

**TOWN OF RED CLIFF, COLORADO
ORDINANCE 4, SERIES 2015**

AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER 11 OF THE TOWN OF RED CLIFF MUNICIPAL CODE TO CLARIFY PROVISIONS GOVERNING THE SALE OF REAL ESTATE OWNED BY THE TOWN OF RED CLIFF BUT NOT USED FOR ANY MUNICIPAL PURPOSE.

WHEREAS, the Town of Red Cliff (“Town”) is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

WHEREAS, pursuant to C.R.S. § 31-15-713(1)(b), the Town’s Board of Trustees (“Board”) has the power to sell and dispose of, by ordinance, any real estate it owns that is not used or held for a governmental purpose upon such terms and conditions as it may determine at a regular or special meeting;

WHEREAS, in May 2014, the Town adopted a comprehensive ordinance governing the manner by which the Town will sell or dispose of any real estate it owns that is not used or held for a government purpose if it decides to entertain offers to purchase or consider selling or disposing of any such real estate; and,

WHEREAS, the experience of the past year has led the Board to conclude that certain modifications should be made to the ordinance adopted in May 2014 to better serve the Town and the interests of its inhabitants.

NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:

Section 1: Section 10 of Article 4 of Chapter 11 of the Town of Red Cliff Municipal Code is amended to state in its entirety:

Sec. 11-4-10. Purpose and Intent.

The purpose of this Article 4 is to set forth the procedure by which the Town of Red Cliff may sell or dispose of real estate it owns that is not used or held for a governmental purpose. This Article 4 will not apply to the sale or disposition of any Town-owned real estate that is used or held for a governmental purpose, any Town-owned real estate that is used or held as a right-of-way or alley, any Town-owned real estate that is shown with a separate and distinct number or letter on a plat recorded with the Eagle County Clerk and Recorder. This Article 4 is not intended and will not be construed to require the Town to sell any Town-owned real estate on any terms and conditions.

Section 2: Section 30 of Article 4 of Chapter 11 of the Town of Red Cliff Municipal Code is amended to state in its entirety:

Sec. 11-4-30. Expression of Interest in Purchasing Town-Owned Real Estate.

(a) A person or entity eligible to purchase Town-owned real estate pursuant to § 11-4-20 will notify the Town Administrator in writing of its interest in purchasing a

parcel of Town-owned real-estate. The written notice must set forth the interested party's name, address, telephone number and email address, describe the parcel of Town-owned real estate the interested party seeks to purchase with sufficient particularity to allow Town staff to readily identify the parcel and provide satisfactory proof of the interested party's ownership of immediately adjacent real property.

(b) Upon receipt of a written expression of interest pursuant to (a), the Administrator will cause discussion of the potential sale of the parcel of Town-owned real estate subject to the expression of interest to be added to the agenda for the next regular meeting of the Board of Trustees, at which meeting the Board will consider the interested party's expression of interest and decide whether it is interested in selling the parcel of Town-owned real estate subject to the expression of interest.

(c)(1) If the Board decides that it is not interested in selling the parcel of Town-owned real estate subject to the expression of interest, the Administrator will promptly notify the interested party in writing of the Board's decision, whereupon the procedures specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the interested party with respect to sale of the parcel of Town-owned real estate subject to the expression of interest and the Town will take no further action with respect to sale of the parcel.

(2) If the Board decides that it is interested in selling the parcel of Town-owned real estate subject to the expression of interest, the Administrator will promptly notify the interested party in writing of the Board's decision and advise the interested party that it has 60 days to submit a survey of and a title report concerning the parcel to the Administrator. The survey and title report to be submitted pursuant to this paragraph must be dated no more than 180 days prior to the date of submission. The interested party will bear all costs incurred to obtain the survey and title report at its sole expense. If the interested party fails to submit a survey and/or title report in accordance with this paragraph, its expression of interest will be considered abandoned for all purposes, the procedures specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the interested party with respect to sale of the parcel of Town-owned real estate subject to the expression of interest and the Town will take no further action with respect to sale of the parcel.

(d) If the interested party submits a survey and title report pursuant to (c)(2), the Administrator will cause discussion of the potential sale of the parcel of Town-owned real estate subject to the expression of interest to be added to the agenda for the next regular meeting of the Board, at which meeting the Board will consider the interested party's expression of interest and the survey and title report submitted pursuant to (c)(2) and decide whether it remains interested in selling the parcel of Town-owned real estate subject to the expression of interest.

