AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Tincup Street Vacation Request

Action Requested: Motion

Parties to the Agreement:

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

Summary:

Law of the Rockies on behalf of Bert Johnson has submitted a request for the vacation of a portion of Washington Street and a portion of Alder Street.

Fiscal Impact: Applicant will pay all administration costs and advertising 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:

Reveiwed by: Discharge Date: 8/12/2020 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 8/14/2020

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10

Agenda Date: 8/18/2020

Revised April 2015

NOTICE OF PUBLIC HEARING

REGARDING PETITION TO VACATE CERTAIN PORTIONS OF WASHINGTON STREET AND ALDER STREET WITHIN THE TOWNSITE OF TINCUP, COUNTY OF GUNNISON, COLORADO

The Board of County Commissioners of the County of Gunnison, Colorado, will hold a public hearing regarding the petition filed by Bert Johnson, trustee of the Johnson Colorado Trust, to vacate certain portions of Washington Street and Alder Street within the Townsite of Tincup, County of Gunnison, State of Colorado. Those portions of Washington Street and Alder Street that petitioner seeks to have vacated are further described below:

> **Washington Street:** That portion of Washington Street adjacent to Lots 1-3, Block 33; Lots 18-20, Block 24; All of Blocks 34 and 25 and that section half way into the Alder Street intersection.
>
> **Alder Street:** Half of that portion of Alder Street adjacent to Lot 20, Block 25.

The public hearing will be held on **Tuesday, August 18, 2020, at 9:00 a.m. in the Board of County Commissioners Room, Gunnison County Courthouse, 200 East Virginia Avenue, Gunnison, Colorado.** The public is invited to attend and participate.

DATED: July 29, 2020

_____

Marlene D. Crosby
Gunnison County Public Works Director

Gunnison Country Times: Publish as a Legal Notice for the weeks of 8/3/20 and 8/10/20

LAW OF THE ROCKIES

525 N. Main Street, Gunnison, CO 81230 | 970.641.1903
lawoftherockies.com | Fax: 970.641.1943
Email: jwith@lawoftherockies.com

Members
Marcus J. Lock
Jacob A. With
Kendall K. Burgemeister

Of Counsel
John R. Hill, Jr.

Associate
Austin J. Chambers
William P. Edwards*
*Licensed in Utah only

December 18, 2019

VIA EMAIL

Gunnison County Public Works Department
c/o Marlene Crosby, Director of Public Works
mcrosby@gunnisoncounty.org

Re: Renewal of application for street vacation: Request for vacation of that certain portion of Washington Street, Town of Tincup, County of Gunnison, State of Colorado

Dear Ms. Crosby,

As you may recall, I represent Bert Johnson, trustee of the Johnson Colorado Trust, who previously applied to vacate a portion of Washington Street in the Town of Tincup. If you will recall, Mr. Johnson submitted the prior application on August 23, 2017. That application ultimately stalled because of the location of utilities within the street. Mr. Johnson would like to continue with that application as:

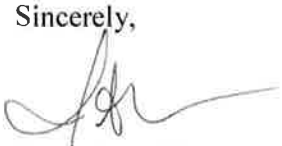
1. Mr. Johnson prepared a form of vacation that all adjacent owners would sign. That vacation includes a grant of easement to these utilities. The utility providers, Century Link and GCEA, have approved of the vacation contingent on the execution of the form vacation by all adjacent owners. A copy of the emails from the utility providers is attached.

2. The updated consent form to be signed by all adjacent owners is also enclosed.

I've not dealt with a vacation under these circumstances and am not sure what else is required to proceed with the matter. I would think that the process moving forward will be to obtain county approval of the vacation contingent upon execution of the proposed consent form by all adjacent land owners. Once that approval is in place, I can obtain the necessary owner execution of the form. At that time, I believe it will be ready for recordation. Is this the right procedure? Is there anything else that you would require for this matter?

Thank you for taking the time to review the matter.

