AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Possible Executive Session

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: See Spreadsheet

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Abatement Hearing for Properties in Reserve Metro District #2; see email provided.

Fiscal Impact: ?

Submitted by: W. Spicer **Submitter's Email Address:** wspicer@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\LNIENHUESER Discharge Date: 9/6/2013

County Attorney Review: (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\ATREZISE Discharge Date: 9/5/2013 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:
Matthew - the CAO would like 60 minutes, not 45. K

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 9/10/2013

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted:

Agenda Date: 9/17/2013 Follow Up Agenda Date: N/A

Revised April 2013

Bobbie Lucero

From: William Spicer
Sent: Wednesday, August 28, 2013 3:47 PM
To: Bobbie Lucero
Cc: Kristy Mcfarland; Art Trezise
Subject: Abatement Hearing for Properties in Reserve Metro District #2
Attachments: Reserve Metro 2 Abatements.xlsx

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Bobbie,

You may be aware that for 2012 Reserve Metro District #2 certified a general levy of 3.000 mills, which many property owners and the Town of Mt Crested Butte have alleged is illegal. As a result there are currently several pending lawsuits relating to this matter.

Since the beginning of the year, the Assessor's Office has received 50 petitions for abatement specifically related to the 3 mill levy. Based on discussions with Art we did not immediately process these petitions, in the hope that the ongoing court proceedings might effectively render them moot. However, there has been little progress in the legal battle and Art is now of the opinion that the BOCC should hear these petitions.

I realize that this is going to be a significant administrative undertaking for your office because of the large number of petitions, owners and agents involved. I hope that a hearing can be included in the BOCC meeting scheduled for September 17th. We are running into the 6 month deadline for hearing some of the earliest petitions, so I don't think we can put it off later than that. Since the issue in question is identical in all cases, I don't see any reason why all the petitions could not be heard at the same time.

To assist in the process I have put together a master spreadsheet that lists every petition that we received, together with the information that you would typically need to create a notice. Please let me know if any additional information would be useful; I can easily add to what is already there.

I need Kristy to sign the original petitions indicating that the Assessor recommends denial. She is out of the office until Tuesday, but I will get them to you as soon as they are ready. In the meantime please give me a call if you have questions.

Regards,

William Spicer

Senior Assessment Analyst
Registered Appraiser #100023480

Gunnison County Assessor's Office
221 N Wisconsin St, Suite A
Gunnison, CO 81230
Phone: (970) 641-1085
Fax: (970) 641-7920

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED JUL 05 2013 BY: PM 7/11/13

County: Gunnison

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: **Petitioner, please complete Section I only.**

Date: 7 (Month) 1 (Day) 2013 (Year)

Petitioner's Name: Ewing Family Investments LLC

Petitioner's Mailing Address: c/o Terry Ewing, P.O. Box 827

Ruston (City or Town) LA (State) 71273 (Zip Code)

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
317724108032	30 Appaloosa Rd.

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) 2012 and _____ are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

Refund of additional (3) mills tax imposed illegally by Reserve Metropolitan District No. 2

Petitioner's estimate of value: $ 900,000 (Value) (2012 (Year)) and $ _____ (Value) (_____ (Year))

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

Petitioner's Signature _____ Daytime Phone Number (318) 680-9911

By _____ Agent's Signature* Daytime Phone Number (_____) _____

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Assessor's or Deputy Assessor's Signature

15-DPT-AR No. 920-66/11

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY

(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____

Petitioner's Signature Date

_____ _____

Assessor's or Deputy Assessor's Signature Date

Section IV: **Decision of the County Commissioners**

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on ____/____/____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor and the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund

_____

Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County

this _____ day of _____, _____.
Month Year

_____

County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this abatement petition, is hereby

☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____

Secretary's Signature Property Tax Administrator's Signature Date

15-DPT-AR No. 920-66/11

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED JUL 05 2013 BY: PM 7/1/13

County: Gunnison

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: **Petitioner, please complete Section I only.**

Date: 7 1 2013
Month Day Year

Petitioner's Name: Terry O. Ewing

Petitioner's Mailing Address: P.O. Box 827

Ruston LA 71273
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
317724108034	35 Wildhorse Trail,

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) 2012 and _____ are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

Refund of additional (3) mills additional tax illegally imposed by Reserve Metropolitan District No. 2.

