

SPECIAL MEETING

- I. CALL TO ORDER
- II. ROLL CALL
- III. REVIEW AGENDA
- IV. NEW BUSINESS
 - a. Approve/Disapprove Resolution 2015-13 Approving an MOU -
City of Creede, Recycle Creede, Inc. & Muley's Disposal Service
- V. ADJOURN

REGULAR WORK SESSION

- MDS/Recycle Creede Building [Reach consensus on appraisal, going out to
bid, and price]
 - Gym City-County Lease Agreement
 - Flume Rehab
 - Rio Grande Avenue
 - Temporary Modification
 - La Garita Rezoning
 - SLVCOG Dues
- Any Other Business

Posted 12/11/15

OPEN TO THE PUBLIC

RESOLUTION 15-13

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CREEDE, RECYCLE CREEDE Inc. AND MULEY'S DISPOSAL SERVICES

WHEREAS, there has been proposed a Memorandum of Understanding ("Agreement") between the City of Creede, Recycle Creede Inc. and Muley's Disposal Service to help facilitate the conveyance of personal and real property; and

WHEREAS, the City is authorized to enter into such Agreement and finds that such Agreement is in the best interests of the City and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE CITY OF CREEDE A COLORADO TOWN, that:

SECTION 1. The proposed Memorandum of Understanding between the City of Creede, Recycle Creede Inc. and Muley's Disposal Service ("Agreement") concerning the conveyance of personal and real property is hereby approved in essentially the same form as the copy of such Agreement accompanying this resolution.

SECTION 2. The Mayor is hereby authorized to execute the Agreement on behalf the City of Creede, a Colorado Town.

INTRODUCED AND APPROVED at a special meeting of the Board of Trustees of the City of Creede a Colorado Town, held this 15th day of December 2015.

City of Creede

ATTEST:

Eric Grossman, Mayor Date

Randi Snead, City Clerk Date

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into between the **City of Creede**, a Colorado town ("City"), **Recycle Creede Inc.** ("RCI") and **Muley's Disposal Service** (MDS) this ____ day of December 2015.

WHEREAS, RCI owns a building on land ("the property") it leases from the City for recycling purposes; and

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WHEREAS, RCI and MDS have been in negotiations regarding the purchase of the building by MDS, and

WHEREAS, MDS would like to purchase the property from the City in conjunction with the purchase of the building; and

WHEREAS, the City, RCI, and MDS desire to cooperate and work together to achieve these goals; and,

WHEREAS, the City, RCI and MDS desire to identify various tasks which must be accomplished and acknowledge what role each party intends to assume in order to implement the tasks and realize the goals of the City, RCI and MDS.

NOW, THEREFORE, the City, RCI and MDS approve this MOU as follows:

1. **No Legal Rights Created**: This MOU shall not create any contractual rights, obligations or remedies for either party nor shall the failure to abide by the terms of this MOU by either party be construed to constitute a lack of good faith dealing.
2. **Lease Termination**: The property is currently leased by the City to RCI pursuant to a multiyear lease. Paragraph 10 of the Lease Agreement between the City and RCI states the City may terminate the lease BUT must provide written notice first. Should the parties enter into a contract for the sale of the building and property to MDS, RCI will waive any written notice requirement and will stipulate that the lease terminates as of the closing on the building and property.
3. **First Right of Refusal**: Paragraph 11 of the Lease Agreement between the City and RCI states the "City has a right of first refusal to purchase the structure and in the event the City does not purchase, then the Tenant and City will enter into good faith negotiations to determine disposition of any structure on the premises". Should the parties enter into a contract for the sale of the building and property to MDS, then the City shall waive its first right of refusal to purchase the building as of the closing on the building and property.
4. **City and MDS Negotiations**: The Board of Trustees will consider and negotiate the terms and conditions of selling the property to MDS at their January meeting and if approved, an ordinance and contract will be prepared for approval at their February meeting
5. **Failure to consummate sale** Should the parties fail to agree on a mutually acceptable sale of the property to MDS or should any sale fail to close, then the lease to RCI will continue in full force and effect pending any further agreement or action of the parties.

