AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Public Hearing; Buckstaff Street Vacation

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

This action would vacate a small portion of 12th Street in the Townsite of Irwin.

Fiscal Impact: Applicant will pay all fees and costs

Submitted by: Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 7/1/20 Please make a condition of your approval that the applicant has to complete a lot cluster agreement with the CAO. When that agreement is executed, both docs will be recorded.

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 7/2/2020 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\emense Discharge Date: 7/2/2020

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 15

Agenda Date: 7/7/2020

Revised April 2015

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

RESOLUTION NO: 2020-____

A RESOLUTION VACATING A CERTAIN PORTION OF STREET LYING WITHIN THE TOWNSITE OF IRWIN, COUNTY OF GUNNISON, STATE OF COLORADO

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado ("Board"), by virtue of Colorado law, has authority and is the owner of certain roads and alleys lying within the County of Gunnison; and

WHEREAS, the Board has determined that not all platted roads and alleys are necessary for public access to privately owned property; and

WHEREAS, the Board has received a request to vacate a certain portion of a street lying within the Townsite of Irwin, County of Gunnison, State of Colorado described as follows:

> That portion of 12th Street in Block 6 that abuts lots 3, 4, and 5, Townsite of Irwin, County of Gunnison, State of Colorado; and

WHEREAS, the vacation of the above described portion of street lying within the Townsite of Irwin, will not hinder any property owners of any lands from having access to their respective land nor disrupt existing travel modes or anticipated conditions in traffic or development patterns; and

WHEREAS, there will be no adverse impact to the natural environment, community needs or public health, safety and welfare from the vacation of the above described portion of street lying within the Townsite of Irwin; and

WHEREAS, the notices required by Colorado law for such vacation have been given and a public hearing on such vacation has been conducted; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that the certain portion of street lying within the Townsite or Irwin, County of Gunnison, State of Colorado described as follows shall be and hereby is vacated:

> That portion of 12th Street in Block 6 that abuts lots 3, 4, and 5, Townsite of Irwin, County of Gunnison, State of Colorado.

It is the specific intent of the Board that the vacation of the above described portion of street lying within the Townsite of Irwin shall accrue to and vest in the record owner(s) of adjacent real property pursuant to the provisions of C.R.S. § 43-2-302.

FURTHERMORE, this Resolution is contingent upon and shall not become effective until the recording in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado of the following:

1. This Resolution.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this _____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Jonathan Houck, Chairperson

By: _____
Roland Mason, Commissioner

ATTEST:

_____
Deputy County Clerk

NOTICE OF PUBLIC HEARING
REGARDING PETITION TO VACATE A CERTAIN STREET IN THE TOWNSITE OF IRWIN, COLORADO

The Board of County Commissioners of Gunnison County, Colorado, will hold a public hearing regarding a petition filed by Sinclair Buckstaff, Jr. to vacate a portion of 12th Street in the Townsite of Irwin, Colorado. The street that the petitioner seeks to have vacated is described as follows:

> That portion of 12th Street in Block 6 that abuts lots 3, 4, and 5, Townsite of Irwin, County of Gunnison, State of Colorado.