Petitioner's estimate of value: $ 900,000 (2012) and $ _____ ( )
Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

Terry O. E.
Petitioner's Signature

Daytime Phone Number (318) 680-9811

By _____
Agent's Signature*

Daytime Phone Number ( ) _____

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kirby Wyckoff
Assessor's or Deputy Assessor's Signature

15-DPT-AR No. 920-66/11

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

Petitioner's Signature _____ Date _____

Assessor's or Deputy Assessor's Signature _____ Date _____

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor and the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County

this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this abatement petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

Secretary's Signature _____ Property Tax Administrator's Signature _____ Date _____

15-DPT-AR No. 920-66/11

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: Gunnison

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

RECEIVED
APR 15 2013
BY: [illegible]

Section I: Petitioner, please complete Section I only.

Date: 4 (Month) 18 (Day) 2013 (Year)

Petitioner's Name: LSC Southwest Colorado, LLC

Petitioner's Mailing Address: 11111 W. 95th Street

Overland Park (City or Town) Kansas (State) 66214 (Zip Code)

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
See Attached	

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

Pursuant to the Consolidated Service Plan between Reserve Metropolitan District No. 1 ("District 1") and Reserve Metropolitan District No. 2 ("District 2") dated August 15, 2000, District 2 is to impose a mill levy no higher than 50 mills, with any increase required to keep revenue constant from the preceding fiscal year, in light of the reduced value for assessment of residential property within District 2. Upon information and belief, this adjusted amount is 52.676 mills for the property tax year 2012. However, in addition to this 52.676 mills, a three mill levy was approved by the Board of Directors of District 2 in violation of the Consolidated Service Plan. As the three mill levy exceeds the 50 mill levy set forth in the Consolidated Service Plan, it is illegal and Petitioner requests a refund of amounts paid for the property tax year 2012 that resulted from the three mill levy.

Petitioner's estimate of value: $ N/A (Value) ( ) (Year)

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

[signature], SVP
Petitioner's Signature

Daytime Phone Number (913) 324-6156

By [signature]
Agent's Signature*

Daytime Phone Number (-) -

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

[signature]
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-242-15-001 R043527	Lot 1 Wildhorse at Prospect #616605
3177-242-15-002 R043528	Lot 2 Wildhorse at Prospect #616605
3177-242-15-003 R043529	Lot 3 Wildhorse at Prospect #616605
3177-242-15-004 R043530	Lot 4 Wildhorse at Prospect #616605
3177-242-15-005 R043531	Lot 5 Wildhorse at Prospect #616605
3177-242-15-006 R043532	Lot 6 Wildhorse at Prospect #616605
3177-242-15-007 R043533	Lot 7 Wildhorse at Prospect #616605
3177-242-15-008 R043534	Lot 8 Wildhorse at Prospect #616605
3177-242-15-009 R043535	Lot 9 Wildhorse at Prospect #616605
3177-242-15-010 R043536	Lot 10 Wildhorse at Prospect #616605
3177-242-15-011 R043537	Lot 11 Wildhorse at Prospect #616605
3177-242-15-012 R043538	Lot 12 Wildhorse at Prospect #616605
3177-242-15-013 R043539	Lot 13 Wildhorse at Prospect #616605
3177-242-15-014 R043540	Lot 14 Wildhorse at Prospect #616605
3177-242-15-049 R043562	Lot 36 Wildhorse at Prospect #616605
3177-242-15-051 R043564	Lot 38 Wildhorse at Prospect #616605
3177-242-15-052 R043565	Lot 39 Wildhorse at Prospect #616605
3177-242-15-053 R043566	Lot 40 Wildhorse at Prospect #616605
3177-242-15-054 R043567	Lot 41 Wildhorse at Prospect #616605
3177-242-15-055 R043568	Lot 42 Wildhorse at Prospect #616605
3177-242-15-056 R043569	Lot 43 Wildhorse at Prospect #616605
3177-242-15-057 R043570	Lot 44 Wildhorse at Prospect #616605
3177-242-15-058 R043571	Lot 45 Wildhorse at Prospect #616605
3177-242-15-060 R043573	Lot 47 Wildhorse at Prospect #616605
3177-242-15-061 R043574	Lot 48 Wildhorse at Prospect #616605
3177-242-15-062 R043575	Lot 49 Wildhorse at Prospect #616605

