

TOWN OF MT. CRESTED BUTTE  
ORDINANCE NO. 11  
SERIES 2022

**AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AUTHORIZING THE LEASING OF CERTAIN EQUIPMENT AND THE EXECUTION AND DELIVERY BY THE TOWN OF A MASTER LEASE-PURCHASE AGREEMENT AND OTHER FINANCING DOCUMENTS IN CONNECTION THEREWITH; SETTING FORTH PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; RATIFYING ACTION PREVIOUSLY TAKEN CONCERNING THE REFERENCED TRANSACTIONS; AND PROVIDING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.**

WHEREAS, the Town of Mt. Crested Butte, Colorado is a home rule municipality and political subdivision of the State of Colorado (the "State") organized and existing under a home rule charter (the "Charter") pursuant to Article XX of the Constitution of the State; and

WHEREAS, pursuant to Article XIII, Section C of the Charter, the Town is authorized to lease, for such term as Town Council shall determine, any real or personal property to or from any person, firm or corporation, public or private, governmental or otherwise; and

WHEREAS, for the purpose of financing the costs of acquiring certain equipment for Town purposes (the "Leased Property"), the Town has determined that it is in the best interest of the Town and its residents and taxpayers to enter into a Master Lease-Purchase Agreement (the "Lease") with JPMORGAN CHASE BANK, N.A. (the "Lessor") in an amount not to exceed \$1,000,000, for the purpose of acquiring certain vehicles or equipment for Town purposes, including the acquisition of a plow truck and loader (the "Project"); and

WHEREAS, pursuant to the Lease, and subject to the right of the Town to terminate the Lease and other limitations as therein provided, the Town will pay certain rental payments ("Rent Payments" as such terms are defined in the Lease) in consideration for the right of the Town to use the Leased Property; and

WHEREAS, pursuant to the terms of the Lease, the Lessor will advance funds for the Project to the Town, and such funds related to any advance shall be held in an escrow account pursuant to the terms of an escrow agreement, as may be amended from time to time, by and between the Town, the Lessor, and an escrow bank selected to provide such services (the "Escrow Agreement"); and

WHEREAS, the Town's obligation under the Lease to pay Rent Payments shall be from year to year only; shall constitute currently budgeted expenditures of the Town; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of

the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, there has been presented to the Town Council and is on file at the Town offices a form of Lease and Escrow Agreement; and

WHEREAS, a copy of the Lease and the Escrow Agreement, in substantially the forms to be executed by the Town and the Lessor, are on file with the Town; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the "Supplemental Act"), provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to the Lease and the financing; and

WHEREAS, pursuant to Article IV, Section K of the Charter, because of the urgent need for the financing of the Project and the limited availability of low interest loans, the Town Council has determined that an emergency exists and that adoption of this Ordinance as an emergency measure is immediately necessary for the immediate preservation of the public peace, health, safety and welfare.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

**Section 1.** Ratification and Approval of Prior Actions.

All action heretofore taken not inconsistent with the provisions of this Ordinance by the Town Council, or the officers or agents of the Town Council or the Town, relating to the Lease, or to the acquisition, installation or financing of the Project, is hereby ratified, approved and confirmed.

**Section 2.** Finding of Best Interest.

The Town Council hereby finds and determines, pursuant to the Supplemental Act, the Charter, Constitution and laws of the State, that the acquisition of the Project and the financing of the costs thereof pursuant to the terms set forth in the Lease and Escrow Agreement is necessary, convenient, and in furtherance of the purposes of the Town and is in the best interests of the Town and its citizens and inhabitants, and the Town Council hereby authorizes and approves the same.

**Section 3.** Supplemental Act; Parameters.

The Town Council hereby elects to apply all of the provisions of the Supplemental Act to the Lease and in connection therewith delegates to the Mayor, the Mayor Pro Tem, the Town Manager and the Finance Director of the Town the independent authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i) of the Supplemental Act in relation to the Lease, including without limitation the date of the Lease, the rental amount to be paid by the Town pursuant to the Lease and the term of the Lease, subject to the following parameters and restrictions:

- (a) the Lease Term shall not extend beyond December 31, 2035;

- (b) the aggregate principal amount of the Lease shall not exceed \$1,000,000;
- (c) the tax-exempt interest rate shall not exceed 5.90%, and the taxable interest rate shall not exceed [\_\_\_\_\_]%; and
- (d) the Lease shall be subject to prepayment at the option of the Town as specified in the Lease.