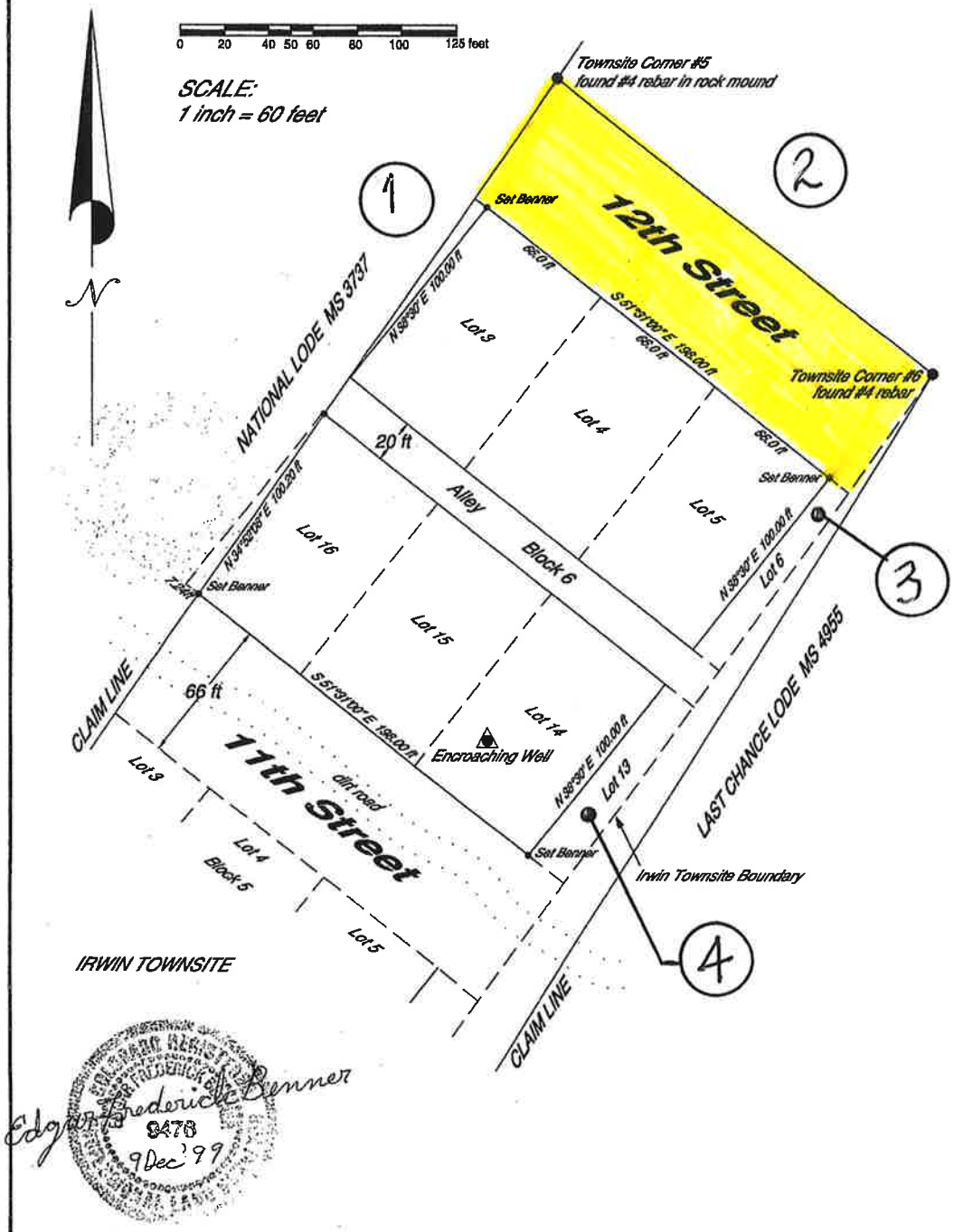
The public hearing will be held on **Tuesday, July 7, 2020, at 9:00 a.m., at the Commissioners Room, Gunnison County Courthouse, 200 East Virginia Avenue, Gunnison, Colorado.** The public is invited to attend and participate.

DATED: June 8, 2020

Marlene D. Crosby

Marlene D. Crosby
Gunnison County Public Works Director

Gunnison Country Times: Publish as a Legal Notice in publication of June 18th and June 25th



Edgar Frederick Benner
9476
9 Dec '99

LAND SURVEYOR'S CERTIFICATE

This is to certify that on the 1st day of September 1999, I made a field survey of property legally described as Lots 3,4,5,14,15, & 16, Block 6, Irwin Townsite, County of Gunnison, State of Colorado. I set the lot corners as shown and located the features as noted.