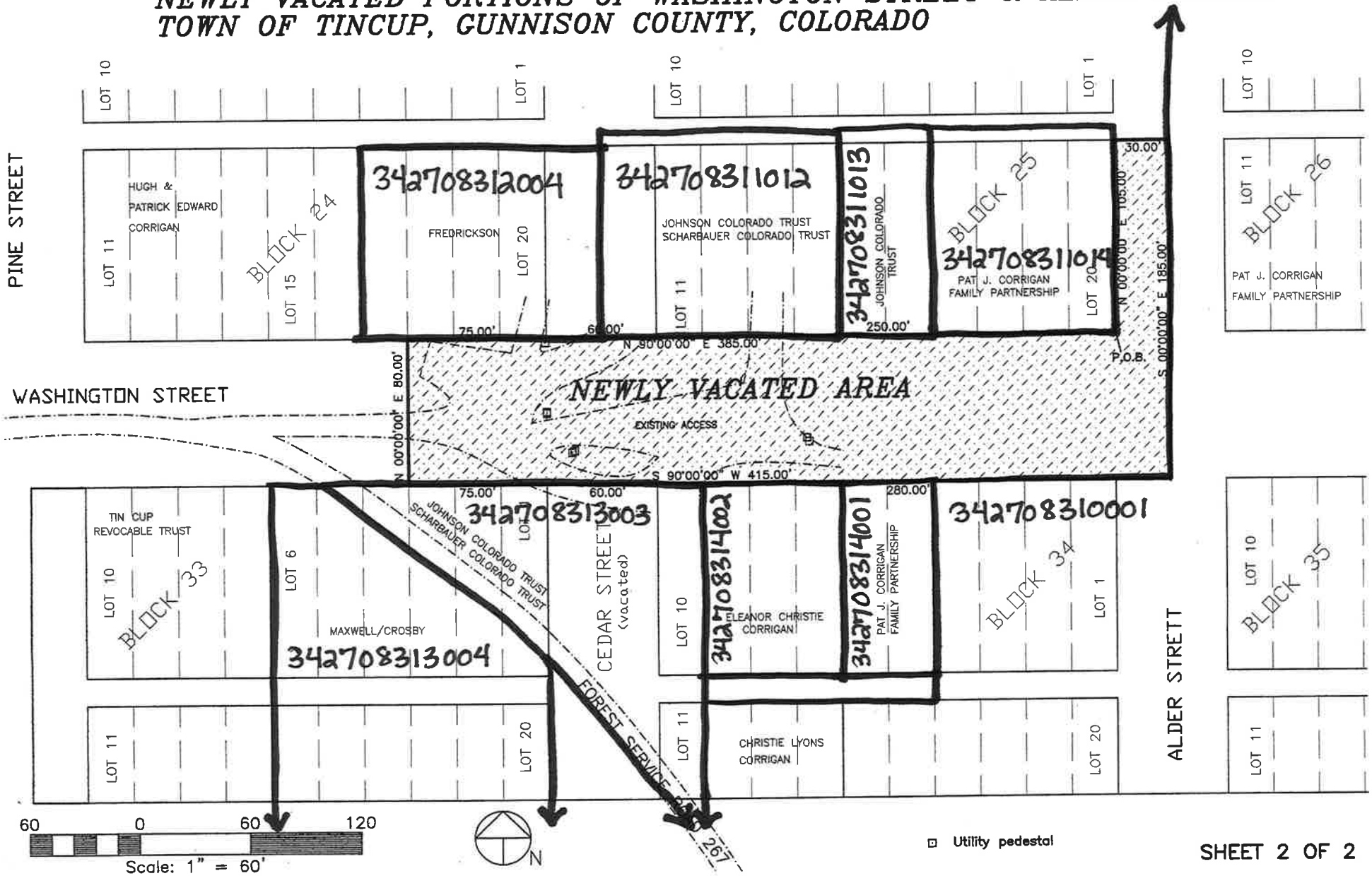
Sincerely,



Jacob A. With
LAW OF THE ROCKIES

Enclosures (3)