**Section 4.** Approval of Documents.

The Lease, in substantially the forms presented to this meeting of the Town Council, is in all respects approved, authorized and confirmed, and the Town Manager and Town Clerk are hereby authorized and directed, for and on behalf of the Town, to execute and deliver the Lease and related documents (collectively, the "Financing Documents") in substantially the forms on file with the Town, with such changes thereto as are not inconsistent with the provisions of this Ordinance. The approval hereby given to the Financing Documents includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the Financing Documents. The execution of any instrument by the appropriate officers of the Town herein authorized shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof.

**Section 5.** Authorization to Execute Collateral Documents and to Perform Additional Acts.

The Town Manager, the Finance Director, the Town Clerk, and other appropriate officials or agents of the Town Council or the Town, are hereby authorized and directed to execute and deliver for and on behalf of the Town any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they may deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this Ordinance. The execution of any instrument by the aforementioned officers or members of the Town Council shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof and thereof.

**Section 6.** No General Obligation Debt.

No provision of this Ordinance or the Financing Documents shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year direct or indirect Town debt or other financial obligation whatsoever of the Town within the meaning of any home rule charter, constitutional or statutory provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall not have any obligation to make any payment with respect to the Lease except in connection with the payment of the Rent Payments (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease. No provision of the Financing Documents shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. None of the Financing Documents shall directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

**Section 7.** Reasonableness of Rentals.

The Town Council hereby determines and declares that the Rent Payments, as provided in the Lease and as subject to the parameters set forth in Section 3 hereof, does not exceed a reasonable amount so as to place the Town under an economic compulsion to renew the Lease or to exercise its option to prepay the Lease. The Town Council hereby determines and declares that the period during which the Town has an option to prepay the Lease (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property.

**Section 8.** Authorized Lessee Representative.

The Town Council hereby authorizes the Mayor, the Town Manager and the Finance Director to each act as Authorized Lessee Representative under the Lease, or such other person or persons who may be so designated in writing from time to time by the Town Council.

**Section 9.** No Recourse Against Officers and Agents.

Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Town Council, or any officer or agent of the Town acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Rent Payments. Such recourse shall not be available either directly or indirectly through the Town Council or the Town, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise.

**Section 10.** Severability.

If any one or more sections, sentences, clauses or parts of this Ordinance shall for any reason be held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Ordinance so held unconstitutional or invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this Ordinance in any one or more instances shall not affect or prejudice in any way the applicability and validity of this Ordinance in any other instances.

**Section 11.** Repealer.

All bylaws, orders, and Ordinances of the Town, or parts thereof, inconsistent with this Ordinance or with any of the Financing Documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, or Ordinance of the Town, or part thereof, heretofore repealed.

**Section 12.** Emergency Declaration.


By reason of the Town's need to complete the Project to provide for the immediate preservation of public health, safety and welfare of its citizens, the further need to acquire financing to complete the Project with the limited availability of low interest financing, the Town Council declares that this Ordinance is an emergency ordinance, that this Ordinance is necessary for the immediate preservation of the public peace, health and safety, and that this Ordinance shall be in full force and effect immediately after its passage by an affirmative vote of five (5) of the members of the Town Council.

**Section 13.** Effective Date and Disposition.

After its approval by the unanimous vote of the council members present or by the affirmative vote of not less than five (5) members of the Town Council, whichever is less, this Ordinance shall be recorded, published within ten (10) days after passage and posted for informational purposes and authenticated by the signature of the Mayor and the Town Clerk as required by the Charter. This Ordinance shall become effective immediately upon final passage.

