninth Street from the Block 66 alley to Red Ledy Avenue.

3.2 ANNEXOR shall construct all alleys, including the Ninth Street alley, except that portion of each alley which intersects the greenway, and except the alley in Block 66. Construction costs for the alley in Block 66, which include grading, materials and placement of gravel, shall be shared equally by TOWN and ANNEXOR.

3.3 The ANNEXOR will not build the sub-base, hardsurface, curbs or pans for Eighth Street within the subdivision. Instead, the ANNEXOR will pay \$19,750 to the TOWN or construct \$19,750 of improvements, at the TOWN's option, within thirty days of receiving a written request from the TOWN, minus \$14,000.00, which is the TOWN's one-half share of the cost of replacing the 2" water line in Block 60.

3.4 ANNEXOR shall pay for installation of traffic and street signs for all streets within the Property South of Elk Avenue.



3.5 All Public Improvements shall be constructed in accordance with the Subdivision Improvements Agreement and all other plans, including the final specifications approved by the TOWN.

3.6 The construction of the utilities as described in the utility plans of ANNEXOR shall be at ANNEXOR's expense.

3.7 At or before approval of the Plat, the TOWN shall vacate to ANNEXOR the east 20 feet of Ninth Street adjacent to Blocks 65 and 66 by ordinance.

3.8 ANNEXOR agrees not to object to the TOWN taking whatever steps are necessary to clarify that the land east of Red Lady Avenue and south of the southerly boundary of the Verzuh Ranch Annexation is Town property. ANNEXOR will prepare at ANNEXOR'S expense, and cause to be executed a quit claim deed to the Town for such land. If the TOWN prepares and supplies to ANNEXOR a metes and bounds legal description, it shall be incorporated into such Quit Claim Deed. The TOWN will not develop the land east of Red Lady Avenue and south of the Verzuh Ranch Annexation into a street east of Ninth Street but may develop it into a trail and into a 20' alley south of Lot 5, Block 73, as depicted on the Plat.

3.9 The ANNEXOR shall apply dust retardant during construction of all Public Improvements as reasonably requested by TOWN. The McCormick Ranch Road shall be maintained by The McCormick Ranch Association, Inc., which shall apply dust retardant at least once each year.

IV

WATER AND SEWER

4.1 ANNEXOR agrees to install water distribution and sewer collection lines, pump stations, and other facilities within the Platted Property in accordance with the Subdivision Improvements Agreement, the standards and specifications set forth in plans approved by the TOWN and the other provisions of the Final Plan, subject to the TOWN's approval, and to dedicate the same, except the service lines to each tract, to the TOWN. ANNEXOR shall connect the water and sewer lines to the TOWN's municipal water and sewer systems, including the necessary extension of main lines, at ANNEXOR's cost. The TOWN hereby grants temporary construction easements for installation of water and sewer main extensions where required. In Block 62, ANNEXOR

shall replace the 4" water line with an 8" water line. In Block 60, ANNEXOR shall pay for one-half of the cost to replace the 2" water line with an 8" water line.

4.2 A. ANNEXOR shall pay \$345,500.00 to TOWN, as detailed in the Subdivision Improvements Agreement, upon recording of the Final Subdivision Plat. Prior to expiration of the vested property right period set forth in Section 10.13, below, ANNEXOR shall not be obligated to pay any other money to the TOWN for the annexation of the Property, the approval of the Final Subdivision Plat or any other purpose, except for application fees, TOWN engineering review expenses, and payments provided for in the Subdivision Improvements Agreement and this Annexation Agreement. The Property shall not be subject to any additional fees, levies, assessments, taxes or other charges of any kind except those which are of uniform or general application to all other residentially zoned land within TOWN.

B. In addition to paying the \$345,500.00 provided for in subparagraph 4.2(A), above, ANNEXOR shall construct street lighting and signage within the Platted Property and a cattle guard at the westerly start of The McCormick Ranch Road, as set forth in the Subdivision Improvements Agreement.

4.3 The TOWN shall provide water and sewer service to the Platted Property within a reasonable period of time after notification of need by the ANNEXOR as required for development of the Property.

4.4 The parties mutually agree that ANNEXOR shall design and install water lines and fire hydrants within the Property in accordance with the Subdivision Improvements Agreement and the standards and specifications set forth in the Final Plan. It is expressly understood that the TOWN may be unable to provide water for fire protection to any of the Platted Property prior to the installation of required fire hydrants.

4.5 Water and sewer availability charges will commence when all public improvements have been preliminarily accepted by the TOWN, and shall be paid monthly as billed. Tap fees as required by the TOWN will be paid at the time of issuance of a building permit. The ANNEXOR agrees that all promises of water and sanitary sewer service made by this Agreement are subject to any general restrictions of the TOWN as those restrictions may be amended relating to the provision of water and sanitary sewer service generally.

4.6 ANNEXOR shall convey to TOWN adequate water rights to supply:

A. The domestic and irrigation uses, as described in Paragraph 15-3-7.L.7 of the TOWN'S Code, for the Donated Developable Land, Future Development Land/Park and the residential tracts on the Platted Property, which shall be 2.187 cubic feet per second of water; and

B. The irrigation requirements of the Community Park and the Greenway, which shall be 0.43 cubic feet per second.

4.7 ANNEXOR shall retain:

A. Adequate water rights for the Private Open Space, or 3.89 cubic feet per second. Such water rights shall be used exclusively to irrigate the Private Open Space and shall not be sold or encumbered by the ANNEXOR separate and apart from a sale or conveyance of such Private Open Space.

B. All water not conveyed to the TOWN pursuant to paragraph 4.6, above, or appurtenant to the Private Open Space in accordance with paragraph 4.7(A), above, which ANNEXOR shall have the right to encumber or sell.

4.8 All ditches which carry the water conveyed to the TOWN pursuant to Paragraph 4.6, above, and the water retained by the ANNEXOR pursuant to Paragraph 4.7, above, shall be maintained in accordance with the provisions of Colorado law, including, without limitation, the provisions of C.R.S. Paragraphs 37-84-101, et. seq. and 38-23-101, et. seq.

V

STORM DRAINAGE, UTILITIES AND WILLOWS

5.1 ANNEXOR shall dedicate rights of way, and design and construct storm drainage facilities within the Platted Property in conformance with the Final Plan and as provided in the Subdivision Improvements Agreement. ANNEXOR agrees for itself and its successors and assigns that drainage water will be deposited outside the Platted Property onto the Private Open Space east of the Platted Property owned by ANNEXOR and that ANNEXOR and its successors and assigns shall hold the TOWN harmless as to any claims about water draining onto their land.

5.2 ANNEXOR shall pay for the cost of installation of utilities.

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5.3 If the TOWN requests within five years after recording of the Final Subdivision Plat that the willows east of Blocks 57 and 58 be relocated, ANNEXOR shall relocate such willows, subject to the following terms and provisions:

A. Such willow plants shall be moved by the ANNEXOR to a location on the Donated Developable Land or to within 100 feet of the Donated Developable Land as determined by the Town.

B. If the willows are moved by ANNEXOR, the land where the willows are now located will be graded to create a flat building site area suitable for building housing or other similar development as determined by the TOWN. The soils will be compacted to 95% of the maximum density as determined by ASTM D698, standard moisture-dry density relationship (Proctor) test.

5.4 ANNEXOR agrees to install fiber optic conduit in the Property on condition that such conduit can be installed in a trench containing other utilities and that the TOWN pays for all materials.

VI

PUBLIC LAND DEDICATION, TRAILS AND RIVER ACCESS

6.1 ANNEXOR shall dedicate to TOWN at the time of platting, those areas approved at Preliminary Plan, including streets, alleys, greenways, snow storage areas, utility easements and public non-vehicular Slate River access easement and public trail easements through the Property and through The McCormick Ranch. ANNEXOR will convey at the time of platting the Donated Development Land, Future Development Land/Park and Community Park by general warranty deed.

6.2 ANNEXOR agrees that the lands donated to the TOWN shall not be used as borrow or fill areas by the ANNEXOR, without prior approval of the TOWN.

6.3 Subject to the provisions of subparagraphs 6.2, 6.4 and 6.5, use of the Park, Donated Developable Land and Future Development Land shall be determined solely by the TOWN.

6.4 The TOWN shall determine how the land north of the Park and south of Gothic Avenue ("Future Development Land") will be used, subject to the following conditions:

A. Initially, the Future Development Land shall remain as open space or park land.

B. The TOWN shall develop the Donated Developable Land north of Gothic Avenue before developing the Future Development Land.

C. When residential or other non-park improvements are commenced on Future Development Land, there shall be no further residential development of any kind on Donated Development Land north of Gothic Avenue, except remodeling, renovation and/or redevelopment.

D. The provisions of subparagraph 6.4(C), above, shall not apply after all residential tracts and units to be sold have been conveyed by the TOWN and certificates of occupancy have been issued for all of the deed restricted and 90% of the free market residential units to be constructed on the Donated Developable Land.

6.5 The Community Park shall be used exclusively for park purposes. No swimming pools or large buildings, such as indoor ice rinks, swimming pools, etc., shall be constructed in the Community Park. One or more buildings may be constructed in the Community Park on condition that the aggregate size of all such buildings does not exceed 2,800 square feet and the TOWN'S Board of Zoning and Architectural Review has approved the architectural appropriateness of such building(s).