(e)(1) If the Board decides that it is not interested in selling the parcel of Town-owned real estate subject to the expression of interest, the Administrator will promptly notify the interested party in writing of the Board's decision, whereupon the procedures specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the interested party with respect to sale of the parcel of Town-owned real estate subject to the expression of interest and the Town will take no further action with respect to sale of the parcel.

(2) If the Board decides that it remains interested in selling the parcel of Town-owned real estate subject to the expression of interest, it will also decide whether

the parcel is “encumbered” or “unencumbered” at the same meeting. For purpose of this Article 4, a parcel of Town-owned real estate is “encumbered” if there is some permanent structure or other material improvement located on the parcel and “unencumbered” if there is no such permanent structure or other material improvement located on the parcel. The Board will have unfettered discretion to decide whether a parcel is “encumbered” or “unencumbered.”

Section 3: Section 40 of Article 4 of Chapter 11 of the Town of Red Cliff Municipal Code is amended to state in its entirety:

Sec. 11-4-40. Bid Process - Encumbered Property.

(a) If the Board decides that it is interested in selling a parcel of Town-owned real estate subject to an expression of interest and decides that the parcel is “encumbered” pursuant to § 11-4-30(e)(2), the Administrator will promptly notify the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30 in writing of the Board’s decision and advise that it has 30 days to submit a written offer to purchase the parcel of Town-owned real estate subject to the expression of interest to the Administrator. Any offer submitted to the Administrator pursuant to this paragraph must (1) set forth the legal description of the parcel; (2) be accompanied by a written appraisal of the parcel dated no more than 180 days prior to the date the offer is submitted; (3) specify the proposed purchase price, which proposed purchase price must be for at least the amount of the appraisal submitted with the offer; (4) describe the proposed terms of payment; (5) include all other material terms and conditions to which the offer is subject; and (6) be accompanied by a \$1,000.00 deposit. The offeror will bear all costs incurred in connection with submission of an offer pursuant to this paragraph at its sole expense.

(b) If the interested party fails to submit an offer pursuant to (a), its expression of interest will be considered abandoned for all purposes, the procedures specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the interested party with respect to sale of the parcel of Town-owned real estate subject to the expression of interest and the Town will take no further action with respect to sale of the parcel.

(c) If the interested party submits an offer pursuant to (a), the Administrator will cause discussion of the potential sale of the parcel of Town-owned real estate subject to the offer to be added to the agenda for the next regular meeting of the Board, at which meeting the Board will consider the offer submitted pursuant to (a) and decide whether to accept the offer.

(d) If the Board decides not to accept the offer, the Administrator will promptly notify the offeror in writing of the Board’s decision, whereupon the procedures specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the offeror with respect to sale of the parcel of Town-owned real estate subject to the offer and the Town will take no further action with respect to the sale of the parcel. If the Board decides to accept the offer, the Administrator will promptly notify the offeror in writing of the Board’s decision and the Board will otherwise proceed in accordance with § 11-4-60 with respect to the accepted offer.

Section 4: Section 50 of Article 4 of Chapter 11 of the Town of Red Cliff Municipal Code is amended to state in its entirety:

Sec. 11-4-50. Bid Process - Unencumbered Property.

(a) If the Board decides that it is interested in selling a parcel of Town-owned real estate subject to an expression of interest and decides that the parcel is “unencumbered” pursuant to § 11-4-30(e)(2), the Administrator will promptly notify the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30 and all persons or entities who own real property immediately adjacent to the parcel of Town-owned real estate subject to the expression of interest in writing of the Board’s decision and advise that they have 30 days to submit a written offer to purchase the parcel of Town-owned real estate subject to the expression of interest to the Administrator. Any offer submitted pursuant to this paragraph must (1) set forth the legal description of the parcel; (2) be accompanied by a written appraisal of the parcel dated no more than 180 days prior to the date the offer is submitted; (3) specify the proposed purchase price, which proposed purchase price must be for at least the amount of the appraisal submitted with the offer; (4) describe the proposed terms of payment; (5) include all other material terms and conditions to which the offer is subject; and (6) be accompanied by a \$1,000.00 deposit. Any offeror will bear all costs incurred in connection with submission of an offer at its sole expense.