From: (913) 324-6169
Lindsay James
Bank Midwest, N.A.
11111 W 95TH ST

OVERLAND PARK, KS 66214

Origin ID: IXDA

FedEx. Express

J131113021203 26

Ship Date: 18APR13
ActWgt: 0.2 LB
CAD: 101805679/INET3370

Delivery Address Bar Code

Ref #
Invoice #
PO #
Dept #

SHIP TO: (970) 641-1085 BILL SENDER

Assessor's Office
221 N. Wisconsin Street Suite A

GUNNISON, CO 81230

FRI - 19 APR 4:30P
PRIORITY OVERNIGHT

TRK# 0201 7995 5576 2789

X3 MTJA

81230
CO-US
GJT

518G1/64BE/33AB

After printing this label:
1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.
Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com.FedEx will not be responsible for any claim in excess of $100 per package, whether the result of loss, damage, delay, non-delivery,misdelivery,or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim.Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental,consequential, or special is limited to the greater of $100 or the authorized declared value. Recovery cannot exceed actual documented loss.Maximum for items of extraordinary value is $1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

R041995

RECEIVED
APR 09 2013
BY: 4/5/13

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: GUNNISON

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 3 / 29 / 2013
Month Day Year

Petitioner's Name: ANITA J VAILETT

Petitioner's Mailing Address: 1101 SAFETY HARBOR COVE

OLD HICKORY TN 37138
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)
317724101001

PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
LOT 231 PROSPECT AT MT CRESTED BUTTE PHASE 1
522242 # 571391 # 572143

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) 2012 and _____ are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

WE OPPOSE THE 3.00 MILL LEVY VOTED IN BY RESERVE METROPOLITAN DISTRICT #2 FOR PURPOSE OF PAYING LEGAL BILLS

Petitioner's estimate of value: $ 715.77 (2012) and $ _____ (_____)
Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

Anita J Vailett
Petitioner's Signature

Daytime Phone Number (615) 847-1625

By _____
Agent's Signature*

Daytime Phone Number (_____) _____

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

☐ Assessor recommends approval as outlined above.

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

☑ Assessor recommends denial for the following reason(s):

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kristy Nagalard
*Assessor's or Deputy Assessor's Signature

2 of 3

RECEIVED MAR 28 2013

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: _____

Date Received 3/25/13
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

R041997

Date: MARCH 26 2013
Month Day / Year

Petitioner's Name: ADELAIDE BIGGS

Petitioner's Mailing Address: 5103 HOLLY TERRACE
HOUSTON TX. 77056
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S): C-29 PROSPECT

PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: 28 KORANEE MT CRESTED BUTTE, COLO. 81225

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) 2012 and _____ are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

I am in agreement with Reserve metro District, and the Town of mt. Crested Butte, with regard to the illegal levying of an additional 3 mills upon property owners of Prospect, by the board of Reserve metro District 2.

Petitioner's estimate of value: $ 708.48 (2012) and $ _____ ( )
Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

Adelaide Biggs
Petitioner's Signature

Daytime Phone Number 713 629 5220

By _____
Agent's Signature*

Daytime Phone Number ( ) _____

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: Assessor's Recommendation
(For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

☐ Assessor recommends approval as outlined above.

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

☑ Assessor recommends denial for the following reason(s):

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Assessor's or Deputy Assessor's Signature

DP1-AA No. 520-09/11

RECEIVED
MAR - 1 2013

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: Gunnison

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

2/26/13

Section I: Petitioner, please complete Section I only.

R043225 & R042010

Date: 02 25 2013
Month Day Year

Petitioner's Name: Christopher C. Maguire

Petitioner's Mailing Address: 6227 Mimosa Ln.
Dallas, TX 75230
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
317724107001	Lot D-17 Prospect at Mt. Crested Butte
317724101016	Lot C-28 Prospect at Mt. Crested Butte

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

WE BELIEVE THE MILL LEVY IS ILLEGAL

Petitioner's estimate of value: $ 400,000 (2012) LOT
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (214) 561-8897
Petitioner's Signature

By _____ Daytime Phone Number (____) _____
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature Date

_____ _____
Assessor's or Deputy Assessor's Signature Date

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on ____/____/____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name
Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name
County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor and the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this abatement petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: GUNNISON

Date Received 1/30/13
(Use Assessor's or Commissioners' Date Stamp)

RECEIVED MAR - 7 2013 BY: 3/1/13

Section I: Petitioner, please complete Section I only.

Date: 3 1 2013
Month Day Year

R043572

Petitioner's Name: WILLIAM E. PISKE, JR.