Edgar Frederick Benner
Edgar Frederick Benner
Colorado Professional L.S. No. 9476

9 December 1999
Date

REPORT OF SURVEY FOR
SINCLAIR BUCKSTAFF, Jr. & DEE A. BUCKSTAFF

BUCKSTAFF
P.O. Box 2248/300 Hidden Spur Lane
Jackson, WY 83001
(208) 399-2590
sbuckstaffjr@gmail.com

May 11, 2020

Ms. Marlene Crosby, Director
Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

SUBJECT: **Request for Vacation of a Portion of Twelfth Street Right-of-Way Adjacent to Lots 3 through 5, Block 6, Townsite of Irwin**

Dear Ms. Crosby:

By virtue of this letter, my wife and I are making a request for the vacation of that portion of the Twelfth Street right-of-way that lies adjacent to property we own in the Townsite of Irwin (specifically Lots 3 through 5 in Block 6). So you know, I purchased the property in 1979, and even then intended to request vacation of both the portion of the alley that runs between Lots 14 through 16 (which I also own) and Lots 3 through 5 and the adjacent Twelfth Street right-of-way. I anticipated that such a request would not meet with objection from Gunnison County, as both the alley right-of-way and the street right-of-way are "orphaned" as a result of mining claims running on either side of my property. In essence, the small portions of right-of-way served no public purpose then and serve no such purpose now.

My expectation that vacation of the alley right-of-way would not meet with resistance from Gunnison County was confirmed with the adoption of Board of County Commissioners Resolution No. 07-44 (copy attached). I was led to believe by my attorney at the time that the adoption of Board of County Commissioners Resolution No. 96-42 (copy attached and highlighted) achieved the same result with respect to the Twelfth Street right-of-way. I did not question my attorney's assessment at the time. I simply took his word and moved forward. It was only recently brought to my attention that his assessment might have been in error. Reviewing the highlighted portion of Resolution No. 96-42, the vacation achieved by the adoption of the resolution is not clear and could reasonably be interpreted either of two ways: as the vacation of Twelfth Street solely adjacent to Lots 6, 7, and 8 of Block 7 or, exactly as stated in the resolution, "From the extended Southeasterly line of Lot 5, Block 7, Southeasterly to the Irwin Townsite Boundary," which would <u>include</u> along the frontage of my lots (Lots 3-5, Block 6).

In order to remove any question in the matter, now and in the future, my wife and I believe it prudent to go forward with an additional vacation process. Thus, we have attached the necessary materials required to support such a request as well as a $500 check to cover the administrative processing fee.

One final aspect of this request should be addressed at this point. We understand that there was a question as to whether an additional lot cluster agreement would need to be sought to achieve what we desire. We've attached a copy of a recorded Lot Cluster Agreement and Declaration (Gunnison County Clerk's Office Document No. 587861) with a critical passage highlighted to show that a new lot cluster agreement is <u>not</u> required. This aspect of our request has been discussed with Ms. Beth Baker of the Gunnison County Community Development Department, and she concurs with our interpretation of it as well as its controlling applicability.

If you have any questions or desire additional information from us, please feel free to contact me directly either by phone (208-399-2590 Cell) or email (sbuckstaffjr@gmail.com).

Sincerely,

Sinclair Buckstaff, Jr.

c. Mr. Lawrence E. Neilson

Enc. Board of County Commissioners Resolution No. 07-44
Board of County Commissioners Resolution No. 96-42
Lot Cluster Agreement and Declaration (Gunnison County Clerk's Office Document No. 587861)
Vacation Request Materials
Check for $500 made out to Gunnison County Public Works Department

Gunnison County Street/Alley Vacation Request

1 (a) Applicants:

Sinclair Buckstaff Jr.
P.O. Box 2248
Jackson, WY 83001-2248
(208) 399-2590
sbuckstaffjr@gmail.com

Dee Ann Buckstaff
P.O. Box 2248
Jackson, WY 83001-2248
(208) 399-2587

(b) The Owners/Applicants wish to vacate the portion of 12th Street in Irwin adjacent to Lots 3 through 5 in Block 6 Townsite of Irwin.

(c) Lawrence E. Neilson
P.O. Box 1174
Crested Butte, CO 81224
(970) 209-7849
lneilson@livsothebysrealty.com

(d) Map Attached

(e) Does not apply to this vacation request.