City of Creede

By, _____
Eric Grossman, Mayor

Attest:

By, _____
Randi Snead, City Clerk

Recycle-Creede, Inc.

By: _____
Cary Bush, President

Muley's Disposal Service

By: _____
John Graham, Owner

MINERAL COUNTY LEASE AGREEMENT

This Lease Agreement is entered into this 5th day of January 2016, by and between the City of Creede, a Colorado municipality, by and through the Board of Trustees ("Landlord") and Mineral County, Colorado, by and through the County Commissioners ("Tenant").

For good and valuable consideration, and for the mutual promises and covenants contained herein, the parties agree as follows:

1. The Landlord, by entering this Lease, expresses its intention to lease the subject property to the Tenant for a period of twenty (20) years, at the cost of twenty-five (25) thousand dollars a year. At the end of this Lease, there will be an option to renew for another twenty (20) years with the mutual consent of Landlord and Tenant.
2. Landlord hereby leases and lets to Tenant a portion of the Newton Gym located at 408 South La Garita, City of Creede, County of Mineral, State of Colorado and further described in the attached: "EXHIBIT "A".
3. Landlord does grant this Lease for a term of twenty (20) years beginning January 1, 2016 and ending December 31, 2036. This Lease will be reviewed every five-years by the Board of Trustees to consider the rental amount of the agreement. Any increase in the rental amount will be negotiated by the Tenant and the Landlord, with the understanding that the original intent of the Board of Trustees is stated in paragraph 1 above. Notice of non-renewal of the Lease, must be for reasonable cause by either party, and provided in writing, at least 270 days prior to the expiration of the Lease, to the other party.
4. As consideration for the granting of this lease, Tenant agrees to:
 - a. Pay the Landlord the sum of Twenty-Five (\$25,000.00) Dollars for each year of the lease due and payable on the first (1st) of January each year.
5. Tenant shall, at its expense, provide liability insurance for their leased portion of the building and their planned services and activities. Tenant will provide the City with a copy of the policy listing the City of Creede as "Additional Insured".
6. Tenant further agrees to maintain the interior of the building and the associated property in a manner, to the extent reasonably possible, free from common hazards to occupants and visitors to the premises.
7. Tenant further agrees and warrants that:
 - a. Upon breach of this Lease it shall return possession of the leased premises in good condition, wear and tear and fire casualty excepted to the Landlord.
 - b. Tenant shall not assign or sublet said premises.

- c. Tenant shall be responsible for the cost of any material alteration to the portion of the premises they rent. Tenant shall further notify Landlord of any material alteration to the premises.
 - d. Tenant shall comply with all building, zoning and health codes and other applicable laws for use of said premises.
 - e. Tenant shall not conduct or permit to be conducted any activity on the premises which violate any Federal, State, County or City law or ordinance.
 - f. Tenant shall not conduct or permit to be conducted any operation or activity on the premises which may be deemed to be ultra-hazardous or which would require an increase in the casualty insurance premium for the premises. The Tenant further agrees that it shall not permit any form of hazardous waste to be unreasonably accumulated or disposed of on the premises.
8. Tenant agrees and stipulates that in the event that it is in breach of the terms or covenants of this Lease, and does not correct said breach within thirty (30) days of receipt of written notice from Landlord, Landlord may enter and take possession of the premises without further notice or legal action.
 9. The parties intend that this Lease shall be binding upon execution of the same and shall be binding and inure to the benefit of the parties, their successors, assigns, receivers or trustees.
 10. The City shall not be liable for damages, of any kind or character, arising from this Lease or the subject matter of this Agreement, to any entity or person whomsoever.
 11. Any notice required or permitted under this lease shall be deemed received by the party to whom it is addressed when, hand-delivered to the party or, three (3) days after the notice is placed in the United States mail. Notice should be addressed as follows:

City of Creede	Mineral County
Attn: City Manager	Attn: County Administrator
PO Box 457	PO Box 70
Creede, CO 81130	Creede, CO 1130
 15. The parties signing below represent and stipulate that they have the legal authority to enter into and execute this Lease and to be bound by the terms contained herein.