Petitioner's Mailing Address: 411 TERRACE DR.
HOUSTON TX 77007
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
317724215059	4 APPALOOSA RD., LOT 46 WILDHORSE AT PROSPECT #612476

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) 2012 and 2013 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

IN ACCORDANCE WITH TOWN OF MT. CRESTED BUTTE'S RESOLUTION PASSED 1/15/13 DISALLOWING THE NEW 3 MILL LEVY INAPPROPRIATELY ADDED BY METROPOLITAN DISTRICT NO. 2 (SEE ATTACHED LETTER OF 2/22/13)

Petitioner's estimate of value: $_____ (_____) and $_____ (_____)
Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

William Piske
Petitioner's Signature

Daytime Phone Number 281-433-8429

By_____
Agent's Signature*

Daytime Phone Number (_____)

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

☐ Assessor recommends approval as outlined above.

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

Tax year: _____ Protest? ☐ No ☐ Yes (If a protest was filed, please attach a copy of the NOD.)

☑ Assessor recommends denial for the following reason(s):

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kristy Tagliaferri
Assessor's or Deputy Assessor's Signature

RECEIVED
MAR - 7 2013
BY: 3/1/13

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

Petitioner's Signature _____ Date _____

Assessor's or Deputy Assessor's Signature _____ Date _____

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor and the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this abatement petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

Secretary's Signature _____ Property Tax Administrator's Signature _____ Date _____

15-DPT-AR No. 920-66/11

PROSPECT DEVELOPMENT COMPANY, INC.

RECEIVED
MAR - 7 2013
BY: 3/1/13

February 22, 2013

Re: New Prospect Property Tax Assessment & New Fee Assessment

Dear Property Owner, :

You have most likely received your property tax bill for your property in Prospect and may have noticed that the mill levy has increased substantially from last year. Part of this increase, three (3) mills, is due to an additional tax imposed by the Reserve Metropolitan District No. 2 ("District 2") for the purposes of paying for a lawyer. The three mills is equivalent to an additional $300.00 in taxes on every $100,000 of assessed value on your property. There are several property owners that will be objecting to this tax assessment and you may want to consider doing the same.

In May 2012 there was an election for the Board of Directors of District 2. Three new board members were elected and at least two of these new board members are also members of the Prospect Owners Alliance; you may have received letters from this group in the past. This small group of property owners which has issues with the developer of Prospect, Prospect Development Co. has attempted to solicit funds from property owners, however, unable to obtain sufficient private funding to continue pursuing its objectives it is now attempting to use tax revenues collected from Prospect owners; hence the new three mills in additional taxes.

The Town of Mt. Crested Butte passed a resolution on January 15, 2013 disallowing the new three mill levy, and both the Town and Reserve Metropolitan District No. 1 ("District 1") filed suit in Gunnison County District Court on February 1, 2013 to have the excess mill levy declared invalid. However, tax statements have already been sent out by the county and it will be collecting the new tax imposed by District 2.

Prospect Development Co. owns sixteen lots in Prospect and pays property taxes to District 2. It also pays substantial property taxes on property that is no longer in District 2 for the debt obligations of District 2. Prospect Development Co. believes the new tax imposed by District 2 is unjust and it along with other property owners will be objecting to the new tax assessment through Gunnison County's abatement process. This process is commenced by filing a Petition for Abatement or Refund of Taxes. The form can be found on the County's website and a copy is attached for your consideration.

In addition to the illegal three mill levy, three District 2 board members, Bob Orlinski, Jim Pike and Paul Pike, also voted at a February 19, 2013 board meeting, to impose a fee on property owners to raise $270,000 for the purposes of pursuing litigation in 2013. We believe this fee, like the new mill levy, is illegal. At the same meeting the same three board members approved paying invoices from the district's new lawyer in the amount of $70,000 for two months of legal services. Although this board has not even begun its litigation campaign – it is not difficult to see where this could lead – years of litigation and hundreds of thousands of your dollars spent. You may also want to consider how litigation involving the Districts will impact your property values and if you are selling your property how it will impact your ability to sell.

We encourage you to consider completing the tax abatement form and timely filing it with the county as discussed above. We also encourage you to let Mr. Orlinski, Mr. Pike and Mr. Pike know your feelings on being forced to pay a fee for legal services to pursue the complaints of a few property owners. Please keep in mind that the fee imposed by these directors is a lien against your property until it is paid and can be foreclosed if not timely paid.