6.6 ANNEXOR shall dedicate on the Final Subdivision Plat and on The McCormick Ranch Plat 15' wide easements for the public trail easements and public non-vehicular Slate River access easement shown on **Exhibit B** subject to the following terms and conditions:

A. All trails are for public use. Dogs are prohibited, except on the trail, approximately 650' in length, connecting the Donated Developable Land to the Town of Mt. Crested Butte recreation path on land currently owned by Dolores G. LaVigne, upon which leashed dogs shall be allowed. Public use as used in this subparagraph 6.6 means pedestrians, bicyclers, wheel chair users, nordic skiers, horseback riders or other similar non-motorized users. Motorized vehicles shall be allowed as reasonably necessary for trail and bridge construction and maintenance.

B. Commercial use of trails for revenue is not permitted.

C. The ANNEXOR shall grant a perpetual access easement to the TOWN for nordic skiing and setting nordic skiing trails on the nordic easements depicted on Exhibit B.

D. Trail use may be closed during nesting season, from May 1, through July 10, each year, and to avoid trail damage during the wet season. Those dates may change when better information is acquired about nesting season and the impacts of people on nesting birds and animals.

E. The bridge over the river accessing The McCormick Ranch will be 22 feet wide, in compliance with Gunnison County Standards. ANNEXOR shall sign the bridge: "YIELD TO PEDESTRIANS ON BRIDGE".

F. The Plat shall depict the general locations of all trails, as shown on Exhibit B. The TOWN or its designee shall have the right to prepare a survey of all "as-built" trails. Nordic skiing trails may be moved by the TOWN up to 100' in either direction from the locations depicted. Subject to written agreement by ANNEXOR and the TOWN, year-round trails may be moved up to 100' in either direction from the locations depicted in order to avoid wet areas, minimize cuts and fills, protect foliage and vegetation or for other appropriate purpose.

G. The east/west year-round trail traversing The McCormick Ranch shall be located on The McCormick Ranch Road, except near the easterly terminus of such trail, where it connects to adjacent property.

H. The TOWN shall have the right to construct cattleguards or other fence crossings where trails and fences intersect.

6.7 ANNEXOR shall grant a public access easement for pedestrian, bicycle, nordic skiing, wheelchair, equestrian or other similar non-motorized uses to the Slate River as depicted on Exhibit B. Dogs are prohibited. Commercial use of the public river access easements for revenue is not permitted.

6.8 ANNEXOR shall install no obstructions to floating the river.

6.9 The Private Open Space shall be encumbered by the Land Conservation Covenant attached hereto as Exhibit G.

6.10 All open space on The McCormick Ranch, defined in the Declaration of Protective Covenants as all of The McCormick Ranch except for the Building Sites, driveways, trails and easements, shall be preserved as open space in perpetuity. TOWN shall have the right to enforce those parts of The McCormick Ranch Declaration of Protective Covenants which preserve open space and the other provisions in such Declaration of Protective Covenants referred to in paragraph 9.8, below.

VII

ZONING

7.1 The parties recognize that it is the intent of ANNEXOR to develop the property in a manner generally consistent with the Zoning Map, **Exhibit C** attached hereto, and that the granting of zoning in accordance with such Zoning Map for not less than 69 single family tracts is a condition to annexation of the Property. ANNEXOR agrees that the design, improvement, construction, and development of the Property will be in accordance with the TOWN'S Zoning and Land Use Ordinance, except as otherwise set forth in this Annexation Agreement and/or the TOWN'S approval of the Final Subdivision Plat and Final Plan.

7.2 The lands to be dedicated or conveyed to the TOWN shall be initially zoned P (Public), subject to the TOWN'S right to rezone the Donated Developable Land and Future Development Land/Park.

7.3 The Private Open Space shall be initially zoned AO (Agriculture Open) and shall be preserved in perpetuity as open space by the Land Conservation Covenant attached hereto as Exhibit G.

7.4 A new zoning district, R1D, shall be created for the tracts east of Ninth Street, which shall be similar to the R1 zoning district, except as follows:

- A. Maximum tract size shall be 11,400 square feet.
- B. Principal structure width shall not exceed 35 feet.

7.5 A new zoning District, R1E, shall be created for all platted tracts which are not zoned R1D. On twelve tracts in the R1E zoning district, duplexes shall be allowed as a use by right, subject to the following: eight of such tracts, identified on Exhibit D, shall be designated as Deed Restricted



Housing tracts. All such Deed Restricted Housing duplex units shall be owner occupied and shall not be rented, except as provided in the TOWN's Guidelines.

VIII

DEED RESTRICTED HOUSING ("DRH")

8.1 ANNEXOR shall designate on the Final Subdivision Plat those eight tracts identified on Exhibit D (the 'Deed Restricted Housing' or "DRH") for owner occupied, deed restricted housing which shall be subject to the restrictions set forth in the Guidelines, a copy of which is attached hereto as Exhibit E, and any amendments thereto. ANNEXOR understands and agrees that these tracts shall be deed restricted in the form substantially set forth in Exhibit E, which shall provide for continuing enforcement by the TOWN.

8.2 Deed Restricted Housing tracts shall be sold with unrestricted tracts in accordance with paragraph 8.3, below. All tracts must be developed so they are ready for conveyance and construction, i.e. improved tracts with water, sewer, telephone, electricity, gas, cable and streets in place to the property line. A soils report, prepared by a qualified engineer and based upon test holes within the building envelope of each tract, stipulating that the tract is suitable for construction of the intended dwelling type without requiring unusual excavation, foundation work or accommodation of other unusual conditions, shall accompany the conveyance if deemed necessary by the TOWN.

8.3 ANNEXOR shall comply with the following rate of sales for each phase of the project to ensure a reasonable number of DRH tracts are sold prior to unrestricted tracts:

A. No more than 25% of the unrestricted market tracts in each phase of a subdivision shall be sold until 25% of the DRH tracts are sold.

B. No more than 50% of the unrestricted market tracts in each phase of a subdivision shall be sold until 50% of the DRH tracts are sold.

C. No more than 75% of the unrestricted market tracts in each phase of a subdivision shall be sold until 100% of the DRH tracts are sold.

IX

MISCELLANEOUS

9.1 ANNEXOR intends to complete the construction of public improvements in accordance with the schedule set forth in the Subdivision Improvements Agreement.

9.2 The TOWN will begin snow plowing and utility line maintenance upon the issuance of a building permit for residential construction accessed by the street, but ANNEXOR will warrant the utilities and streets against defects in materials and installation for two years from the date of acceptance, exclusive of damage caused by the TOWN or third parties, as provided in the Subdivision Improvements Agreement.

9.3 All Public Improvements shall be designed by a registered engineer in accordance with generally accepted engineering principles, and applicable municipal, state and federal practices and law, as provided in the Subdivision Improvements Agreement. The TOWN will be provided with all specifications for review. The TOWN reserves the right to review, comment on and/or reject any or all specifications or materials which do not comply with those approved at Final Plan by the TOWN'S public works director or his or her designee. The Public Improvements will be designed and constructed so as to be durable in nature and not require other than normal maintenance. The ANNEXOR shall be responsible for assuring that the Public Improvements are constructed in accordance with the approved engineering specifications, the approved Final Subdivision Plat and the Final Plan. The ANNEXOR and its engineer will monitor such installation and onsite conditions so as to assure that the specifications are adequate given field conditions encountered during actual construction. If required, said specifications will be changed to reflect needs dictated by actual conditions not anticipated by preliminary soils testing, and the TOWN will immediately be provided with the new specifications for its review and approval. The TOWN will finally accept Public Improvements in accordance with the provisions of Paragraph 15-3-6(h)(8).

9.4 ANNEXOR will provide the TOWN with one hard copy and one computer disc copy (3 1/2 inch) of all drawings associated with the annexation and subdivision, including but not limited to: streets, and as-built utilities. The computer disc copy will be compatible with AutoCAD Release 14.

9.5 ANNEXOR agrees to provide snow storage for snow removal from Elk, Sopris, Whiterock and Belleview Avenues onto the Private Open Space east of the Platted Property.

9.6 The TOWN and ANNEXOR agreed to share equally the expense of maintaining as necessary, a fence along the westerly boundary of the Private Open Space, which ANNEXOR shall construct in accordance with plans and specifications approved by the TOWN, which approval shall not be unreasonably withheld. The TOWN shall maintain such fence north of Elk Avenue and ANNEXOR shall maintain such fence south of Elk Avenue. ANNEXOR shall install gates for each snow storage area.

9.7 The TOWN shall not haul snow from outside the Platted Property to the Platted Property, except that TOWN may bring snow from the 700 blocks of Elk, Whiterock and Sopris Avenues to the Greenway.