Adjacent Property Owners

1. Ms. Ruda Martell
   P.O. Box 3924
   Crested Butte, CO 81224-3700

2. USA Forest Service
   c/o Mr. John Hare
   Gunnison Basin Field Office
   216 N. Colorado Street
   Gunnison, CO 81230

3. Stratman Land and Home, Inc.
   3869 County Road 730
   Gunnison, CO 81230-9726

4. Mr. Anthony J. Salandro
   17 Southmoreland Place
   Elgin, AZ 85611-9705

S Dominguez Gunnison County, CO 581255
12/27/2007 01:06 PM Pg: 1 of 2
447 R: $0.00 D: $

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 07-44

A RESOLUTION VACATING A PORTION OF THE ALLEY
WITHIN BLOCK 6, TOWNSITE OF IRWIN

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado (herein the "Board"), by virtue of Colorado law, has become the owner of certain platted streets and alleys within the previously incorporated Townsite of Irwin; and

WHEREAS, the Board has determined that not all of said streets and alleys are necessary for public access to the privately-owned property within the Townsite of Irwin; and

WHEREAS, the Board has received a petition from the owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin, to vacate that portion of the alley immediately adjacent to the aforesaid lots;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado, that the portion of the alley in Block 6 adjacent to Lots 3 through 5 and 14 through 16, inclusive, according to the official recorded plat of the Townsite of Irwin, be and the same hereby is vacated, with the following understanding and conditions:

1. It is the specific intent of the Board that the vacated portion of alley should accrue to and vest in the record owners pursuant to the provisions of C.R.S.§ 43-2-302; and

2. This Resolution shall be effective upon the recording on the records of the Clerk and Recorder of Gunnison County, Colorado of a Lot Cluster Agreement executed by Gunnison County and the owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin, clustering said lots, that vacated portion of 12th Street adjacent to Lots 3 through 5 inclusive, Block 6 and the vacated portion of the alley within Block 6 granted herein; and

3. The owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin have acknowledged that the clustering of said lots, the vacated portion of 12th Street adjacent to Lots 3 through 5 along with the vacated portion of the alley within Block 6 granted herein may not create a parcel of land one acre or more in size and, therefore, the owners may need to apply for and obtain a variance of Gunnison County's Individual Sewage Disposal System Regulation to legally install an ISDS system; and further, that

entering into the Lot Cluster Agreement will not guarantee the granting of such waiver.

4. The owners herein understand and acknowledge that the vacation of that portion of the alley granted herein, does not guarantee public access to Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin.

5. Notwithstanding paragraph 4 above, the owners of Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin, herein understand, agree and covenant, by language to be set forth in the Lot Cluster Agreement identified in paragraph 2 herein, not to contest the existence of public access to said Lots 3 through 5 and 14 through 16, inclusive, Block 6, Townsite of Irwin.

6. This resolution shall not become effective until such time as it is recorded in the office of the Clerk and Recorder of Gunnison County, Colorado at the expense of the owners of lots described above, and pursuant to the conditions identified herein.

INTRODUCED by Commissioner Starr, seconded by Commissioner Swenson and adopted this 4th day of December, 2007.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Hap Channell, Chairperson

By: _____
Paula Swenson, Vice Chairperson

By: _____
Jim Starr, Commissioner

ATTEST:

_____
Deputy County Clerk

GUNNISON COUNTY SEAL COLORADO

GUNNISON COUNTY, CO JOANNE M. REITINGER, RECORDER
470043 BK 789 PG 283 08/23/96 08:05A

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 96-42

A RESOLUTION VACATING CERTAIN STREETS AND ALLEYS WITHIN PREVIOUSLY INCORPORATED TOWN OF IRWIN, AND DETERMINING PURSUANT TO §30-28-101(10)(d) COLORADO REVISED STATUTES THAT A CERTAIN DIVISION OF LAND IS EXEMPT FROM THE DEFINITION OF THE TERMS "SUBDIVISION" AND "SUBDIVIDED LAND."