Sincerely,
PROSPECT DEVELOPMENT COMPANY, INC.

Michael Kraatz
Vice President
mkraatz@cbmr.com

Enclosure

PO Box 5700 Mt. Crested Butte, CO 81225

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

RECEIVED
MAR 11 2013
BY: 3/7/11

March 7, 2013

Gunnison County Assessor
221 North Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Abatement Petitions

Dear County Assessor:

Enclosed please find seventeen abatement petitions regarding various lots owned by Prospect Development Company, Inc. and Prospect 34, LLC in Gunnison County.

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth A. Dauer

Encl.

{00055457}

7400 E. ORCHARD ROAD • SUITE 3300 • GREENWOOD VILLAGE, CO 80111 • 303-770-2700 • FAX: 303-770-2701
www.svwpc.com • e-mail: svw@svwpc.com

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 1 1 2013 BY: 3/7/11

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

Section I: **Petitioner, please complete Section I only.**

Date: 03 / 06 / 13
Month Day Year

R043687

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-03-001	Lot E1 PROSPECT AT MT CB
	PHASE 4 PLAT # 563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)_____
Petitioner's Signature

By E.R. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____ _____ _____
Year Assessed Value Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

7400 E. ORCHARD ROAD • SUITE 3300 • GREENWOOD VILLAGE, CO 80111 • 303-770-2700 • FAX: 303-770-2701
www.svwpc.com • e-mail: svw@svwpc.com

MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By:
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013 BY: 3/7/11

County: _____

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043692

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: c/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village (City or Town) CO (State) 80111 (Zip Code)

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3175-193-01-001	LOT E3 PROSPECT AT MT CB
	PHASE 4 PLAT # 563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kirsty Ragsdale
Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 1 1 2013
BY: _____

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on ____/____/____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name
Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name
County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

15-DPT-AR No. 920-66/11

RECEIVED
MAR 1 1 2013
BY:

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

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MAR 11 2013
BY:

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BARBARA T. VANDER WALL
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ELIZABETH A. DAUER

March 6, 2013

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Gunnison, CO 81230

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Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 1 1 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013 BY: 3/7/11

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03 / 06 / 13
Month Day Year

R043677

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-02-001	LOT E9 PROSPECT AT MT CR
	PHASE 4 PLAT # 563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By E.M. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

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(00054114)

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MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
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Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

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BY:

KIM J. SETER
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March 6, 2013

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Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

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RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

RECEIVED
MAR 11 2013
BY: 3/7/11

PETITION FOR ABATEMENT OR REFUND OF TAXES

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043678

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: c/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village — CO — 80111
City or Town — State — Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-02-002	Lot E10 PROSPECT AT MT CB PHASE 4 PLAT #563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By E. V. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED MAR 11 2013 BY:

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on ____/____/____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp) BY: 3/7/11

Section I: Petitioner, please complete Section I only.

Date: 03 / 06 / 13 (Month Day Year)

R043679

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village (City or Town) CO (State) 80111 (Zip Code)

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-02-003	Lot E11 PROSPECT AT MT CB
	PHASE 4 PLAT # 563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (Value) (_____) (Year)

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED
MAR 1 1 2013
BY:

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on ____/____/____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name
Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name
County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

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LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

RECEIVED
MAR 11 2013
BY:

March 6, 2013

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

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This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

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On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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BY:

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Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:.....

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

RECEIVED
MAR 11 2013

PETITION FOR ABATEMENT OR REFUND OF TAXES

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp) BY 3/7/11

Section I: Petitioner, please complete Section I only.

Date: 03/06/13 (Month Day Year)

R043683

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village (City or Town) CO (State) 80111 (Zip Code)

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-02-007	LOT E15 PROSPECT AT MTCB PHASE 4 PLAT #563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED MAR 11 2013 BY:

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter &
Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

RECEIVED
MAR 11 2013
BY:

March 6, 2013

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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RECEIVED
MAR 11 2013
BY:

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

BY: 37/11

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043684

Petitioner's Name: Prosport Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-02-008	LOT E16 PROSPECT AT MTCB PHASE 4 PLAT # 563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By E.R. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 11 2013
BY:

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on ____/____/____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby

☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter &
Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

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LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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RECEIVED
MAR 11 2013
BY:

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013
BY:.....