9.8 ANNEXOR agrees that the TOWN shall have the right, but not the obligation, to enforce the following provisions of the Declaration of Protective Covenants of The McCormick Ranch: paragraphs 2.7, 2.17, 3.2, 3.6, 3.11, 3.12, 3.13, 3.15, 5.6, 5.7, 5.8, 5.11, 5.13, 6.14, 9.8B, 11.3F, 12.7 and 14.1H. ANNEXOR further agrees that said Declaration shall not be terminated, or the provisions of paragraphs 2.7, 2.17, 3.2, 3.6, 3.11, 3.12, 3.13, 3.15, 5.6, 5.7, 5.8, 5.11, 5.13, 6.14, 9.8B, 11.3F, 12.7 and 14.1H amended without the prior written consent of the TOWN.

9.9 A. The deadline for completing the Public Improvements shall be as set forth in the Subdivision Improvements Agreement.

B. If ANNEXOR develops the Platted Property in two phases, no tracts in the second phase shall be sold until the TOWN has received collateral acceptable to the TOWN securing ANNEXOR's obligation to construct all Public Improvements in and serving phase 2.

C. The TOWN will delete by code amendment the current annexation requirement prohibiting the sale of tracts prior to completion of Public Improvements, and allow the sale of tracts to close prior to Public Improvement completion. All sales contracts shall include a notice of the deadline imposed by the TOWN for completion of the Public Improvements, as provided in the Subdivision Improvements Agreement.

D. No building permits within the Property shall be approved until after all Public Improvements, including paving, are preliminarily accepted by the TOWN. All tract sales contracts shall contain a notice of this provision.

9.10 The owner of each tract on the Final Subdivision Plat shall be required to provide a soils report to the TOWN's chief building official as the basis for designing foundations. ANNEXOR shall notify each tract purchaser of the same in the contract for sale.

9.11 All fences around the Property, Platted Property and Private Open Space on the Platted Property shall be maintained in accordance with the Colorado fence law. Such fences shall not be deemed to be boundary fences.

9.12 The McCormick Ranch Plat shall be recorded contemporaneously with the Plat.

X GENERAL PROVISIONS

10.1 THIS AGREEMENT shall be recorded with the Clerk and Recorder in Gunnison County, Colorado, shall run with the land constituting the Property, and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. ANNEXOR shall notify the TOWN of assignments and the names of assignees.

10.2 Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver of the TOWN'S legislative, governmental, or police powers to promote and protect the health, safety, or general welfare of the municipality or its inhabitants nor shall this Agreement prohibit the enactment by the TOWN of any fee which is of uniform or general application.

10.3 No right or remedy of disconnection of the Property from the TOWN shall exist other than that provided by Colorado Revised Statutes Paragraph 31-12-119. In the event the Property or any portion thereof is so disconnected at ANNEXOR'S request, the TOWN shall have no obligation to serve the disconnected property and this Agreement shall be void and of no further force and effect as to such property.

10.4 If the annexation of the Property or any portion thereof is challenged by a referendum or initiative, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended pending the outcome of the referendum or initiative election. If the referendum or initiative challenge to the annexation results in disconnection of the Property from the TOWN, then this Annexation Agreement and all provisions contained herein shall be null and void and of no further effect. If the



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referendum or initiative challenge fails, then ANNEXOR and the TOWN shall continue to be bound by all the terms and provisions of this Annexation Agreement.

10.5 In the event that the annexation of the Property or any portion thereof is voided by final action of any court, such action not being associated with a referendum or initiative action, the TOWN and ANNEXOR shall cooperate to cure the legal defect which resulted in disconnection of the Property, and upon such cure this Annexation Agreement shall be deemed to be an agreement to annex the Property to the TOWN pursuant to Colorado Revised Statutes, Paragraph 31-12-121. ANNEXOR may reapply for annexation as and when the Property becomes eligible for annexation as determined by the TOWN. If such defect is not cured, then this Annexation Agreement and all provisions contained herein shall be null and void and of no further effect.

10.6 It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular part, term, or provisions held to be invalid.

10.7 All fees recited in this Agreement shall be subject to amendment by the TOWN Council by Ordinance, on condition that such amendment shall be of uniform or general application. Any amendment to fees shall be incorporated into this Agreement as if originally set forth herein.

10.8 This instrument embodies the whole agreement of the parties regarding the subject matter hereof. There are no promises, terms, conditions, or obligations regarding this annexation other than those contained herein and in the Final Plan, the Final Subdivision Plat, and in the open space and other provisions of the Declaration of Protective Covenants for The McCormick Ranch which the TOWN may enforce under paragraph 9.8, above, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. There shall be no modification of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein this Agreement may be enforced in any court of competent jurisdiction.

10.9 This Agreement shall not terminate upon annexation of the Property, and shall benefit and bind the parties and their successors and assigns. After annexation, so long as the Property is located within the



municipal boundaries of the TOWN, it shall continue to be subject to the ordinances, rules and regulations of the TOWN.

10.10 The parties agree that if formal arbitration occurs or a legal or equitable action is brought to interpret, construct or enforce the terms of this Agreement or the documents provided for herein or related hereto, the substantially prevailing party in such arbitration or action shall be entitled to an award for its reasonable attorneys' fees, and costs. The provisions hereof shall be enforceable by an action for specific performance, injunction, damages and/or any other remedy available at law or in equity. All remedies shall be cumulative.

10.11 This Annexation Agreement shall not be assigned, provided, however, that ANNEXOR shall have the absolute right to assign this Annexation Agreement to an entity which owns the Property if such entity is owned or controlled by ANNEXOR or ANNEXOR'S shareholders.

10.12 The TOWN, by this Agreement, does not intend to abrogate any of its police power authority.

10.13 ANNEXOR's vested property right in connection with the Verzuh Ranch Annexation shall expire fifteen years after the end of the warranty period provided for in Paragraph 5.2 and Exhibit D of the Subdivision Improvements Agreement respecting phase one.

10.14 Pursuant to the requirements set forth in the Town Code at Paragraph 15-4-BB.2.K, ANNEXOR will update any geological and/or flood plain mapping for the area to be annexed on or before October 1, 2000.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officials to place their hands and seals upon this Annexation Agreement the date and year first above written.

TOWN OF CRESTED BUTTE, COLORADO

A municipal corporation

Attest:

By: *Linda Powers*
Linda Powers, Mayor

Lynda Jackson-Petito
Lynda Jackson-Petito, Town Clerk

EXHIBIT LIST

- Exhibit A Legal Description of ANNEXOR's property
- Exhibit B A reduced copy of The McCormick Ranch Plat which depicts Public Trail Easements and Public Non-Vehicular Slate River Access Easement
- Exhibit C Zoning Map
- Exhibit D Deed Restricted Housing Tracts
- Exhibit E Town of Crested Butte 1995 Affordable Housing Guidelines, 2000 Edition, Part VI, Verzuh Annexation
- Exhibit F Deleted
- Exhibit G Land Conservation Covenant

Property Description of Verzuh Annexation Tract
Prepared for Bill Lacy

REVISION #1 - 7/20/00

A tract of land within the NW1/4 of Section 2, Township 14 South, Range 86 West, Sixth Principal Meridian, Gunnison County, Colorado; said tract being more particularly described as follows:

Commencing at the north quarter corner of said Section 2, (as marked by a USGEO brass cap monument), thence North 89° 38' 07" West 169.11 feet along the north boundary of said Section 2 to the POINT OF BEGINNING for the herein described tract; thence the following courses around said tract:

1. North 89° 38' 07" West 1421.14 feet along said north boundary to a point on the east boundary of Eighth Street of the Town of Crested Butte;
2. South 00° 02' 08" East 2143.05 feet along said boundary to the northwest corner of the east-west alley in Block 86 of the Town of Crested Butte;
3. North 89° 37' 52" East 480.00 feet along the north boundary of the east-west alley of said Block 86 and its easterly extension to a point on the east boundary of Ninth Street;
4. South 00° 02' 08" East 471.00 feet along said boundary to a point on the easterly extension of the southerly boundary of Block 85 of The Town of Crested Butte;
5. North 89° 37' 52" East 929.49 feet along said easterly extension;
6. NORTH 2604.19 feet to a point on the north boundary of said Section 2, said point also being the POINT OF BEGINNING of the herein described tract.

This tract contains 79.28 acres more or less.

The basis of bearings used herein is astronomic north as determined by solar observations.