MINERAL COUNTY LEASE AGREEMENT

This Lease Agreement is entered into this 5th day of January 2016, by and between the City of Creede, a Colorado municipality, by and through the Board of Trustees' ("Landlord") and Mineral County, Colorado, by and through the County Commissioners ("Tenant").

For good and valuable consideration, and for the mutual promises and covenants contained herein, the parties agree as follows:

1. The Landlord, by entering this Lease, expresses its intention to lease the subject property to the Tenant for a period of five (5) years, at the cost of one (\$1.00) dollar per year plus 50% of the O & M costs. At the end of this Lease, there will be an option to renew for another _____ years with the mutual consent of Landlord and Tenant.
2. Landlord hereby leases and lets to Tenant a portion of the Newton Gym located at 408 South La Garita, City of Creede, County of Mineral, State of Colorado and further described in the attached: "EXHIBIT "A".
3. Landlord does grant this Lease for a term of five (5) years beginning January 1, 2016 and ending December 31, 2021. This Lease will be reviewed every two-years by the Board of Trustees to consider the rental amount of the agreement. Any increase in the rental amount will be negotiated by the Tenant and the Landlord. Notice of non-renewal of the Lease, must be for reasonable cause by either party, and provided in writing, at least 90 days prior to the expiration of the Lease, to the other party.
4. As consideration for the granting of this lease, Tenant agrees to:
 - a. Pay the Landlord the sum of One (\$1.00) Dollar for each year of the lease due and payable on the first (1st) of January each year. Thereafter the City will invoice the County at the end of each month for 50% of the O & M costs.
5. Tenant shall, at its expense, provide liability insurance for their planned services and activities. Tenant will provide the City with a copy of the policy listing the City of Creede as "Additional Insured".
6. Tenant further agrees to maintain the interior of the building and the associated property in a manner, to the extent reasonably possible, free from common hazards to occupants and visitors to the premises.
7. Tenant further agrees and warrants that:
 - a. Upon breach of this Lease it shall return possession of the leased premises in good condition, wear and tear and fire casualty excepted to the Landlord.
 - b. Tenant shall not assign or sublet said premises.

- c. Tenant shall be responsible for the cost of any material alteration to the portion of the premises they rent. Tenant shall further notify Landlord of any material alteration to the premises.
 - d. Tenant shall comply with all building, zoning and health codes and other applicable laws for use of said premises.
 - e. Tenant shall not conduct or permit to be conducted any activity on the premises which violate any Federal, State, County or City law or ordinance.
 - f. Tenant shall not conduct or permit to be conducted any operation or activity on the premises which may be deemed to be ultra-hazardous or which would require an increase in the casualty insurance premium for the premises. The Tenant further agrees that it shall not permit any form of hazardous waste to be unreasonably accumulated or disposed of on the premises.
8. Tenant agrees and stipulates that in the event that it is in breach of the terms or covenants of this Lease, and does not correct said breach within thirty (30) days of receipt of written notice from Landlord, Landlord may enter and take possession of the premises without further notice or legal action.
9. The parties intend that this Lease shall be binding upon execution of the same and shall be binding and inure to the benefit of the parties, their successors, assigns, receivers or trustees.
10. The City shall not be liable for damages, of any kind or character, arising from this Lease or the subject matter of this Agreement, to any entity or person whomsoever.
11. Any notice required or permitted under this lease shall be deemed received by the party to whom it is addressed when, hand-delivered to the party or, three 3 days after the notice is placed in the United States mail. Notice should be addressed as follows:
- | | |
|--------------------|----------------------------|
| City of Creede | Mineral County |
| Attn: City Manager | Attn: County Administrator |
| PO Box 457 | PO Box 70 |
| Creede, CO 81130 | Creede, CO 1130 |
15. The parties signing below represent and stipulate that they have the legal authority to enter into and execute this Lease and to be bound by the terms contained herein.