(b) If the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30 fails to submit an offer pursuant to (a), its expression of interest will be considered abandoned for all purposes and the Town will have no further obligation to it with respect to the sale of the parcel. If a person or entity who owns real property immediately adjacent to the parcel of Town-owned real estate subject to the expression of interest fails to submit an offer pursuant to (a), the Town will have no further obligation to it with respect to the sale of the parcel. If neither the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30 nor any person or entity who owns real property immediately adjacent to the parcel submits an offer pursuant to (a), the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30’s expression of interest will be considered abandoned for all purposes, the procedures specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to any person with respect to the sale of the parcel and the Town will take no further action with respect to sale of the parcel.

(c) Upon receipt of any offer(s) submitted pursuant to (a), the Administrator will cause discussion of the potential sale of the Town-owned real estate subject to the offer(s) to be added to the agenda for the next regular meeting of the Board, at which meeting the Administrator will disclose any offer(s) received pursuant to (a) to the Board.

(d) The Administrator will promptly advise all persons or entities who submitted an offer pursuant to (a) in writing of the terms of every offer submitted pursuant to (a) and further advise the offeror(s) that they have 30 days to submit a written revised offer to purchase the parcel of Town-owned real estate subject to the offers to the Administrator. A revised offer submitted pursuant to this paragraph will identify all material changes to an offer submitted pursuant to (a). Any offeror will bear all costs incurred in connection with submission of the revised offer at its sole expense.

(e) The Administrator will cause discussion of the potential sale of the parcel of Town-owned real estate subject to any offer(s) submitted pursuant to (a) or (d) to be added to the agenda for the next regular meeting of the Board after expiration of the 30

day revised offer period established by (d), at which meeting, the Administrator will disclose any revised offer(s) submitted pursuant to (d), the Board will consider the offers submitted pursuant to (a) and (d) and the Board will decide whether to accept any offer. If more than one offer has been submitted pursuant to (a) or (d), the Board may only accept the highest offer so long as the other material terms of the different offers are substantially similar.

(f) If the Board decides not to accept any offer submitted pursuant to (a) or (d), the Administrator will promptly notify the offeror(s) in writing of the Board's decision and return the \$1,000 deposit submitted pursuant to (a), whereupon the procedures specified in Article 4 will be considered concluded for all purposes, the Town will have no further obligations to the offeror(s) with respect to sale of the parcel of Town-owned real estate subject to the offer(s) and the Town will take no further action with respect to sale of the parcel.

(g) If the Board decides to accept an offer submitted pursuant to (a) or (d):

(1) the Administrator will promptly notify any offeror whose offer was not accepted in writing of the Board's decision and return the \$1,000 deposit submitted pursuant to (a), whereupon the Town will have no further obligation to any offeror whose offer was not accepted;

(2) the Administrator will promptly notify the offeror whose offer was accepted in writing of the the Board's decision; and,

(3) the Board will proceed in accordance with § 11-4-60 with respect to the accepted offer.

(h) If the Town accepts an offer to purchase a parcel of Town-owned real estate from a person or entity other than the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30, the Administrator will notify the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30 in writing that it may submit invoices to the Administrator verifying the costs incurred to obtain a survey of and title report concerning the parcel within 15 days. If the Administrator receives such verification within 15 days, an amount equal to the submitted invoices will be added to the purchase price of the parcel of Town-owned real estate established by the ordinance to be enacted pursuant to § 11-4-60 and an amount equal to the invoices will be returned to the person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30.

Section 5: Section 60 of Article 4 of Chapter 11 of the Town of Red Cliff Municipal Code is amended to state in its entirety:

Sec. 11-4-60. Ordinance Authorizing Sale of Town-Owned Real Estate.

(a) If the Board decides to accept an offer to purchase a parcel of Town-owned real estate pursuant to §11-4-40 or § 11-4-50, it will direct the Town Attorney to prepare an ordinance authorizing the sale of the parcel of Town-owned real estate to the successful offeror.