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED
MAR 11 2013
BY: 3/7/11

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043685

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-02-009	Lot E17 PROSPECT AT MTCB
	PHASE 4 PLAT #563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By_____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kristy Hajulard
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED
MAR 11 2013
BY: _____

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter &
Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:_____

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013 BY: 3/7/11

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043689

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: c/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-05-001	Lot E18 PROSPECT AT MT CB
	PHASE 4 PLAT #563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By_____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 1 1 2013
BY

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby

☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

RECEIVED
MAR 11 2013
BY:

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

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LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY: _____

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 ~~or District No. 2 in~~ 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

RECEIVED
MAR 11 2013
BY: 3/7/11

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043690

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: c/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village — City or Town
CO — State
80111 — Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-05-002	LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By_____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 1 1 2013

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of_____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter &
Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

7400 E. ORCHARD ROAD • SUITE 3300 • GREENWOOD VILLAGE, CO 80111 • 303-770-2700 • FAX: 303-770-2701
www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

RECEIVED
MAR 11 2013
BY:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

RECEIVED
MAR 11 2013
BY: 3/7/11

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043691

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/O Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-05-003	Lot E20 PROSPECT AT MT CR PHASE 4 PLAT # 563222

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)_____
Petitioner's Signature

By E. D. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kim Leonard
Assessor's or Deputy Assessor's Signature

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

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LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

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EXHIBIT A

RECEIVED
MAR 11 2013
By:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED
MAR 11 2013
BY: 3/7/11

County: _____

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043236

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village — City or Town
CO — State
80111 — Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-01-007	Lot D16 PROSPECT AT MT CB PHASE 2 PLAT # 522219

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 11 2013
BY

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name
Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name
County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013 BY: 3/7/11

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043237

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/O Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-01-008	LOT D19 PROSPECT AT MT CB PHASE 2 PLAT # 55 2219

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative,

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 11 2013

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

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LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

RECEIVED
MAR 11 2013
BY:

March 6, 2013

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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RECEIVED
MAR 11 2013
BY:

50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013."

The additional mills were erroneous in their entirety and illegal due to an irregularity in levying. The levy was imposed without authority of law in violation of the terms of the Consolidated Service Plan. The Consolidated Service Plan sets the limits by which a special district may act and the actions of the District go beyond the parameters of the Consolidated Service Plan, which specifically proscribe a mill levy in excess of 50 mills. This deviation renders the District's tax null and void because the District does not have the power to unilaterally exceed the taxation caps in the Consolidated Service Plan. Finally, the excess mill levy was certified without Town approval, and the tax has since been formally disapproved through a Town resolution.

Thus, Prospect Development Company requests a tax abatement in the form of relief from payment of any excess levy over 52.676 mills. A county is liable to one who pays taxes imposed without the authority of law. *See Spaulding Mfg. Co. v. Bd. Of Comm'rs*, 63 Colo. 438, 168 P. 34 (1917).

Sincerely,

SETER & VANDER WALL, P.C.

Elizabeth Dauer

Elizabeth Dauer

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED
MAR 11 2013
BY: 3/7/11

County: _____

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R043238

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: C/O Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village (City or Town) CO (State) 80111 (Zip Code)

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-01-009	LOT D20 PROSPECT AT MT CB PHASE 2 PLAT # 552219

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED
MAR 11 2013
BY: _____

Section III: **Written Mutual Agreement of Assessor and Petitioner**
(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**
(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

RECEIVED
MAR 11 2013
BY: .....

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:.....

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)

RECEIVED MAR 1 1 2013 BY: 3/7/11

Section I: Petitioner, please complete Section I only.

Date: 03 / 06 / 13
Month Day Year

R043239

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: c/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300

Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-01-010	Lot D21 PROSPECT AT MTCB PHASE 2 PLAT #552219

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)_____
Petitioner's Signature

By E.N. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

Kimberly Bjelland
Assessor's or Deputy Assessor's Signature

RECEIVED
MAR 1 1 2013

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ ***(being present--not present)***, and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

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LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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RECEIVED
MAR 1 1 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

March 6, 2013

RECEIVED
MAR 11 2013
BY:

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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www.svwpc.com • e-mail: svw@svwpc.com

RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013
BY:

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013 BY: 3/7/11

County: _____

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

R043240

Date: 03 / 06 / 13
Month Day Year

Petitioner's Name: Prospect Development Company, Inc.