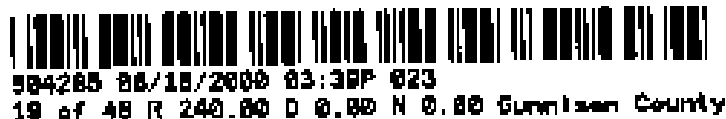
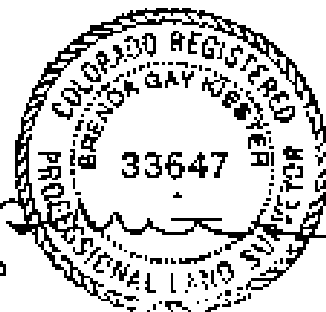


Exhibit A
to
Annexation Agreement

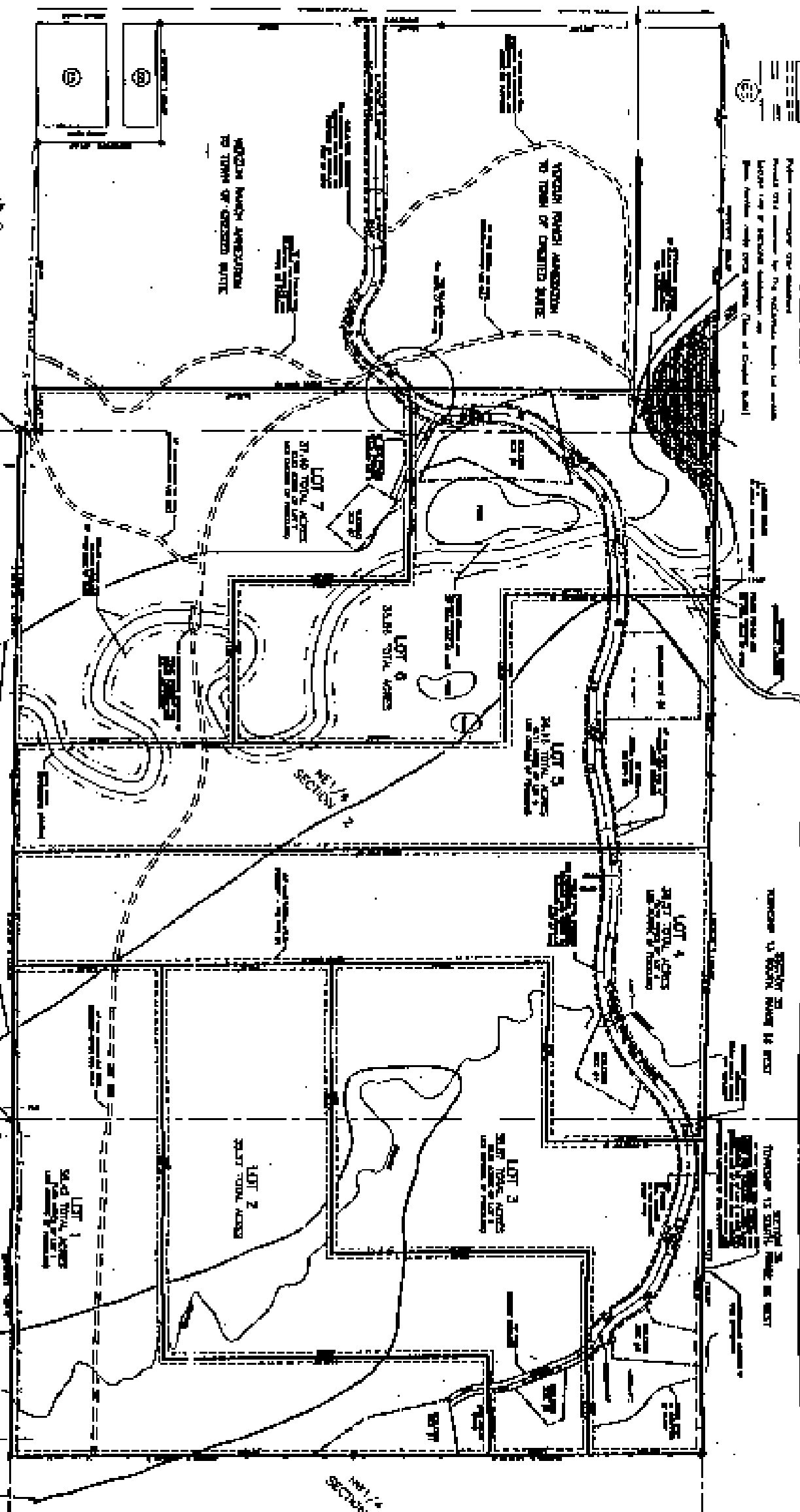
Burda
7/20/00





ENCL.

OWNER: GUNNISON COUNTY
 PROJECT: GUNNISON COUNTY WATER TREATMENT PLANT
 SHEET: 20 OF 40
 DATE: 05/18/2000
 TIME: 03:39P
 DRAWN BY: [Name]
 CHECKED BY: [Name]



20 05/18/2000

50112

R1 ZONE



584285 88/18/2008 03:39P 023
21 of 48 R 240.80 D 0.80 N 0.80 Gunnison County

R1 ZONE

P ZONE
DONATED
DEVELOPABLE LAND
13.588 Ac.
582208.5 S.F.

P ZONE
FUTURE DONATED
DEVELOPABLE LAND/PLAT
1.881 Ac. 71998.3 S.F.

P ZONE
COMMUNITY PARK
4.288 Ac.
186797.9 S.F.

A-O ZONE
PRIVATE OPEN SPACE

10	4	8	1	7	0	3	4	3	2	1
50										

6	5	4	3	2	1
7	8	12	10	11	12

2	3	2	1		
10.572 Ac. 460408.3 S.F.					
7	8	0	10	11	12

0	3	4	7	7	7
---	---	---	---	---	---

5	6
56	

1	2	3	4	5	6	7	8	9	10	11	12
R1 ZONE											

70

71

72

73

75				
R1D				
9.189 Ac. 138404.2 S.F.				
3	4	7	2	1

A-O ZONE
PRIVATE OPEN SPACE
40.618 Ac.
1769918.6 S.F.

P ZONE

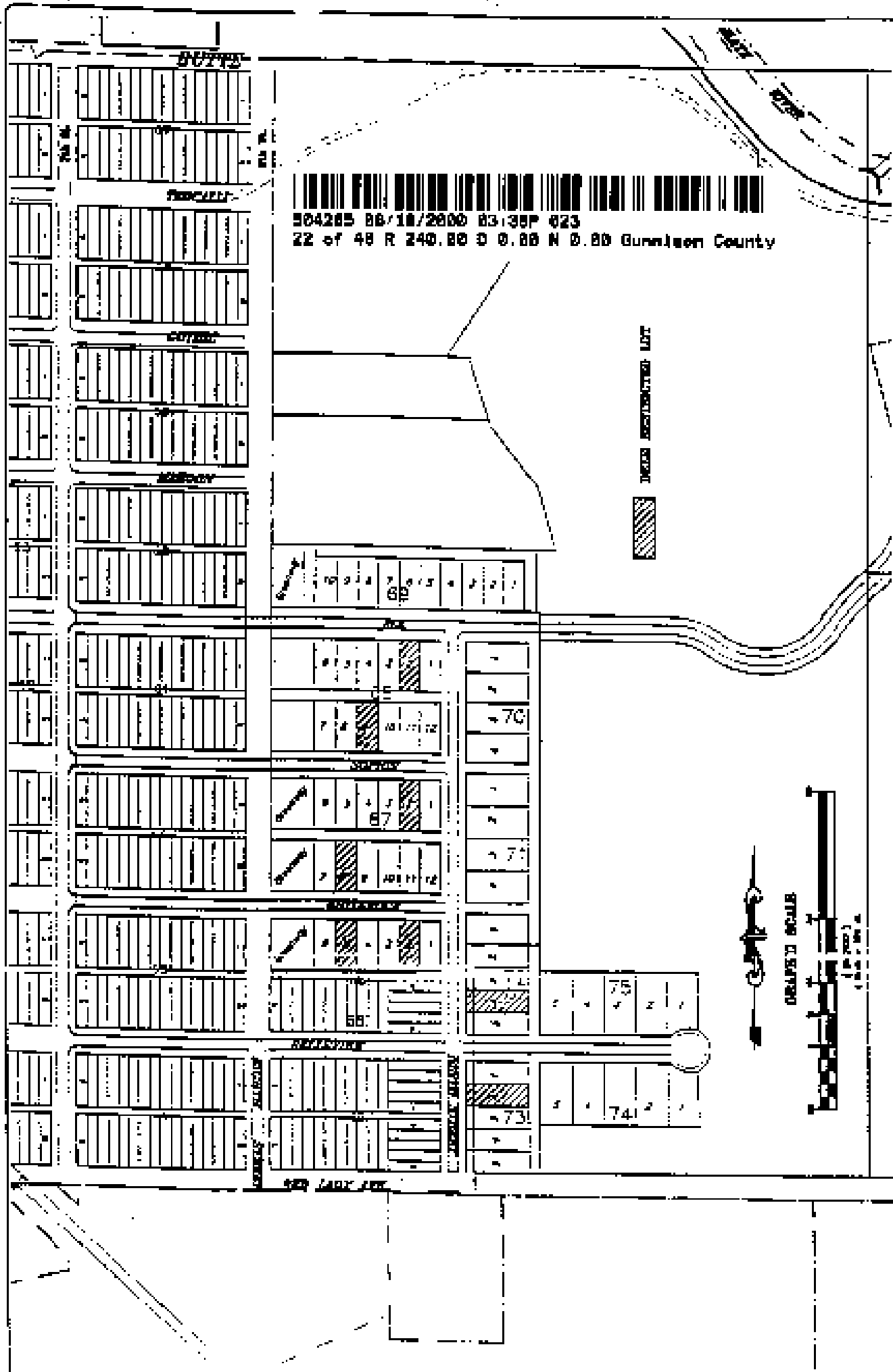
GRAPHIC SCALE

STANDARD MAP
ELEMENT C


PETERH RANCH ANNEXATION

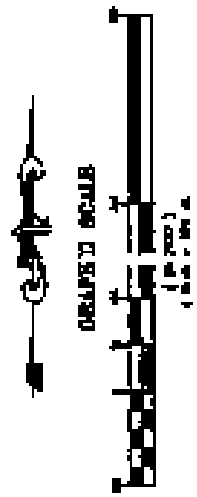
CONSULTER ENGINEER ARCHT. INC.
1010 1/2 1ST AVENUE, SUITE 100
GUNNISON, COLORADO 80634
PHONE: 970.240.1111 FAX: 970.240.1112
WWW.PETERHENGINEERING.COM