WHEREAS, Gunnison County, Colorado, by virtue of applicable Colorado law, has become the owner of certain platted streets and alleys within the previously incorporated Town of Irwin, according to the official plat thereof filed September 6, 1894, in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado, has received a Petition from James A. Stratman and Sandra J. Stratman as owners of a portion of the real property adjacent to certain of those platted streets and alleys to vacate certain of those platted streets and alleys; and

WHEREAS, the Board has also received Consents to Vacation by the owners of the balance of the real property adjacent to certain of those platted streets and alleys; and

WHEREAS, the Board has caused to be given the notices required by Colorado law as a prerequisite to consideration of the subject Petition to vacate; and

WHEREAS, the Board has conducted a public hearing on the subject Petition to vacate; and

WHEREAS, the Board has determined that certain of those platted streets and alleys are not necessary for public access to the privately-owned property adjacent to said streets and alleys or otherwise; and

WHEREAS, the Board has determined that vacation of certain of those platted streets and alleys will not prevent owners of any other lands from having access to those lands; and

WHEREAS, the Board wants to support the effort demonstrated by James A. Stratman and Sandra J. Stratman to cluster and reconfigure certain of the lots denominated on the official plat to reduce substantially the number of individually conveyable lots and in order that the resulting parcels will be 1.0 acre or greater as required by the Gunnison County Individual Sewage Disposal Regulations; and

WHEREAS, the Board has considered and determined to be appropriate a certain reconfiguration of clustered lots and vacated streets and alleys that will result in 17 unified parcels, each of which is at least one acre in size, and which reconfiguration will be in the interest of public health, safety and welfare; and

WHEREAS, such reconfiguration will require that the boundaries of 7 of the 17 parcels will be within portions of the adjacent vacated street other than as a direct extension of the platted lot lines into such street, but such reconfiguration will not change the number of resulting parcels, but only the sizes thereof; and

WHEREAS, the Board has determined pursuant to §30-28-101(10)(d), Colorado Revised Statutes, that such reconfiguration of clustered lots and vacated streets and alleys under these particular circumstances is not within the definitions of "subdivision" or "subdivided land" nor within the purposes of 30-28-101 et seq., Colorado Revised Statutes;

NOW, THEREFORE, BASED ON THE FINDINGS AND PURPOSES SET FORTH ABOVE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that:

1. The following described streets and alleys be and the same are hereby vacated pursuant to the provisions of §43-2-302(1)(a) Colorado Revised Statutes:

As described in Exhibit A attached hereto.

2. The following described streets and alleys be and the same are hereby vacated pursuant to the provisions of §43-2-302(1)(c) Colorado Revised Statutes:

As described in Exhibit B attached hereto.

3. The above described vacations are granted based on the specific agreement and condition, to which the Board and the owners of the benefitted real property have agreed, that each of the following parcels is and shall be considered to be a single unified parcel of land, and that any division of each said unified parcel shall require full compliance with the applicable Gunnison County policies, resolutions, codes or regulations controlling subdivision of land:

As described in Exhibit C attached hereto.

Pursuant to §30-28-101(10)(d) this reconfiguration and clustering of lots and vacated streets and alleys is not within the definition of "subdivision" or "subdivided land" nor within the purposes of 30-28-101 et seq. Colorado Revised Statutes.

4. Other than as expressly stated herein, nothing in this Resolution is or shall be construed to be an exemption of any of the subject land or development of it from any and all applicable land use, sanitary, building or other Gunnison County policies, resolutions, codes or regulations.

5. The descriptions referenced above were created by Don M. Maimone, LS 30105 for petitioners James A. Stratman and Sandra J. Stratman.

6. This resolution shall not become effective until such time as:

a. A Lot Cluster Agreement and Declaration acceptable to the Board of County Commissioners, that effect the purposes set forth in paragraph 3 and paragraph 4 above, are recorded in the Office of the Gunnison County Clerk and Recorder; and

b. This Resolution is recorded in the office of the Gunnison County Clerk and Recorder.