Petitioner's Mailing Address: c/o Seter + VanderWall, P.C. 7400 E. Orchard Rd. Ste 3300

Greenwood Village | CO | 80111
City or Town | State | Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-244-01-011	LOT D22 PROSPECT AT MT CB PHASE 2 PLAT # 552219

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)
Petitioner's Signature

By _____ Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED
MAR 1 1 2013
BY

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____

_____
Chairperson of the Board of County Commissioners' Signature

I, _____County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of_____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

RECEIVED
MAR 11 2013
BY:

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

LOT D19 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D20 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D21 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT D22 PROSPECT AT MT CB PHASE 2 PLAT #552219

LOT E1 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E3 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E9 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E10 PROSPECT AT MT CB PHASE 4 PLAT#563222

LOT E11 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E15 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E17 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E18 PROSPECT AT MT CB PHASE 4 PLAT #563222

{00054114}

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MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

RECEIVED
MAR 11 2013
BY:

March 6, 2013

Gunnison County Assessor's Office
221 N. Wisconsin Street, Suite A
Gunnison, CO 81230

Re: Narrative Explaining the Levy of Illegal Tax

Dear County Assessor:

This letter constitutes Prospect Development Company's narrative explaining the levy of an illegal tax that is the subject of the Petition for Abatement.

On August 15, 2000, Reserve Metropolitan District No. 2 (the "District") was formed according to the terms of a Consolidated Service Plan, approved by the Town of Mt. Crested Butte (the "Town") that delegated its limited powers as a local government.

The Consolidated Service Plan provides that "the mill levy imposed by the Districts shall not exceed 50 mills, subject to "Gallagher adjustments," and the total mill levy for improvements and services proposed for the Reserve is expected to be approximately 50 mills, which may not be exceeded except upon approval of the Town."

The mill levy authorized by the Service Plan for 2012 taxes was 52.676 according to the District's draft budget calculated by Eric Weaver, District Administrator and certified public accountant.

On December 10, 2012, the Board of Directors of the District voted to surpass the cap of 52.676 mills and levy three additional mills to pay operating expenses. These additional mills violated the terms of the Consolidated Service Plan by exceeding the mill levy cap and the authority of the District.

Contrary to the terms of the Consolidated Service Plan, the District failed to obtain the consent of the Town of Mt. Crested Butte for a mill levy in excess of the 50 mill cap adjusted for the Gallagher Amendment. The failure to obtain Town consent per the terms of the Consolidated Service Plan renders the tax illegal because the District did not have the legal authority to levy the tax. The District was acting beyond the scope of its powers granted in the Consolidated Service Plan.

On January 15, 2013, The Town Council enacted Resolution No. 1, Series 2013. The Resolution states "The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the District's mill levy for 2013 in advance of the presentation of proposed mill levies by District No. 2 to the Board of County Commissioners." Moreover, the Town Council stated that the "Town Council of the Town of Mt. Crested Butte does not consent to any increase above

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RECEIVED
MAR 11 2013
BY:

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 11 2013

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk

PETITION FOR ABATEMENT OR REFUND OF TAXES

RECEIVED MAR 11 2013

County:_____

Date Received_____
(Use Assessor's or Commissioners' Date Stamp)
BY:_____

Section I: Petitioner, please complete Section I only.

Date: 03/06/13
Month Day Year

R042021

Petitioner's Name: Prospect 34, LLC

Petitioner's Mailing Address: c/o Seter + Vander Wall, P.C. 7400 E. Orchard Rd. Ste. 3300
Greenwood Village CO 80111
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3177-241-01-027	LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2012 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

See attached narrative.

Petitioner's estimate of value: $_____ (_____)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

_____ Daytime Phone Number (_____)_____
Petitioner's Signature

By E.K. Daytime Phone Number (303) 770-2700
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

Tax Year _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ **Protest?** ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

Levies are certified to the Assessor by the Board of County Commissioners, § 39-1-111(2) C.R.S.

