



## DEED OF CONSERVATION EASEMENT

17 ~~17~~ THIS DEED OF CONSERVATION EASEMENT ("Easement") is made this day of December, 2007, by HIDDEN MINE RANCH, LLC, a Colorado limited liability company, having an address of P.O. Box 3642, Crested Butte, Colorado 81224 ("Grantor"), in favor of the TOWN OF CRESTED BUTTE, COLORADO, a body politic and corporate, having an address of P.O. Box 39, Crested Butte, Colorado 81224 ("Town" or "Grantee").

### RECITALS:

- A. Grantor is the owner of the fee simple interest in the property legally described in **EXHIBIT A** attached hereto and made a part of this Easement, which consists of approximately 757.68 acres of land in Gunnison County, Colorado (the "Grantor's Property").
- B. Grantor desires to convey to Grantee a conservation easement in accordance with the terms of this Easement, over a certain conservation area of the Grantor's Property. The conservation area of approximately 517.80 acres is described in **EXHIBIT B**, attached hereto and made a part of this Easement which is designated as the "Open Space Easement", except those parcels legally encumbered by those certain Deeds of Conservation Easement recorded on December 31, 2002 at Reception No. 526878, and on December 27, 2004 at Reception No. 549626 of the official records of Gunnison County (the "Conservation Area"). A trail proposed for use by the public, is approximately located in **EXHIBIT B** (the "Trail").
- C. The Conservation Area possesses recreational values, wildlife and plant habitat and other important nature features, scenic and recreational qualities, historic significance, and open space of great importance to Grantee, the people of the Town of Crested Butte, the people of the County of Gunnison, and the people of the State of Colorado. The Conservation Area is identified in the Crested Butte Area Plan as a preservation area.
- D. The preservation of open space is supported by the policies of Gunnison County and the Town of Crested Butte, as reflected in the Gunnison County Comprehensive Plan, the Crested Butte Land Use Plan dated April 6, 1996, and the Crested Butte Area Plan dated July 5, 2006.
- E. The use of the Trail for recreational purposes is supported by the policies of Gunnison County and the Town of Crested Butte, as reflected in the Gunnison County Trails Master Plan, and the Crested Butte Land Use Plan, dated April 6, 1996.



- F. Conservation of the Conservation Area by the grant of a conservation easement as set forth in this Easement will further the purpose of Colorado Revised Statutes (C.R.S.) §§38-30.5-101, *et seq.*, which provide in part for the establishment of conservation easements to maintain land "...in a natural, scenic or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity...."
- G. The Town is a governmental organization as described in §170(h)(3)(A) of the Internal Revenue Code of 1986, as amended (the "Code"), and is qualified to receive grants of conservation easements as contemplated by C.R.S. §38-30.5-104(2).
- H. The scenic and open space values, the characteristics of the Conservation Area and its current use, and current developed features of the Conservation Area and the Trail, if any, as of the date of this Easement are to be described in a Present Condition Report which will be prepared by Grantee with the cooperation of Grantor no later than September 1, 2008. Said values, characteristics and features are hereinafter described as the conservation values of the Conservation Area (the "Conservation Values"). This report shall be reviewed and executed for acknowledgement of accuracy by Grantor and Grantee. The report will be used by Grantee to assure that any future changes in the use of the Conservation Area will be consistent with the terms of this Easement. However, the report is not intended to preclude the use of other evidence to establish the present condition of the Conservation Area if there is a controversy over its use.
- I. Grantor intends to make a charitable gift of the property interest conveyed by this Easement to the Town, in accordance with the requirements of §170(h) of the Code, for the purposes of ensuring that, under the Town's perpetual stewardship, (i) the Conservation Values of the Conservation Area will be conserved and maintained forever, uses of the Conservation Area that are inconsistent with the Conservation Values will be prevented or corrected, and (ii) trail access to the public over the Trail will be provided in accordance with the terms of this Easement.
- J. Grantee agrees by accepting this Easement to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Conservation Area for the benefit of this and future generations, simultaneously acknowledging that the Grantor intends to convey a recreational easement to the Town for recreational use of the Trail, which use shall be subject to the terms of this Conservation Easement.