INTRODUCED by Commissioner Santarelli, seconded by Commissioner Fuller, and adopted this 20th day of August, 1996.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By Hal R. Tuttle
Chairperson

Attest:

Clerk

EXHIBIT A

All of 6th Street:	From the extended Northwesterly lot line of Lot 13 of Block 12 in a Northwesterly direction to the extended Northwesterly lot line of Lot 16 of Block 13, and from the extended Southeasterly lot line of Lot 10 of Block 24 in a Northwesterly direction to the Irwin Townsite boundary.
All of 12th Street:	From the extended Southeasterly lot line of Lot 5, Block 7, Southeasterly to the Irwin Townsite Boundary
All of Avenue I:	From the Northeasterly boundary of 6th Street extended in a Northeasterly direction, a distance of 150.00 feet

All within the Town of Irwin according to the plat thereof recorded September 6, 1894 at Reception No. 70551 of the Records of Gunnison County, Colorado.

EXHIBIT B

All of Avenue E:	Lying between Blocks 12 and 13
All of Avenue G:	Lying between Blocks 24 and 25
All of Avenue H:	Lying between Blocks 25 and 36
All of the Alleys:	Within Block 7, 24, 25 and 36
All of the Alley:	Within Block 13 lying Southeast of the Northwest lot line of Lot 16 extended
All of the Alley:	Within Block 12 lying Northwest of the southeast lot line of Lot 5 extended
All of the Alley:	Within Block 26 lying Southeast of the southeast lot line of Lot 6 extended

All within the Town of Irwin according to the plat thereof recorded September 6, 1894 at Reception No. 70551 of the Records of Gunnison County, Colorado.

EXHIBIT C

TOWN OF IRWIN
LEGAL DESCRIPTIONS - LOT GROUPINGS

PARCEL 1 - containing 1.012 acres

Lots 3, 4, 5, 14 and 15, Block 12, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 6th Street abutting Lots 14 and 15, and all of the alley lying between Lots 4 and 15 and Lots 5 and 14.

PARCEL 2 - containing 1.045 acres

Lots 1, 2, 16, 17 and 18, Block 12, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 6th Street abutting Lots 16 and 17, and all of the alley lying between Lots 1 and 18, Lots 2 and 17 and Lots 3 and 16.

PARCEL 3 - containing 1.220 acres

Lots 9, 10 and 11, Block 13, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of Avenue E lying between the southeasterly prolongation of the northeasterly lot line of Lot 9 and the southeasterly prolongation of the southwesterly lot line of Lot 10. All of 6th Street lying between the southwesterly prolongation of the northwesterly lot line of said Lot 11 and the southwesterly prolongation of the southeasterly line of Lot 18 of Block 12, and all of the alley lying between Lots 9 and 10.

PARCEL 4 - containing 1.054 acres

Lots 6, 7, 8, 12 and 13, Block 13, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 6th Street abutting Lots 12 and 13, and all of the alley lying between Lots 6 and 13, Lots 7 and 12, and Lots 8 and 11.

PARCEL 5 - containing 1.312 acres

Lots 3, 4, 5, 14, 15 and 16, Block 13, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 6th Street abutting Lots 14, 15 and 16 and all of the alley lying between Lots 3 and 16, Lots 4 and 15, and Lots 5 and 14.

PARCEL 6 - containing 1.001 acres

Lots 8, 9, 10 and 11, Block 24, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of Sixth Street abutting Lots 10, 11 and 12 and all of Sixth Street abutting the southeasterly 6 feet (measured along the right of way line of Sixth Street) of Lot 13, and all of the alley lying between Lots 9 and 10 and Lots 8 and 11.

PARCEL 7 - containing 1.001 acres

Lots 6, 7, 12, 13 and 14, Block 24, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of Sixth Street abutting the northwesterly 60 feet (measured along the right of way line of Sixth Street) of Lot 13 and all of Sixth Street abutting the southeasterly 50 feet (measured along the right of way line of Sixth Street) of Lot 14, and all of the alley lying between Lots 7 and 12 and Lots 6 and 13.