**PASSED, ADOPTED AS AN EMERGENCY ORDINANCE AND ORDERED PUBLISHED IN FULL** this 18th day of October, 2022.

TOWN OF MT. CRESTED BUTTE,  
COLORADO

  
\_\_\_\_\_  
Nicholas Kempin, Mayor

ATTEST:

  
\_\_\_\_\_  
Tiffany O'Connell, Town Clerk



STATE OF COLORADO )  
 )  
 COUNTY OF GUNNISON ) SS.  
 )  
 TOWN OF MT. CRESTED BUTTE )

I, Tiffany O’Connell, the duly appointed, qualified and acting Town Clerk of the Town of Mt. Crested Butte, Colorado (the “Town”) do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an ordinance adopted by the Town Council of the Town (the “Council”) of the Town as an emergency ordinance at a regular meeting of the Council held at the Town Hall on October 18, 2022, by an by the unanimous vote of the Council members present or by the affirmative vote of not less than five (5) members of the Council, whichever is less as follows:

Name	“Yes”	“No”	Absent	Abstain
Nicholas Kempin, Mayor	✓			
Janet Farmer, Mayor Pro-Tem	✓			
Alec Lindeman	✓			
Roman Kolodziej	✓			
Steve Morris	✓			
Dwayne Lehnertz	✓			
Michael Bacani	✓			

2. That notice of the regular meeting on October 18, 2022, in the form attached hereto as **Exhibit A**, was posted in a designated public place within the boundaries of the Town no less than twenty-four hours prior to the meeting as required by law.

3. That the ordinance was published in Crested Butte News, a newspaper of general circulation in the Town, after its adoption, in accordance with the laws of the State. The affidavit of publication is attached hereto as **Exhibit B**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said  
Town this 18th day of October, 2022.

  
Town Clerk

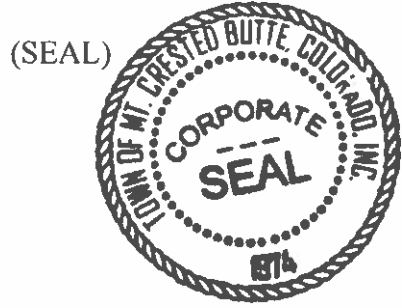


EXHIBIT A  
(Attach Meeting Notice)





# AGENDA

## Regular Town Council Meeting

6:00 PM - Tuesday, October 18, 2022

Council Chambers

### 1. ZOOM INFORMATION

1.1. <https://us06web.zoom.us/j/89787101817?pwd=Nm9laS9pMXN3VllleXYyZXFvWHNXZz09>

Meeting ID: 897 8710 1817

Passcode: 361089

Dial by your location

+1 720 707 2699 US (Denver)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

Meeting ID: 897 8710 1817

Passcode: 361089

### 2. WORK SESSION

2.1. 2023 Budget - Finance Director Karl Trujillo

### 3. AGENDA MEMO

### 4. CALL TO ORDER - 6:00 P.M.

### 5. ROLL CALL

### 6. PUBLIC HEARING

6.1. To receive public input on a subdivision sketch plan application for the portions of the 148 acres for a future phase, Prospect at Mt. Crested Butte Subdivision. The area consists of the un-platted lots within Development Areas E and F as defined in the Prospect at Mt. Crested Butte Planned Unit development, County of Gunnison, State of Colorado, submitted by GCM Squared

### 7. PUBLIC COMMENT

Citizens may make comments on items not scheduled on the agenda. Per Colorado Open Meetings Law, no Council discussion or action will take place until a later date, if necessary. You must sign in with the Town Clerk before speaking. Comments are limited to three minutes.

### 8. APPROVAL OF MINUTES

8.1. Approval of the October 4, 2022 Regular Town Council Meeting Minutes

### 9. CORRESPONDENCE

### 10. BUSINESS

10.1. Crested Butte Nordic Council Annual Report – Executive Director Hedda Peterson

10.2. Lot Line Vacation application for Lot 6 and Lot 7, Gold Link North Subdivision (11 Lapis Lane), County of Gunnison, State of Colorado -