 504285 88/18/2800 83-39P 023
 22 of 48 R 240.80 D 0.80 N 0.80 Guilford County


 IDEAS RESTRICTED LOT



		GENERAL CONDITION REPORT DATE: 10/15/2008 TIME: 10:00 AM BY: [Signature]	
VERBUM LUNCH ANNEXATION		DEED RESTRICTED HOUSING LOTS EXHIBIT 0	

**TOWN OF CRESTED BUTTE
1995 AFFORDABLE HOUSING GUIDELINES
2000 Edition**

**Part VI. Verzuh Annexation
Owner-Occupied Deed-Restricted Housing.**

Section 1. Definitions:

Owner-Occupied Deed-Restricted Housing – Owner-Occupied Deed-Restricted Housing in Crested Butte is housing limited by deed restriction to a narrow segment of the market. The intended beneficiaries for such housing are people who cannot afford fair market sale prices for housing and who contribute towards making the Town of Crested Butte a community by providing personal time and energy for community projects, voluntary services or governance.

Tract(s) – Deed-Restricted Housing tract(s) identified on the Final Plat of the Verzuh Ranch Annexation Subdivision and on Exhibit D of the Verzuh Ranch Annexation, Annexation Agreement and shall include unimproved and improved tract(s) of land, as appropriate.

Offer the Tract For Sale – Advertising the tract for sale in the official newspaper of the Town, or listing the property with a real estate broker or otherwise advertising the tract for sale to the public.

Unit(s) – Improved structure(s) on a Deed-Restricted Tract.

Section 2. Rationale.

The reason to create owner-occupied, deed-restricted housing is to serve one of many segments of the community that needs affordable housing. The target group for this housing is people who desire to purchase a tract for long-term housing in Crested Butte and who contribute to the community.

The 1999 Gunnison County Housing Needs Assessment demonstrates that affordable housing is needed. The average price of a single family home was \$324,000 in 1998 and approximately 21% of the County's households are currently cost burdened by either rent or mortgage payments.



Section 3. Qualifications for Ownership.

Summary of Eligibility Qualifications

	Minimum Residency in the Crested Butte Fire Protection District	Earned Income in Gunnison County	Live on site
Category 1	5 of past 7 yrs	80%	yes
Category 2	3 of past 4 yrs	80%	yes

A. A Qualified Buyer is a natural person who meets all of the following eligibility qualifications:

1. One who has lived or worked in the Crested Butte Fire Protection District for at least 5 of the past 7 years, or 3 of the past 4 years, as of the date of the execution of a contract to purchase a tract; and
2. Derives 80 % of their total "Earned Income" in Gunnison County. "Earned income" shall be defined by the Internal Revenue Service. (IRC § 321(2) EARNED INCOME (3/20/1995) and as it may be amended).
3. Does not own an interest, alone or in conjunction with others, in any other residence or residential land. Applicants who own residential real estate must sell the residence or residential land to an unrelated person or entity in which the applicant has no interest, for no less than fair market value prior to closing on an affordable housing tract. However, if an applicant owns a 50% or less undivided interest in residential real estate, he or she may convey that interest to the joint owner(s) with or without receiving consideration. If the residential real estate is not sold by the time of closing on the affordable housing tract, the applicant becomes ineligible to purchase the tract and shall not close on it (The seller may delay closing until the applicant sells the other residential real estate or the seller may void the contract to sell and may enter into a new contract to sell to a different Qualified Buyer.); and
4. Resides in the Crested Butte Fire Protection District at the time a purchase contract for the tract is signed.

B. Exemption

1. **Special Exemptions** Those people, or those with federally recognized dependants, who are certified by a medical doctor as being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last indefinitely, and those people who are court-appointed legal guardians with wards who are otherwise Qualified Buyers, may be exempt from the following requirements after a finding by the Town of just cause.
 - a. One who has lived or worked in the Crested Butte Fire Protection District for at least 5 of the past 7 years or 3 of the past 4 years, as of the date of signing of a contract to purchase a tract; and
 - b. Derive 80 % of their total "Earned Income" in Gunnison County.
2. **Other Exemptions.** The Town may, upon a showing of substantial hardship or exceptional circumstances, waive any or all of the Qualifications for Ownership. Any applicant or potential applicant may present evidence at a hearing before the Town with respect to such exemption.
3. **Mortgage Loan Co-signers.** An individual other than the Qualified Buyer is permitted to co-sign on the mortgage loan for a tract, so long as there is a Qualified Buyer on the loan documents. The name of a married spouse of the person meeting the eligibility qualifications may be on the title so long as the Qualified Buyer is also a record owner. If title transfers solely to the co-signer or spouse, the tract must be relinquished unless the co-borrower or spouse meets the Qualifications for Ownership at the time the title transfers. A co-signer or spouse who does not meet the Qualifications for Ownership and who receives title to the property, may not occupy or rent the tract prior to selling it.

C. Establishing the Qualifications for Ownership.

In order to determine that a person desiring to purchase an affordable housing tract meets all of the Qualifications for Ownership, the Town may request any combination, or all, of the following documentation as proof of residency and income source:

1. Federal income tax returns for the previous five years; (Forms 1040, 1040E or 1040EZ)
2. Wage and Tax Statements for the previous five years; Form W2.
3. Landlord verification (proof of residency by physical address);
4. Copy of valid Colorado driver's license;

5. Vehicle registration;
6. Voter registration;
7. Other verification deemed necessary by the Town (i.e. wage stubs or employer name, address, and phone number).

Section 4. Procedures for Sale and Resale of Tracts.

A. Initial Sales by Subdivider

1. Category 1 Qualified Buyers Have the First Opportunity to Purchase Tracts.

The subdivider will work with the Town to contract first with people who meet the eligibility requirements of Category 1. If Qualified Buyers cannot be found in the required time period for Category 1 buyers, the Subdivider may enter into contracts with people who meet the requirements of Category 2.

2. Offering Tracts For Sale

When the Subdivider is ready to sell tracts, the Subdivider shall place an announcement in the legal publications section of the official newspaper of the Town announcing the following:

- a. The number or address of the tract(s) for sale beginning on ____ (date).
- b. People meeting the eligibility qualifications in Category 1 and 2 of Section 3 of Part VI of the "Town of Crested Butte 1995 Affordable Housing Guidelines, 2000 Edition, Part VI Verzuh Annexation" or a person who has received an exemption from the eligibility requirements in Section 3 from the Town, may make an offer on the tracts during the 15 days following publication of the notice.
- c. The contact address for the seller.

3. Contracting to Sell Tracts

People meeting Category 1 and 2 eligibility, in Section 3 above, or a person who receives an exemption from the eligibility requirements in Section 3 from the Town, may make an offer on the tracts during the 15 days following publication of the notice. A representative of the seller with authority to enter into a contract must be available during said 15 days. During the initial 15 days after publication the Subdivider may only enter into purchase contracts with people who meet eligibility requirements for Category 1. If contracts to purchase tracts at the advertised price are not



executed within said 15 days by Category 1 Qualified Buyers, the seller may enter into purchase contracts with people who meet Category 2 eligibility requirements for any remaining tracts. The tracts shall remain available to any person meeting Categories 1 or 2 until sold.

4. Town makes determination.

Prior to the closing of a sale of a tract, the prospective buyer shall be qualified by the Town, or its designee, and will receive a determination as to whether or not the prospective buyer is a Qualified Buyer.

5. Deadline for Building.

Owners who have purchased a tract shall obtain a certificate of occupancy for a dwelling unit thereon no later than sixty (60) months after closing the purchase. Any owner who fails to meet this deadline shall forthwith Offer the Tract For Sale and as soon as practicable, sell their tract.

B. Procedures for Subsequent Sales of Tracts.

1. Sellers Decide to Whom They May Sell.

Sellers shall decide to whom they sell a tract, as long as they sell to a Qualified Buyer.

2. Qualified Buyers.

Qualified Buyers in subsequent sales of tracts shall be restricted to those meeting the same criteria as initial applicants. Subsequent Qualified Buyers may be from either Category 1 or 2 in Section 3 above, or a person who receives from the Town an exemption from the eligibility requirements in Section 3. Buyers shall be qualified by the Town. Prior to the closing of a sale of a tract, the prospective buyer shall be qualified by the Town, or its designee, and will receive a determination as to whether or not the prospective buyer is a Qualified Buyer.