_____
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

RECEIVED
MAR 11 2013

Section III: Written Mutual Agreement of Assessor and Petitioner

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

Tax Year _____

	Actual	Assessed	Tax
Original	_____	_____	_____
Corrected	_____	_____	_____
Abate/Refund	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____
Petitioner's Signature **Date**

_____ _____
Assessor's or Deputy Assessor's Signature **Date**

Section IV: Decision of the County Commissioners

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor, and that the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

_____	_____	_____
Year	Assessed Value	Taxes Abate/Refund

_____
Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-Officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, _____.
Month Year

_____
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this petition, is hereby

☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____
Secretary's Signature Property Tax Administrator's Signature Date

Seter & Vander Wall, P.C.
ATTORNEYS AT LAW

KIM J. SETER
BARBARA T. VANDER WALL
JACQUELINE C. MURPHY
JEFFREY E. ERB
ELIZABETH A. DAUER

February 26, 2013

RECEIVED
MAR 11 2013

Gunnison County Assessor's Office
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

Re: Letter of Agency

Dear County Assessor:

This letter is to provide authorization for Seter & Vander Wall, P.C. to file Petitions for Abatement and act as an agent, as authorized by Tim Mueller, Principal, Prospect Development Company, Inc. and President, Prospect 34, LLC.

A Petition for Abatement will be filed regarding the following platted lots and open space owned by Prospect Development Company, Inc.:

LOT D16 PROSPECT AT MT CB PHASE 2 PLAT #522219

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LOT E16 PROSPECT AT MT CB PHASE 4 PLAT #563222

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{00054114}

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MAR 11 2013
BY:

LOT E19 PROSPECT AT MT CB PHASE 4 PLAT #563222

LOT E20 PROSPECT AT MT CB PHASE 4 PLAT#563222

A Petition for Abatement will be filed regarding the following platted lot owned by Prospect 34, LLC:

LOT C-34 PROSPECT AT MT CRESTED BUTTE PHASE 1 #604103

Please contact me should you have any questions, comments, or concerns.

Sincerely,

SETER & VANDER WALL, P.C.
Elizabeth Dauer
Elizabeth A. Dauer

APPROVED AND CONSENTED TO:

Prospect Development Company, Inc.
a Colorado corporation

By: _____
Michael Kraatz, Vice President Real Estate & Development

Prospect 34, LLC,
a Colorado limited liability company

By: Tim Mueller
Tim Mueller, President

Cc: Kim J. Seter
Tim Mueller
Michael Kraatz
Paul Berry
Greg Taylor

RECEIVED
MAR 11 2013

TOWN OF MT. CRESTED BUTTE
RESOLUTION NO. 1
SERIES 2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REGARDING 2013 MILL LEVY CERTIFICATION FOR RESERVE METROPOLITAN DISTRICT NO. 1 AND RESERVE METROPOLITAN DISTRICT NO. 2

WHEREAS, Reserve Metropolitan District No. 1 and Reserve Metropolitan District No. 2 (hereinafter "District No. 1" and "District No. 2"), were formed in 2000 pursuant to C.R.S. 32-1-101, et. seq. (Special District Act), and;

WHEREAS, a Consolidated Service Plan for District No. 1 and District No. 2 was submitted by the Districts in accordance with the terms of the Act; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte approved the Consolidated Service Plan for District No. 1 and District No. 2, on August 15, 2000; and

WHEREAS, Section II.B, paragraph 11.d of the Consolidated Service Plan requires Town consent for the imposition of any mill levy imposed within District No. 1 and District No. 2 in excess of 50 mills, subject to "Gallagher Adjustments" described in Section VI of the Consolidated Service Plan; and

WHEREAS, District No. 2 presented a 2013 mill levy certification to the Gunnison County Board of County Commissioners ("BOCC"), by which a levy of 52.676 mills would be imposed for General Obligation Bonds and Interest, and a separate levy of 3 mills would be imposed for General Operating Expenses; and

WHEREAS, on December 21, 2012, the BOCC certified the 2013 mill levies proposed by District No. 2 to the Gunnison County Assessor; and

WHEREAS, the Town has not considered the implications of Article X, Section 20 of the Colorado State Constitution (TABOR), as it relates to the above mill levy certifications; and

WHEREAS, the consent of the Town was not sought by either District No. 1 or District No. 2 prior to presentation of the mill levies to the BOCC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

The Town Council of the Town of Mt. Crested Butte did not consent to any increase in the Districts' mill levy for 2013 in advance of the presentation of the proposed mill levies by District No. 2 to the BOCC.

EXHIBIT A

RECEIVED
MAR 1 1 2013

The Town Council of the Town of Mt. Crested Butte does not consent to any increase above 50 mills "gallagherized" in the mill levy to be imposed within District No. 1 or District No. 2 in 2013.

INTRODUCED, READ AND ADOPTED at a regular meeting of the Town Council of the Town of Mt. Crested Butte on the 15th day of January, 2013.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: William Buck, Mayor

Attest:

By: Jill Lindros, Town Clerk