PARCEL 8 - containing 1.098 acres

Lots 3, 4, 5, 15 and 16, Block 24, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of Sixth Street abutting Lots 15 and 16 and all of Sixth Street abutting the northwesterly 16 feet (measured along the right of way line of Sixth Street) of Lot 14, and all of the alley lying between Lots 5 and 14, Lots 4 and 15 and Lots 3 and 16.

PARCEL 9 - containing 1.002 acres

Lots 1, 2, 17 and 18, Block 24, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of Sixth Street abutting Lots 17 and 18 and all of Sixth Street lying between the southwesterly prolongation of the northwesterly line of Lot 18 and a line parallel with and distant 20 feet from said southwesterly prolongation, and the southeasterly 1/2 of Avenue G lying between the northwesterly prolongation of the southwesterly line of Lot 1 and the northwesterly prolongation of the northeasterly line of Lot 1 and all of the alley lying between Lots 2 and 17 and Lots 1 and 18.

PARCEL 10 - containing 1.019 acres

Lots 8, 9 and 10, Block 25, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of Sixth Street abutting Lot 10, and all of Sixth Street lying between the southwesterly prolongation of the southeasterly line of Lot 10 and a line parallel with and distant 46 feet

from said southwesterly prolongation, and all of Sixth Street abutting the southeasterly 30 feet (measured along the right of way line of Sixth Street) of Lot 11 of Block 25, and all of Avenue G lying between the southeasterly prolongation of the southwesterly line of Lot 10 and the southeasterly prolongation of the southwesterly line of Lot 9 and the northwesterly 1/2 of Avenue G lying between the southeasterly prolongation of the southwesterly line of Lot 9 and the southeasterly prolongation of the northeasterly line of Lot 9 and all of the alley lying between Lots 9 and 10 and Lots 8 and 11.

PARCEL 11 - containing 1.013 acres

Lots 6, 7, 11, 12 and 13, Block 25, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, and all of Sixth Street abutting Lot 12 and all of Sixth Street abutting the northwesterly 36 feet (measured along the right of way line of Sixth Street) of Lot 11 and all of Sixth Street abutting the southeasterly 9 feet (measured along the right of way line of Sixth Street) of Lot 13 and all of the alley lying between Lots 7 and 12 and Lots 6 and 13.

PARCEL 12 - containing 1.002 acres

Lots 4, 5, 14 and 15, Block 25, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, and all of Sixth Street abutting Lots 14 and 15 and all of Sixth Street abutting the northwesterly 57 feet (measured along the right of way line of Sixth Street) of Lot 13 and all the alley lying between Lots 5 and 14 and Lots 4 and 15.

PARCEL 13 - containing 1.0 acres

Lots 1, 2, 3 and 16, Block 36, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 6th Street abutting Lots 16 and all of 6th Street abutting the southeasterly 15 feet (measured along the right of way line of 6th Street) of Lot 17, and all of the alley lying between Lots 1 and 18, Lots 2 and 17, and Lots 3 and 16, and the southwesterly ½ of 7th Street abutting Lot 1, 2 and 3 of Block 36 (previously vacated).

PARCEL 14 - containing 1.0 acres

Lots 17 and 18, Block 36, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 6th Street abutting the northwesterly 51 feet (measured along the right of way line of 6th Street) of Lot 17 and all of 6th Street lying between the southwesterly prolongation of the southeasterly line of Lot 18 and the northwesterly boundary of the Town of Irwin, and all of Avenue I abutting Lot 18 and through the intersection of Avenue I and the alley between

Lots 1 and 18 of Block 36 and abutting the southwesterly 30 feet (measured along the right of way line of Avenue I) of Lot 1, Block 36.

PARCEL 29 - containing 1.0 acres

Lots 7, 8, 9, 10, 11 and 12, Block 26, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with the alley lying between Lots 7 and 12, Lots 8 and 11, and Lots 9 and 10, Block 26.

PARCEL 32 containing 1.00 acres

Lots 6, 7, 8, 11, 12 and 13, Block 7, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with all of 12th Street abutting Lots 6, 7 and 8, and all of the alley lying between Lots 6 and 13, Lots 7 and 12, and Lots 8 and 11.