3. Determining Sales Price.

An owner of a tract desiring to sell the tract must consult with the Town, or its designee, to determine the Maximum Sales Price permitted as defined below. After initial sale of a tract by the Subdivider to a Qualified Buyer, no subsequent sale of a tract to another Qualified Buyer shall be for an amount greater than the "Maximum Sales Price" of a tract. For purposes of these Guidelines, the "Maximum Sales Price" of a tract shall be calculated by one of two methods, using the lesser of the two:

a. 3% Per Annum

Maximum sales price is calculated based on:

- the land cost, plus
- 3% of that cost compounded annually, and prorated for partial years, plus
- the cost of improvements, plus
- 3% of the improvements cost compounded annually, and prorated for partial years, from the date a Certificate of Occupancy is issued by the Town for those improvements, where:

- X = Land cost - the seller's basis in land costs, as determined under the United States Internal Revenue Code (specific included and excluded costs are listed below)
- a = Improvements cost - the seller's basis in improvements. If several improvements exist, these are labeled a₁, a₂, a₃, etc.
- b = Owner contributed labor - sweat equity. If several improvements exist, these are labeled b₁, b₂, b₃, etc.

The Maximum Sales Price of the property is determined by the following formula:

$(X * 1.03 \text{ (or portion thereof) for each year owned}) + ((a_1 + b_1) * 1.03 \text{ (or portion thereof) for each year owned since the improvement}) + ((a_2 + b_2) \dots) \text{ etc.}$

Example

The land is owned three and one-half years, total.

Land cost is	\$60,000
Cost of 1 st improvement, made in middle of year two	\$120,000
Cost of owner contributed labor for 1 st improvement	\$20,000

$\{ \$60,000 * 1.03 * 1.03 * 1.03 * 1.015 \} + \{ (\$120,000 + \$20,000) * 1.03 * 1.03 \} =$
 \$215,079.

b. Consumer Price Index

Maximum Sales Price is calculated based on the land cost, the improvements cost, and the increase in the Consumer Price Index ("CPI") where:

X = Land cost (see above)
 a = Improvements cost (see above)
 b = Owner contributed labor (see above)

The Maximum Sales Price of the property is determined by the following formula:

$$X * \frac{\text{CPI for month prior to date of sales contract}}{\text{CPI for month prior to month of purchase by seller}} + (a + b) * \frac{\text{CPI for month prior to date of sales contract}}{\text{CPI for month prior to issuance of certificate of occupancy}} + (a_2 + b_2) \dots \text{etc.}$$

Example

CPI for month land is purchased is 65.
 CPI for month prior to completion of construction is 68.1
 CPI for month prior to date of sales contract is 76.

$$\$80,000 * \frac{76}{65} + (120,000 + 20,000) * \frac{76}{68.1} = \$226,394.66$$

For purposes of these Guidelines CPI means the Denver-Boulder Consumer Price Index for Urban Wage Earners, published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor agency. CPI for the month prior, will be the nearest month CPI is available.

Costs that may be included in the Basis and which the owner must document shall be:

- The cost to purchase a tract, plus
- The cost of all Capital Improvements, for which a Town building permit has been issued, made during ownership of a tract (Capital Improvements include the cost of materials and all labor, including "sweat equity" as documented by the owner. In computing the value of sweat equity, the cost of labor cannot exceed the cost of materials.);
- All closing costs except loan points or origination fees;
- Tap fees;
- Special district fees;
- Building permit fees;
- Interest paid for construction loans.

Costs that may not be included in the Basis are:

- Maintenance costs;
- Loan points or origination fees;
- Property taxes;



- Water and sewer fees (both availability of service fees and monthly service fees);
- Permanent mortgage interest."

4. Procedures for Resale.

a. Offering Tracts for Resale.

When an owner is ready to sell the tract, the owner shall Offer the Tract For Sale

b. Town Makes Determination

The seller shall submit to the Town a copy of the sales contract for the tract, and a calculation of the Maximum Sales Price accompanied by evidence of seller's Basis. At a minimum, seller shall submit

- i. receipts to verify the costs of the improvements, including all labor, and an affidavit verifying that the receipts are valid and correct and represent costs actually paid by seller at the time the improvements were made
- ii. records regarding any special improvement district assessments paid by seller during seller's ownership of the tract;
- iii. a copy of any building permit obtained for the improvements,
- iv. records regarding any construction interest paid by the seller and an affidavit verifying that the interest was paid.

c. Town Notification.

The Town, or its designee, shall, within 15 days of receipt of the purchase contract and qualifying information for the prospective buyer, provide a letter to the prospective buyer and seller indicating that the sales price and that the prospective buyer meet the Town requirements or that one or both do not, and why. The Town, or its designee, shall maintain a copy of the letter in a file for each tract. (The calculations done by Town staff shall not be interpreted to be the seller's Basis for tax purposes.)

5. Customary Closing Costs.

Seller shall not permit the buyer to assume any or all of the seller's customary closing costs, except payment of the Town's Land Transfer Excise Tax may be negotiated between the parties. Seller shall not accept any other consideration which would cause an



increase in the sales price of the tract above the Maximum Sales Price, so as to induce the seller to sell the tract to such buyer.

6. No Guarantees.

Nothing herein shall be construed to constitute a representation or guarantee by the Town or the Subdivider that upon the sale of the tract, the seller shall obtain the Maximum Sales Price.

7. Deadline for Building.

Owners who have purchased a deed-restricted housing tract shall obtain a certificate of occupancy for a dwelling unit thereon no later than sixty (60) months after closing the purchase. Any owner who fails to meet this deadline shall forthwith sell their parcel.

8. Application of the Guidelines.

In the event a duplex unit is constructed upon the tract, both of the resulting units will be subject to all of the terms, restrictions and conditions to which each tract is subject under these Guidelines.

Section 5. Ownership of Deed-Restricted Tracts.

All owners, both initial and subsequent, must comply with the following requirements:

A. A copy of each deed conveying title to a tract must be provided to the Town within 30 days after closing.

B. Occupancy.

Deed-restricted housing must be occupied by owners as their sole and exclusive residence, subject to the provision on leaves of absence, below.

C. Continuing Qualifications

After the initial sale of each of the tracts, each owner shall continue to comply with the eligibility qualifications of a Qualified Buyer, except that an owner who has reached the age of 59½ years and retired from full-time work need not continue to derive 80% of his or her total "Earned Income" in Gunnison County. Upon request of the Town, or its designee, an owner must demonstrate that he/she complies with all eligibility requirements. If the owner ceases to have the qualifications of a Qualified Buyer, or ceases to use the housing as his or her sole and exclusive place of residence, subject to the provision on leaves of absence below, the tract or unit will be Offered For Sale by the seller and will be sold to a Qualified Buyer as provided herein. In the event that title to a tract vests by descent in individuals and/or entities who are not Qualified Buyers, as that term is defined herein, the tract shall be Offered For Sale and shall be sold to a



Qualified Buyer within two (2) years after the Town notifies the owner of the obligation to sell.

D. Deed Restriction and Option to Purchase

Each tract and/or unit is subject to all terms and conditions contained in these Guidelines, and each is subject to the Deed Restriction and Option to Purchase, which must be recorded with the Gunnison County Clerk and Recorder, incorporating the terms and restrictions contained in these Guidelines.

E. Leaves of Absence.

An owner may request written approval from the Town, or its designee, for a leave of absence from Gunnison County for a limited period of time, or may request written approval from the Town, or its designee, for a one-time, in-county leave of absence for one year. A leave of absence may be granted by the Town, or its designee, upon clear and convincing evidence that the owner shows a bona fide reason for leaving and a commitment to return to live in the Deed-Restricted Housing, for up to one year which, at the discretion of the Town, or its designee, may be extended for one additional year, but in no event shall the leave exceed two years in any ten-year period.

F. Rental of Units.

A unit may be rented in its entirety if an owner has requested, in writing, permission from the Town for a leave of absence, and for permission to rent the unit during the period of the leave of absence, at least thirty days prior to leaving, and received permission from the Town. The unit shall be rented in accordance with the Town's Guidelines found in Part IV., Section 2.C.1. during the leave of absence. Emergency circumstances may permit a waiver of the 30 day procedural provisions.

G. Unit Renter Qualifications.

A unit may only be rented to those who meet the eligibility qualifications of a Qualified Buyer as set forth in these Guidelines.

Section 6. Grievance Procedures.

A grievance is any dispute regarding procedures set forth herein that a seller or buyer may have with the Town, or its designee. A grievance may be presented to the Town under the following procedures.

A. Filing a Grievance

1. Any grievance must be presented in writing to the Town. It may be simply stated, but shall specify:
 - a. the particular ground(s) upon which it is based;

- b. the action requested, and
 - c. the name, address, telephone number of the complainant and similar information about his/her representative, if any.
2. Upon presentation of a written grievance, a hearing before the Crested Butte Town Council shall be scheduled within 20 days.
 3. The complainant and the Town shall have the opportunity to examine and, before the hearing at the expense of the requesting party, to copy all documents, records, and regulations of the Town that are relevant to the hearing.
 4. Based on the record of proceedings, the Town Council will provide a written decision upon request and include the reasons for its determination. The decision of the Town Council shall be binding on the Town, or its designee, which shall take all actions necessary to carry out the decision.

Section 7. Default/Breach/Enforcement.