NEWLY VACATED PORTIONS OF WASHINGTON STREET & ALDER STREET
TOWN OF TINCUP, GUNNISON COUNTY, COLORADO



SHEET 2 OF 2

Debbi Ferchau

From: Perez, Al D <Alfred.D.Perez@centurylink.com>
Sent: Friday, November 22, 2019 12:52 PM
To: William P. Edwards; Brian Muth
Cc: Jacob A. With; Mansell, Murkel; Perez, Al D
Subject: RE: Vacation of Washington Street, Tincup

Follow Up Flag: FollowUp
Flag Status: Flagged

CenturyLink consents to the vacation contingent upon the easement documentation attached being properly executed by each adjacent land owner and recorded as part of the vacation process.

Al Perez

Al Perez
Local Network Engineer
CenturyLink
Delta-Montrose-Olathe-Gunnison-Crested Butte-Ridgway-Ouray -Craig-Meeker-Rangely-Dinosaur-Maybell
Office: 970-244-4916
Cell: 970-697-4991
CUID: AA02752
Products & Services: 970-255-8313
Alfred.D.Perez@CenturyLink.com

CenturyLink™
Stronger Connected™ thinkGIG

CenturyLink VETS

Helpful Centurylink phone numbers

From: William P. Edwards <wedwards@lawoftherockies.com>
Sent: Friday, November 22, 2019 10:58 AM
To: Perez, Al D <Alfred.D.Perez@centurylink.com>; Brian Muth <bmuth@gcea.coop>
Cc: Jacob A. With <jwith@lawoftherockies.com>
Subject: Vacation of Washington Street, Tincup

Gentlemen,

Thank you for taking the time to speak with me yesterday about vacating Washington Street in Tincup. Pursuant to that conversation, I've attached the Consent to Vacation and Contingent Conveyance of Utility and Access Easement, along with its Exhibit A, for your review. In response to your concerns about access, I've added a clause ensuring independent

access without prior permission or notice for any utility providing services in the area. A couple of other points I want to call to your attention are:

1. The utility easement covers the entire vacated area and allows for installation of new utilities.
2. The final approval of the vacation is dependent on consent from all of the landowners with lots adjacent to the vacated area. My understanding is that they are all onboard, but we are waiting for the consent from the utilities before getting everyone's signatures.
3. Once we get the attached documents signed by the landowners, they will be filed with the Recorder's Office, just like any other deed or easement. Your consent to the vacation is contingent upon this occurring as obviously there cannot be a vacation without an adequate easement in place for your utilities.

All I need is an email from you, or whoever has authority to give consent in your organization, stating that the utility consents to the vacation contingent upon the easement documentation attached being properly executed by each adjacent land owner and recorded as part of the vacation process. If you or anyone else in your organization has further questions, please do not hesitate to contact me by email or phone, which is listed below.

Sincerely,

William P. Edwards
Associate | Law of the Rockies
525 North Main Street
Gunnison, CO 81230
Tel: 970-641-1903 ext. 4
Fax: 970-641-1943
wedwards@lawoftherockies.com
www.lawoftherockies.com

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Debbi Ferchau

From: William P. Edwards <wedwards@lawoftherockies.com>
Sent: Tuesday, December 03, 2019 8:38 AM
To: Jacob A. With
Subject: FW: Vacation of Washington Street, Tincup

Follow Up Flag: Follow up
Flag Status: Flagged

GCEA consent

William P. Edwards
Associate | Law of the Rockies
525 North Main Street
Gunnison, CO 81230
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From: Brian Muth <bmuth@gcea.coop>
Sent: Tuesday, December 03, 2019 8:40 AM
To: Brian Muth <bmuth@gcea.coop>
Cc: William P. Edwards <wedwards@lawoftherockies.com>
Subject: FW: Vacation of Washington Street, Tincup

From: Brian Muth
Sent: Tuesday, December 3, 2019 8:38 AM
To: 'Perez, Al D' <Alfred.D.Perez@centurylink.com>; Brian Muth <bmuth@gcea.coop>; 'William P. Edwards' <wedwards@lawoftherockies.com>
Cc: 'mailto:wedwards@lawoftherockies.com' <mailto:wedwards@lawoftherockies.com>
Subject: RE: Vacation of Washington Street, Tincup