PARCEL 33 - containing 1.0 acres

Lots 1, 2, 3, 16, 17 and 18, Block 7, Town of Irwin according to the Plat thereof bearing Reception No. 70551 in the office of the Gunnison County Clerk and Recorder, together with the alley lying between Lots 1 and 18, Lots 2 and 17, and 3 and 16, Block 7.

LOT CLUSTER AGREEMENT AND DECLARATION
GUNNISON COUNTY, COLORADO

THIS LOT CLUSTER AGREEMENT AND DECLARATION is made this 6 day of December, 20 07 by and between the Board of County Commissioners of the County of Gunnison, Colorado (hereinafter "Gunnison County") and Sinclair Buckstaff, Jr. & Dee A. Buckstaff (jointly and severally) (hereinafter "Owner").

RECITALS:

1. The undersigned (are) the owner of the following described properties;
Lots 3,4,5,14,15 & 16, Block 6, Irwin Townsite, County of Gunnison, State of Colorado

and any adjacent street or alley that is or may be vacated.,
County of Gunnison
State of Colorado Alley of Block 6, between Lots 3,4,5,14,15 & 16, Irwin Townsite, County of Gunnison, State of Colorado.

2. This Lot Cluster Agreement and Declaration is made for good, valuable and sufficient consideration, including the creation of a single parcel by the clustering of the above described properties.

NOW, THEREFORE, it is agreed that:

1. Gunnison County and Owner, on behalf of themselves, their respective heirs, successors, personal representatives and assigns, hereby declare that the real property described above shall hereafter be and is combined into one parcel to be maintained as one new integrated parcel and single building lot and further declare that no portion of such new parcel constituting less than the entire new parcel may be conveyed, mortgaged or encumbered or otherwise transferred without prior compliance with applicable subdivision requirements including but not limited to the *Gunnison County Land Use Resolution*.

2. This Agreement does not independently change or amend any fee, assessment or charge regarding any service to such real property.

3. This Lot Cluster Agreement And Declaration is made for the benefit of Gunnison County, Colorado, and shall run with the land in perpetuity. Nothing in this Agreement is or shall be construed to be a waiver of applicable County building, sanitary or other permit requirements.

4. This Agreement and Declaration shall not have effect until it is recorded, at the cost of the applicant, with the Clerk and Recorder of Gunnison County, Gunnison Colorado.

5. This Lot Cluster approval does not result in a guarantee of approval of an Individual Septic System variance approval.

6. Approval of this lot cluster is subject to the terms of the utility companies potentially affected by this action; the companies' comments are attached to, and are hereby incorporated as part of this Agreement and Declaration.

S Dominguez Gunnison County, CO 581163
12/21/2007 10:45 AM Pg: 1 of 2
502 R: $11.00 D: $0.00

Date: November 27, 2007 S. Buckstaff Owner

Date: 11.27.2007 Du Buckstaff Owner

Date: _____ _____ Mortgage or Lien Holder

STATE OF Utah)
)ss
COUNTY OF Wyoming)

The foregoing instrument was acknowledged before me this 27th day of 2007 by Sinclair + Du Buckstaff (Owner).

Witness my hand and official seal.

My Commission expires: 01-27-09

Deanna K. Struble
Notary Public
Address: P.O. Box 2623, Jackson, WY 83001

27 JAN 2009
NOTARY PUBLIC
DEANNA K. STRUBLE
COUNTY OF LINCOLN
STATE OF WYOMING

STATE OF COLORADO)
)ss
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this _____ day of _____ 20___ by _____ (Mortgage/Lien Holder).

Witness my hand and official seal.

My Commission expires: _____

_____
Notary Public
Address:

Date: 12-18-07

Commissioner Commissioner (ABSENT) Commissioner

Board of County Commissioners
Gunnison County, Colorado

Attest: Susan Marchetti deputy
Gunnison County Clerk and Recorder

GUNNISON COUNTY SEAL COLORADO

S Dominguez Gunnison County, CO 581163
12/21/2007 10:45 AM Pg: 2 of 2
502 R: $11.00 D: $0.00