Water Quality Control Commission
Sent VIA E-Mail: cdphe.wqcc@state.co.us

December 11, 2015

RE: Comments on the City of Creede's Request for a Temporary Modification

Dear Commission members:

I am submitting these comments on behalf of the City of Creede for the December 14, 2015 hearing of the Water Quality Control Commission as the City Attorney for the City of Creede. First, we would like to extend our appreciation for the guidance offered by the CDPHE staff, especially Meg Parish and Sarah Johnson. Their efforts have helped the City of Creede better understand the state's regulatory process.

The Water Quality Control Division of CDPHE issued a modified Discharge Permit for the City of Creede's waste water facility on January 30, 2015. The City of Creede has some concerns with the Discharge Permit as executed. The City of Creede initially filed a Demand for an Adjudicatory Hearing as permitted within 30 days of the issuance of the Discharge Permit. Then, after meeting with CDPHE staff and discussing existing data, water quality goals and procedural options, the City of Creede withdrew its Demand for an Adjudicatory Hearing and pursued working through issues with CDPHE staff.

The City of Creede is requesting a temporary modification from the requirements of the Discharge Permit to allow the City of Creede to continue sampling and data collection and continue to work with CDPHE to determine the optimum course of action that will meet the State's water quality goals while presenting an economically reasonable and obtainable obligation on the Creede community.

The two primary areas of concern are the reduced ammonia effluent limits and the newly imposed cadmium and zinc effluent limits. Both of these effluent limits include implementation schedules for construction of treatment facilities. CDPHE had not required ammonia sampling and monitoring for over a decade due to its belief that the ammonia effluent was a non-issue for this situation. Creede believes the additional time for sampling, data collection and analysis as requested in the temporary modification will not result in any measurable effect on water quality.

The newly enacted effluent limits for cadmium and zinc present extraordinary challenges for the City of Creede. First, without existing data, the City of Creede does not know whether it is in compliance with this standard. Second, there are no reliable cost estimates by the City or CDPHE for a treatment facility to remove cadmium and zinc. Third, the background levels of cadmium and zinc are so high at the point of discharge in Willow Creek that a hypothetical elimination of 100% of cadmium and zinc from the Creede's waste water effluent would have no measurable effect at the confluence of Willow Creek with the Rio

Grande River. The City of Creede has proposed a sampling plan to CDPHE to attempt to identify the source of cadmium and zinc. The expectation is that inflow and infiltration of ground water with significant background levels of cadmium and zinc is the primary source. The Discharge Permit recognizes inflow and infiltration as an area that requires improvement and sets forth a schedule to development and implement a plan to reduce inflow and infiltration.

The City of Creede has very limited growth, averaging only 2 building permits per year over the last 10 years. Based on all of these considerations, the City of Creede is requesting a Temporary Modification of the Discharge Permit to defer implementation for 2 years of the following sections of the Discharge Permit:

5. Compliance Schedule(s), b. Activities to Meet Dissolved Cadmium and Dissolved Zinc Final Limits.

and,

5. Compliance Schedule(s), c. Activities to Meet Total Ammonia.

The City of Creede believes the 2 year deferral period will allow the City to implement a sampling program, develop data, and work with CDPHE to explore alternatives to a mechanical treatment plan for ammonia limits that will meet the State's water quality goals and allow the Creede community to pursue an economically reasonable and obtainable solution.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Heil". The signature is fluid and cursive, with a large initial "E".

Eric J. Heil, Esq., A.I.C.P.