- A. If a violation, default or breach is alleged, the Town shall send a notice of such to the owner detailing the nature of the violation and allowing the owner fifteen days to determine the merits of the allegations, or to correct the violation. In the event the owner disagrees with the allegation of violation of these Guidelines, the owner may request, in writing, a hearing before the Town. If the owner does not request a hearing or the violation is not cured within the fifteen-day period, the owner shall be considered in violation of these Guidelines.
1. The hearing described above shall be scheduled within 20 days of the date of the receipt of a written request for a hearing. At any such hearing, the complainant may be represented by counsel and may present evidence on the issues to be determined at the hearing. An electronic record of the hearing shall be made and the decision of the Town Council shall be a final decision, subject to judicial review.
 2. In the event a tract is sold, and/or conveyed, or utilized in any way without compliance with the terms of these Guidelines, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of a tract, for all purposes, shall be deemed to include and incorporate by this reference all terms herein contained.



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3. In the event an owner fails to cure any breach of the terms, requirements and conditions set forth in these Guidelines, the Town, or its designee, may resort to any and all legal and/or equitable actions, including, but not limited to specific performance of these Guidelines, injunction, abatement or eviction, and if the Town, or its designee, substantially prevails in such action, it shall be entitled to an award for its attorney fees and costs.

Section 8. Deed Restriction.

- A. Each tract and/or unit must be deed-restricted by a recorded instrument that complies substantially with the form found in Exhibit A.
- B. Each tract and/or unit must be encumbered by an Option to Purchase Deed-Restricted Housing that complies substantially with the form found in Exhibit B.

C:\Verzuh_Ahguidlines2.doc

Exhibit A

**TOWN OF CRESTED BUTTE
2000 AFFORDABLE HOUSING GUIDELINES
PART VI, VERZUH ANNEXATION
DEED RESTRICTION**

Subject property: (Legal Description) Hereafter, the "Property".

The ownership of the Property shall hereoforth be limited exclusively to successful applicants and their spouses maintaining exclusive residency in Gunnison County, Colorado, who also meet the qualifications set forth in the Town of Crested Butte, 2000 Affordable Housing Guidelines, Part VI., Verzuh Annexation, as amended ("Guidelines"), as determined by the Town or its designee at the time of purchase and during ownership. The use and occupancy of all or part of the property, is hereby limited exclusively to people who meet the referenced qualifications, and their spouses and children

Ownership, use and occupancy of the Property is subject to the following:

1. The Property must be owned, occupied and used only by persons meeting the qualifications set forth in the Guidelines as they may be amended
2. In the event the Property is sold, transferred or otherwise conveyed without complying with this Deed Restriction, such sale, transfer or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every conveyance of the Property, for all purposes, shall be deemed to include and incorporate by this reference all terms of the Guidelines, and any amendments thereto, including but not limited to those provisions governing the qualifications for ownership, sale, transfer or conveyance of the Property.
3. The beneficiary of any deed of trust or other recorded instrument identifying the Property as security or collateral shall execute the Option to Purchase Affordable Housing prepared by the Town, unless waived by the Town, prior to the recordation of the deed of trust or other recorded instrument. Failure to so execute shall render any such encumbrance fully null and void.

The foregoing restrictions on ownership, use and occupancy constitute a perpetual covenant that runs with the land as a burden thereon for the benefit of the Town of Crested Butte, Colorado (hereafter the "Town"), or its designee and shall be binding on the owner and the heirs, personal representatives, assigns, lessees, licensees and any transferees of the owner. The foregoing restrictions and covenants shall be administered by the Town or its designee, and shall be enforceable by any appropriate legal or equitable action, including but not limited to specific performance, injunction, abatement or eviction of non-complying owners or occupants or such other remedies and penalties as may be deemed appropriate by the Town. If the Town substantially prevails in such an action, it shall also be entitled to an award for its reasonable attorneys' fees and costs.



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Notwithstanding the foregoing, this Deed Restriction shall automatically terminate upon the Town's failure to exercise and close its option rights under an Option to Purchase Affordable Housing. The date of the termination of this Deed Restriction shall be the date of recording a public trustee's or court ordered foreclosure deed conveying the Property to the encumbrance beneficiary.

The foregoing Deed Restriction may be modified with the written consent of the owner, the Town or its designee and if reasonably available in Gunnison County, the original Property developer. No such modification shall be effective until an instrument in writing is executed and recorded in the office of the Clerk and Recorder of Gunnison County. Provisions added to this Deed Restriction and/or the Guidelines after the time of recording the final subdivision plat of the Property which are more restrictive than those in effect at the time of such recording, shall not apply to parcels within the Property, unless such provisions are designed to satisfy the Town's expressed interest to have only those persons meeting the Eligibility Qualifications (which shall not be amended) own, occupy or use the Property. However, less restrictive added provisions shall apply.

Executed this ____ day of ____ 200__.

Developer
County of Gunnison }
)55.
State of Colorado)

The foregoing Deed Restriction was acknowledged before me this ____ day of _____, 200__ by _____.

Witness my hand and official seal.

(Seal)

Notary Public
My Commission expires.

Return to: Town of Crested Butte, Attention _____, P.O. Box 39,
Crested Butte, CO 81224.



Option to Purchase Deed-Restricted Housing

This Option to Purchase is made by and between the undersigned beneficiary of a deed of trust or mortgage and for the protection of any governmental agency guaranteeing, insuring or acquiring the note from the holder ("the Holder"), and the Town of Crested Butte, a Colorado home rule municipality, its assigns or designee ("the Town").

(1) **The Property.** A promissory note or mortgage held by the undersigned Holder dated _____ is secured by a deed of trust or mortgage ("Deed of Trust") encumbering property subject to a Deed Restriction pursuant to Section 15-3-7.V. of 1987 Town of Crested Butte Municipal Code, which property is described as follows:

(the "Property").

(2) **The Option.** In the event of a foreclosure of the Deed of Trust or mortgage and subject to the issuance of a Certificate of Purchase to Holder following the foreclosure sale, or in the event Holder receives a deed in lieu of foreclosure or other conveyance of the Property, the Holder hereby grants to the Town an option to purchase the Certificate of Purchase or Property on the terms set forth herein.

(3) **Notice.** The Holder shall give all notices to the Town required under Colorado law in the foreclosure proceeding, including a copy of the Notice of Election and Demand for Sale, sent by certified mail, return receipt requested, and addressed as follows:

Town Manager,
Town of Crested Butte
P.O. Box 39
Crested Butte, CO

(4) **Exercise of Option.** The Town shall have 30 days after receiving written notice from Holder of the issuance of the Public Trustee's Certificate of Purchase, or conveyance of the Property to Holder, in which to exercise

this Option to Purchase by tendering to the Holder the sum for which the certificate was purchased or the Property conveyed, with interest from the date of sale, or conveyance, together with any taxes paid or other proper charges as provided by law, with interest from the date such expense was paid. Such interest shall be charged at the default rate if specified in the original instrument or, if not so specified, at the regular rate specified in the original instrument.

OPTION TO PURCHASE DEED-RESTRICTED HOUSING
(page 2 of 4)

- (5) **Title.** Upon receipt of the option price, the Holder shall deliver to the Town a properly executed assignment of the Certificate of Purchase, or deed to the Property. The Holder shall not create or participate in the creation of any additional liens or encumbrances against the Property following issuance of the Public Trustee's Certificate of Purchase to the Holder, or conveyance of the Property to the Holder. The Holder shall not be liable for any of the costs of assignment or conveyance to the Town.
- (6) **Termination of Deed Restriction.** In the event that this Option to Purchase is not exercised, and the Holder is issued a deed following foreclosure, the Affordable Housing Deed Restriction shall automatically terminate, in which event, the Town shall cause to be recorded in the records of the Clerk and Recorder of Gunnison County a full and complete confirming release of the Deed Restriction affecting the Property which appears in said records at Reception No. _____. Such release shall be placed of record within 14 days after request therefor by the Holder, and a copy of the recorded release shall be mailed to the Holder following its recordation.
- (7) **Successors and Assigns.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure and be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.
- (8) **Modifications.** The parties hereto agree that any modification to this Option to Purchase shall be effective only when made by writings signed by Holder and the Town and recorded with the Clerk and Recorder of Gunnison County, Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on _____.



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HOLDER OF THE FIRST DEED OF TRUST:

name of lender

BY _____
authorized officer (date)

TITLE: _____

MAILING ADDRESS: _____

OPTION TO PURCHASE DEED-RESTRICTED HOUSING
(page 3 of 4)

STATE OF _____)

_____) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____ by _____

seal.

Witness my hand and official

My commission expires.

Notary Public

TOWN OF CRESTED BUTTE,
a Colorado home rule municipality.

BY: _____
authorized officer (date)

TITLE: _____

MAILING ADDRESS: _____

STATE OF COLORADO)
_____) ss.
COUNTY OF GUNNISON)



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The foregoing instrument was acknowledged before me on _____ by _____.

seal.

Witness my hand and official

My commission expires:

Notary Public

OPTION TO PURCHASE DEED-RESTRICTED HOUSING

(page 4 of 4)

BORROWER:

(date)

(date)

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____ by _____.

seal.

Witness my hand and official

My commission expires:

Notary Public



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Return to: Town of Crested Butte, Attention _____, P.O. Box 39,
Crested Butte, CO 81224.