Community Development Coordinator Leah Desposato

- 10.3. 2022 – 2023 Winter Admissions Tax Grants Applications - Marketing and Communications Officer Marisa Maudsley
  - Adaptive Sports Center - \$14,000
  - Blister - \$59,000
  - Crested Butte Lodging and Property Management - \$11,000
  - Crested Butte/ Mt. Crested Butte Chamber of Commerce – Butte Bucks - \$2,500
  - Crested Butte/Mt. Crested Butte Chamber of Commerce – Crafted - \$40,000
  - Crested Butte Snow Sports Foundation - \$26,000
  - Tin Cup Ice Cream & Desserts - \$6,000
- 10.4. Subdivision sketch plan application for the portions of the 148 acres for a future phase, Prospect at Mt. Crested Butte Subdivision. The area consists of the unplatted lots within Development Areas E and F as defined in the Prospect at Mt. Crested Butte Planned Unit development, County of Gunnison, State of Colorado, submitted by GCM Squared – Community Development Director Carlos Velado
- 10.5. Letter to the United States Postal Service Regarding PO Box Fee Elimination – Town Manager Greg Sund
- 10.6. Letter to the United States Postal Service Addressing Concern in Mt. Crested Butte – Town Manager Greg Sund
- 10.7. Letter to the Gunnison County Board of County Commissioners Endorsing Ballot Question 6A – Town Manager Greg Sund
- 10.8. Mt. Crested Butte Parking Management Agreement – Town Manager Greg Sund
- 10.9. Ordinance No. 11 Series 2022 – An Emergency Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado, Authorizing the Leasing of Certain Equipment and the Execution and Delivery by the Town of a Master Lease-Purchase Agreement and Other Financing Documents in Connection therewith; Setting Forth Parameters and Restrictions with Respect to the Financing; Ratifying Action Previously Taken Concerning the Referenced Transactions; and Providing Other Matters Relating Thereto and Declaring an Emergency – Finance Director Karl Trujillo
- 10.10. Ordinance No. 12 Series 2022 – An Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado Repealing Article III Business and Occupational License of Chapter 11 License and Business Regulations of the Town of Mt. Crested Butte Town Code, as Well as Any References to or Requirements for a Business and Occupational License Within Any Ordinance of the Town – First Reading – Town Attorney Kathy Fogo
- 10.11. Ordinance No. 13 Series 2022 – An Ordinance of the Town Council of the Town of mt. Crested Butte, Colorado, Amending Ordinance No. 1 Series 2021, to Modify Part II (1) and (2) Speed Regulations, Section 1101 Speed Limits and Section 1101(12) – Town Manager Greg Sund

- 10.12. Resolution No. 15 Series 2022 – A Resolution of the Town Council of the Town of Mt. Crested Butte, Colorado, Adopting the Gunnison Valley Greenhouse Gas Mitigation Plan – Town Manager Greg Sund
- 10.13. Town Manager Hiring Process - Mayor Nicholas Kempin and Mayor Pro Tem Janet Farmer
- 10.14. Executive Session – C.R.S. 24-6-402(4)(f) – Personnel Matter – Hiring a New Town Manager – Council may take action following this executive session.

**11. REPORTS, DISCUSSION ITEMS AND ANNOUNCEMENTS**

**11.1. Town Manager's Report and Discussion Items**

**11.2. Clerk's Report and Discussion Items**

**11.3. Department Head Reports and Discussion Items**

11.3.1. Community Development

11.3.2. Finance

11.3.3. Parks

11.3.4. Police

11.3.5. Maintenance

**11.4. Town Council Reports and Discussion Items**

**12. ADJOURNMENT**

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 970-349-6632 at least 48 hours in advance of the meeting.

EXHIBIT B

(Attach Affidavit of Publication)

Will be published in the 10/28/21 edition  
of the Crested Butte News

FOR BILLING DEPARTMENT:

Agency: Town of Mt. CB  
Department \_\_\_\_\_  
Publication Date: 10.28.22  
Ad Description:  
ordinance No. 11  
Cost: 163.53

PROOF OF PUBLICATION

STATE OF COLORADO )  
) ss.  
COUNTY OF GUNNISON )

I, Melissa Fenlon, certify that:

I am the publisher of the Crested Butte Chronicle & Pilot/CB News, a newspaper of general circulation published in Crested Butte (printed in Salida) in said State and County:

The attached advertisement, which is a printed copy taken from said newspaper, was published in said newspaper on the 28 day of October, 2022; and

said advertisement was published in said newspaper proper and not in any supplement thereof:



\_\_\_\_\_  
Signature

Subscribed and sworn before me this 31 day of October, 2022  
by Melissa Fenlon.



\_\_\_\_\_  
Notary Public