(b) The ordinance to be prepared by the Town Attorney will:

(1) Describe the parcel of Town-owned real estate to be sold;

(2) Identify the person or entity to whom the parcel of Town-owned real estate will be sold;

(3) Set forth the purchase price pursuant to which the parcel of Town-owned real property will be sold, which purchase price will include, in addition to the amount of the offer accepted by the Board, an amount necessary to reimburse the Town for all attorney and other administrative fees incurred or to be incurred in relation to the sale and an amount equal to any invoices submitted in accordance with § 11-4-50(h);

(4) Set forth such other terms and conditions regarding the sale and consummation of the same as contained in the offer accepted by the Town pursuant to § 11-4-40 or § 11-4-50;

(5) Specify that the Town will convey the parcel of Town-owned real estate by means of a quit claim deed;

(6) Specify that closing of the transaction by which the Town will sell the parcel of Town-owned real estate will occur no later than 30 days after the effective date of the ordinance; and,

(7) Include such other terms and provisions as deemed necessary and appropriate by the Town.

(c) Any ordinance authorizing the sale of a parcel of Town-owned real estate in accordance with this Article 4 will be considered and adopted pursuant to Article 3 of Chapter 2 of the Town of Red Cliff Municipal Code.

(d) Notwithstanding its decision to accept an offer to purchase a parcel of Town-owned real estate in accordance with § 11-4-40 or § 11-4-50, the Board will not be obligated or required to enact an ordinance authorizing such sale and the Town will not be obligated to sell any parcel of Town-owned real estate to any person on any terms until enactment of a valid ordinance authorizing such sale and, then, only upon such terms as are set forth in the ordinance.

Section 6: Section 70 of Article 4 of Chapter 11 of the Town of Red Cliff Municipal Code is amended to state in its entirety:

Sec. 11-4-70. Consummation of Sale of Town-Owned Real Estate.

(a) The sale of any parcel of Town-owned real estate pursuant to this Article 4 will be consummated in accordance with the terms of the ordinance enacted pursuant to § 11-4-60.

(b) If the person or entity authorized to purchase a parcel of Town-owned real estate by an ordinance enacted pursuant to § 11-4-60 fails to consummate the transaction in strict compliance with the terms of the ordinance, the Town will repeal the ordinance, will have no further obligation, responsibility or liability to the party authorized by ordinance to purchase the parcel of Town-owned real estate and will not be required or obligated to sell the parcel of Town-owned real estate subject to the ordinance to any person or entity on any terms and conditions.

(c) If the sale of a parcel of Town-owned real estate is consummated in accordance with the terms of an ordinance adopted pursuant to § 11-4-60, the Administrator will cause that portion of the purchase price, if any, attributable to the costs

incurred by a person or entity who originally expressed an interest in purchasing the parcel pursuant to § 11-4-30, as verified pursuant to § 11-4-50(h), to be returned to that person or entity.

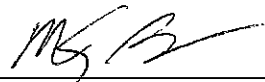
Section 7: Declaration. The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper to protect the public health, safety and welfare of the Town of Red Cliff and its inhabitants.

Section 8: Severability. If any section, paragraph, clause, provision or part of this Ordinance is for any reason held to be invalid or unenforceable, the remainder of this Ordinance will continue in full force and effect, it being the intent of the Board of Trustees that this Ordinance would have been adopted even if such invalid or unenforceable matter had not been included therein. It is further declared that if any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance and the application thereof to other persons will not be affected thereby.

Section 9: Effective Date. This Ordinance will become effective thirty (30) days after publication following final passage.

INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING AND ORDERED POSTED IN FULL THIS 18TH DAY OF MARCH 2015. A public hearing on the SECOND READING of this Ordinance will be held at the regular meeting of the Board of Trustees of the Town of Red Cliff on the 7TH day of APRIL 2015 at 7:00 p.m. in the Town Hall of the Town of Red Cliff.

TOWN OF RED CLIFF, COLORADO



M. Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Clerk

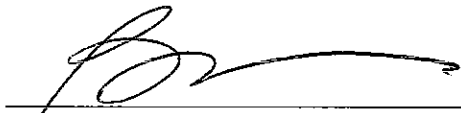
ADOPTED AND ORDERED PUBLISHED on this 7th day of April 2015.

TOWN OF RED CLIFF, COLORADO



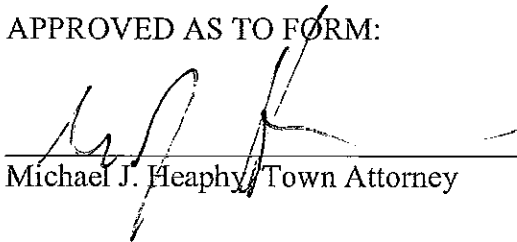
M. Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Administrator

APPROVED AS TO FORM:



Michael J. Heaphy, Town Attorney