Gunnison County Electric Assn., Inc. consents to the vacation contingent upon the easement documentation attached being properly executed by each adjacent land owner and recorded as part of the vacation process.
Thank you,

Brian Muth
Staking / Engineering Tech.
970-641-7338
Gunnison County Electric Association

From: Perez, Al D [mailto:Alfred.D.Perez@centurylink.com]
Sent: Friday, November 22, 2019 12:52 PM
To: 'William P. Edwards' <wedwards@lawoftherockies.com>; Brian Muth <bmuth@gcea.coop>
Cc: Jacob A. With <jwith@lawoftherockies.com>; Mansell, Murkel <Murkel.Mansell@CenturyLink.com>; Perez, Al D <Alfred.D.Perez@centurylink.com>
Subject: RE: Vacation of Washington Street, Tincup

CenturyLink consents to the vacation contingent upon the easement documentation attached being properly executed by each adjacent land owner and recorded as part of the vacation process.

Al Perez

Al Perez
Local Network Engineer
CenturyLink
Delta-Montrose-Olathe-Gunnison-Crested Butte-Ridgway-Ouray -Craig-Meeker-Rangely-Dinosaur-Maybell
Office: 970-244-4916
Cell: 970-697-4991
CUID: AA02752
Products & Services: 970-255-8313
Alfred.D.Perez@CenturyLink.com

CenturyLink
Stronger Connected™ thinkGIG

CenturyLink VETS

Helpful Centurylink phone numbers

From: William P. Edwards <wedwards@lawoftherockies.com>
Sent: Friday, November 22, 2019 10:58 AM
To: Perez, Al D <Alfred.D.Perez@centurylink.com>; Brian Muth <bmuth@gcea.coop>
Cc: Jacob A. With <jwith@lawoftherockies.com>
Subject: Vacation of Washington Street, Tincup

Gentlemen,

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All I need is an email from you, or whoever has authority to give consent in your organization, stating that the utility consents to the vacation contingent upon the easement documentation attached being properly executed by each adjacent land owner and recorded as part of the vacation process. If you or anyone else in your organization has further questions, please do not hesitate to contact me by email or phone, which is listed below.

Sincerely,

William P. Edwards
Associate | Law of the Rockies
525 North Main Street
Gunnison, CO 81230
Tel: 970-641-1903 ext. 4
Fax: 970-641-1943
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CONSENT TO VACATION AND CONTINGENT CONVEYANCE OF UTILITY AND ACCESS EASEMENT

The undersigned hereby consents and agrees to the vacation of the Washington and Alder Streets in the Town of Tincup, Colorado at the location described in Exhibit A hereto and does hereby quitclaim and convey, contingent upon the vacation of those portions of Washington and Alder Streets described in Exhibit A hereto, an easement to all lots adjacent to the real property described in Exhibit A for the purposes of ingress and egress and utility installation and maintenance. This easement shall be for the benefit of all utility providers for the lots adjacent to Exhibit A, including without limitation cable, electric, phone, water, and sanitation and shall allow the installation and maintenance of such utilities within the easement area, which shall be all of Exhibit A. If any gate is installed that would limit access to the easement area, any and all utility providers with utilities located in the easement area or otherwise providing services through the easement area shall be given access to and through such gate and shall be entitled to access the easement area at any time without prior permission or notice through key, combination or comparable access that does not require the presence of any land owner or agent thereof. In addition, all lots adjacent to Exhibit A shall be permitted to use the entirety of the easement area described in Exhibit A for ingress and egress, including without limitation by motorized vehicle and pedestrian use. These easements shall be appurtenant to the lots adjacent to Exhibit A and shall run with the land.

Scharbauer Colorado Trust

By: _____
Karen J. Scharbauer, Trustee

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____ _____, 2019, by Karen J. Scharbauer, Trustee as trustee of the Scharbauer Colorado Trust.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public