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EXHIBIT F

Deleted



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EXHIBIT G
LAND CONSERVATION COVENANT

THIS LAND CONSERVATION COVENANT is executed the 7th day of August, 2000 by Verzuh Ranch, Inc., a Colorado corporation ("Owner") and The Town of Crested Butte, a Colorado home rule municipal corporation ("Town"), as follows:

1. **Property Affected.** Owner is the owner in fee simple of the "Private Open Space" shown on the Plat of the Verzuh Ranch Annexation bearing Reception No. _____ in the Gunnison County records ("Real Property") described on attached **Exhibit A.**

2. **Recitals.** The following Recitals apply to this Land Conservation Covenant:

A. The Real Property has historically been used for ranching and agricultural purposes including the raising and grazing of livestock, producing hay and allowing the land to be left fallow or uncultivated for conservation purposes;

B. The Real Property has also historically been used for recreation purposes, including hunting, fishing, skiing, walking, hiking, horseback riding and other recreational uses;

C. The Real Property has significant ecological, wildlife habitat, open space and aesthetic values as part of the agricultural and natural resource system of the upper East River valley in Gunnison County, Colorado;

D. Owner intends that the natural elements and ecological and aesthetic values of the Real property be preserved by continuing the agricultural, ranching, recreational and other uses that have proven historically to be compatible with such elements and values;

E. Owner intends that the Real Property remain in a substantially undisturbed and natural state, altered only by agricultural, ranching and recreational uses;

F. Owner as owner of the Real Property in fee simple, intends to assure the preservation of the Real Property's significant natural elements and maintain its agricultural and water quality to the extent set forth in this Land Conservation Covenant; and

G. Owner intends that all future uses of the Real Property shall comply with this Land Conservation Covenant to preserve and protect the natural elements and ecologic and aesthetic values of the Real Property.

H. This Land Conservation Covenant is part of the consideration which Owner is giving to Town for annexation of property known as the Verzuh Ranch Annexation.

3. Appurtenant Covenant. Owner, for itself, its representatives, successors and assigns, and all future persons or entities having any right, title or interest in or to the Real Property, hereby makes, declares and imposes this Land Conservation Covenant to run with and be appurtenant to the title to the Real Property described on attached Exhibit A, in perpetuity.

4. Permitted Uses and Practices. The following uses and practices are permitted on the Real Property:

A. Maintaining and repairing existing structures, fences, corrals, ditches and other improvements. Additional structures and improvements may be constructed and maintained which are related to the agricultural and ranching use of the Real Property on condition that such structures shall not exceed an aggregate of 2800 square feet in area and 28 feet in height.

B. Constructing and maintaining roads and underground utilities on the Real Property to access and serve the Real Property and/or other land adjacent or near to the Real Property.

C. Ranching, including the pasturing, grazing, feeding and caring of livestock, and the growing, baling and storing of hay. The Real Property may also be left fallow and uncultivated during any period of time that the Real Property is not used for the grazing of livestock and/or the growing of hay or other crops;

D. Constructing and maintaining the water resources on the real property, including, without limitation, wells, reservoirs, pipelines and ditches;

E. Controlling predatory animals and varmints in accordance with applicable laws, rules and regulations;

F. Constructing and maintaining underground utility lines;

G. Hunting, fishing, skiing, walking, hiking, horseback riding and other recreational activities;

H. Engaging in any other agricultural uses or practices which do not diminish the natural, ecological, wildlife, open space and aesthetic features and values of the Real Property; and

I. All uses consistent with this Land Conservation Covenant permitted in the "A-O" Agricultural -- Open zoning district of the Town of Crested Butte.

5. **Prohibited Uses and Practices.** The following uses and practices shall be prohibited on the Real Property:

A. Subdividing or dividing the Real Property for residential and other purposes; and

B. Constructing dwellings or buildings upon the Real Property, except as permitted in paragraph 4 above.

6. **Term of Land Conservation Covenant.** This Land Conservation Covenant shall be a covenant running with the Real Property and appurtenant to the Real Property in perpetuity and without term or limitation.

7. **Modification.** This Land Conservation Covenant shall not be terminated, modified, amended or changed in any manner by the Owner or owners of the Real Property or by any other person or entity without the written consent of Owner and Town.

8. **No Public Access.** Neither the Town, the public nor any person or entity shall have the right to enter upon the Real Property for any purpose whatsoever without the express written permission of the Owner of the Real Property, except as follows:

A. To construct, maintain and/or utilize public trail easements and the public non-vehicular State River access easement shown on the Final Plat of the Verzuh Ranch Annexation recorded as Reception No. ___ ___ in the office of the Gunnison County Clerk and Recorder,

B. As reasonably necessary to maintain drainage facilities and fences.

9. Owner agrees that 1.01 cubic feet per second of water adjudicated in 1906 and 3.05 cubic feet per second of water adjudicated in 1961 in the McCormick Ditch shall be used exclusively to irrigate the Real Property and shall not be sold or encumbered by Owner separate and apart from a sale or conveyance of such Real Property.

10. **Enforcement.** This Land Conservation Covenant and all of the conditions, covenants, rights, usages or restrictions contained herein may be enforced by:

A. The Owner or owners of all or any part of the Real Property; and

B. The Town.

In the event of a violation of any term, condition, covenant, right, usage or restriction contained in this Land Conservation Covenant, any person or entity set forth in subparagraph 10(A) or 10(B), above, may give written notice of any such violation and if such violation has not been corrected within 30 days following such written notice, then



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such person or entity may commence an action in law or in equity for damages, injunction and/or other appropriate remedy.

11. **Applicable Law.** This Land Conservation Covenant applies to Gunnison County, Colorado real property and shall be interpreted, construed and governed by the law of the State of Colorado.

12. **Jurisdiction and Venue.** Exclusive jurisdiction and venue of any action to interpret or enforce this Land Conservation Covenant shall be in the District Court or County Court of Gunnison County, Colorado.

13. **Attorneys' Fees.** If any legal action is commenced or maintained in Court, whether in law or in equity, as to the interpretation, enforcement, construction or the determination of the rights and duties of the parties to this Land Conservation Covenant or any document provided for herein or related hereto, the prevailing party in any such action shall be entitled to recover all reasonable attorneys' fees together with all reasonable costs and expenses incurred.

14. **Binding Agreement.** This Land Conservation Covenant shall be binding upon and inure to the benefit of the Owner and the Town and their representatives, successors and assigns.

Dated as of the date first written above.

Verzuh Ranch, Inc., a Colorado corporation

By: _____
Billy Joe Lucy, President

Attest:

**Town of Crested Butte, a Colorado home rule
municipal corporation**

Clerk By: _____
Mayor _____

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

Acknowledged before me this ____ day of _____, 2000 by Billy Joe Lacy as President of Verzuh Ranch, Inc., a Colorado corporation.

Witness my hand and official seal. My commission expires:

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

Acknowledged before me this ____ day of _____, 2000 by _____ as Mayor _____ of the Town of Crested Butte, a Colorado home rule municipal corporation.

Witness my hand and official seal. My commission expires:

Notary Public

A tract of land within the NW1/4 of Section 2, Township 14 South,
Range 86 West, Sixth Principal Meridian, Gunnison County,
Colorado; said tract being more particularly described as follows:

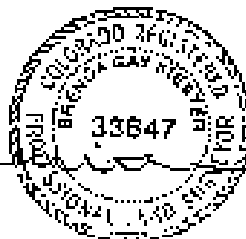
Commencing at the north quarter corner of said section 2, as
marked by a (2862) brass cap monument, thence North 89° 38' 07"
West 169.11 feet along the north boundary of said Section 2 to the
POINT OF BEGINNING for the herein described tract; thence the
following courses around said tract:

1. North 89° 38' 07" West 429.58 feet along said boundary;
2. South 43° 29' 04" East 252.86 feet;
3. SOUTH 191.71 feet;
4. WEST 639.78 feet;
5. South 33° 21' 32" West 260.12 feet;
6. SOUTH 86.94 feet;
7. South 19° 30' 15" East 163.49 feet;
8. South 38° 03' 20" West 181.30 feet;
9. South 15° 16' 48" East 162.16 feet;
10. South 49° 57' 52" West 48.10 feet;
11. South 03° 42' 09" East 145.00 feet;
12. North 69° 57' 52" East 10.00 feet;
13. South 08° 02' 08" East 843.00 feet;
14. North 83° 37' 52" East 375.00 feet;
15. South 00° 02' 08" East 143.32 feet;
16. Along the arc of a curve to the Right, a distance of 91.00
feet, said curve having a radius of 45.00 feet and a long
chord of South 09° 33' 48" East 71.06 feet;
17. South 00° 02' 08" East 143.32 feet;
18. South 89° 57' 52" West 375.00 feet;
19. South 00° 02' 00" East 118.00 feet to a point on the easterly
extension of the southerly boundary of Block 65 of the Town of
Crested Butte;
20. North 89° 57' 52" West 773.49 feet along said easterly
extension;
21. NORTH 2604.13 feet to a point on the north boundary of said
Section 2, said point also being the POINT OF BEGINNING of
the herein described tract.

This tract contains 40.566 acres more or less.

The basis of bearings used herein is astronomic north as
determined by solar observations.

Burton
7/25/00



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