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Updates from the prior version of this document are shown in red

Background

The Town is in the final stages of implementing a Settlement Agreement with the owners of the Battle Mountain property ("Battle Mountain"). The settlement would resolve litigation filed by the Town for breach of various agreements stemming from the annexation and proposed development of the Battle Mountain property. The Settlement Agreement is attached as **Exhibit 1.** Town staff and its legal team want to provide Council with a description of the implementation of the Settlement Agreement and the due diligence undertaken by the Town with respect to property to be conveyed to the Town.

The structure of the Settlement Agreement allows Battle Mountain to apply for various Town land use approvals and, if those approvals are granted, Battle Mountain will convey certain land to the Town. Over the last 10 months, the Council has held public meetings to consider the various land use approvals identified in the Settlement Agreement and granted associated approvals. These approval documents are being held by the Town Clerk in a sort of escrow pending completion of the due diligence period provided for in the Settlement Agreement (and extended through subsequent amendments). These approvals include:

A. Adoption of various amendments to the Town Code that provide:
    a. New residential and limited commercial zoning for the Battle Mountain property; residential development of the Battle Mountain property is capped at 250 units.
    b. An exception that allows the Battle Mountain property to be served with potable water by a non-Minturn water supplier (Eagle River Water and Sanitation District).
    c. A subdivision exemption process for land areas larger than 5 acres. Parcels created by the subdivision exemption process have no development right without going through a future Town subdivision or design review application process.
B. Formation of up to 4 metropolitan districts which will finance infrastructure development, provide services for Battle Mountain property (e.g. private road maintenance and operation), and undertake ownership and coordination of environmental compliance for lands located within the superfund site.
C. Adoption of a Development Agreement that grants Battle Mountain vested rights for a period of 30 years and guides the process for future land uses to occur.
D. Disconnection from Minturn of the Rex Flats and Gilman areas.
E. Exemption plat creating parcels within the Battle Mountain property (**Exhibit 2**). The exemption plat is in the process of being reviewed and approved subject to conditions recommended by staff in an administrative process.
F. Dissolution of the General Improvement District that was created in 2008.

Upon "Closing" of the Settlement Agreement, the various approval documents will be recorded in the public records. This will result in the previous land use approvals as associated agreements (primarily adopted in 2008) being vacated and no longer binding on the parties. Also, as part of the Closing, the Town will receive deeds, easements, and options for the following parcels. Council will see the re-appearance of a restriction to use the Town Parcels for

a spa / wellness facility. Battle Mountain has explained this restriction is very important for the potential investment in such a facility as part of the Maloit Park development.

1. A deed conveying the Highlands parcels (Parcels 1 and 2) consisting of approximately 55 acres. The deed is subject to two restrictions: (a) the property cannot be used for a spa / Wellness facility, (b) the property cannot be used for industrial purposes which does not include municipal uses such as a public works facility. **Exhibit 3**.
2. A separate access easement granting two routes over the Old Tailing Pile parcel (Parcel 3) will also be conveyed to the Town. As council is aware, this parcel is subject to future remediation. To that end, the agreement calls for the parties to consult about the location of Rd. improvements on the old tailings pile. Battle mountain, however, does not have the right to approve those improvements. The improvements may be subject to relocation as part of the remediation of the property. This is far more likely to happen if access is obtained through the southern route (closer to the reservoir) then the northern route. **Exhibit 4**.
3. A deed conveying the Reservoir South parcel (Parcel 5) which is adjacent to the Bolts Lake Reservoir site and contains approximately 13 acres. The deed is subject to two restrictions: (a) the property cannot be used for a spa / Wellness facility, (b) the property cannot be used for industrial purposes which does not include municipal uses such as a public works facility. The deed also contains a reserved easement for utilities – but only within Tigiwon Road. **Exhibit 5**.
4. A deed conveying two small parcels between the Eagle River and Highway 24 (Parcels 6 and 8) containing approximately 3 acres. **Exhibit 6**.
5. A deed conveying the Recreation Center parcel (Parcel 11) to the town. The deed contains it limitation on use consistent with the settlement agreement for: Amusements, Community Facilities, Community-Oriented Building/Facility/Use, Day Care Center, Recreational Facility, Studio and Education Facilities for Arts and Crafts, and up to three Caretaker or employee housing Units. The deed conveys a restriction on the use of this parcel for a spa / Wellness facility but also includes clarifying language that the limitation does not apply to community facilities. **Exhibit 7**.
6. The conveyance of the Recreation Center parcel will not occur at closing. There remains environmental cleanup to be done on this property. The town does not want to take title and tell the environmental remediation is complete and the parcel has been delisted by the EPA. To that end, the parties will enter into a post-settlement agreement which will hold the deed conveying parcel 11 in escrow. **Exhibit 8**. This document is subject to some additional edits by Staff which will occur before Council. The deed will be released and recorded at the time that the EPA delisting occurs. The Post-Settlement Agreement obligates Battle Mountain to complete remediation and delisting from the superfund site, and removal of the RN (discussed below) prior to transfer.
7. An option agreement for the OTP (Parcel 3) and the Processing Parcel (Parcel 4). **Exhibit 9**. This document is subject to some additional edits by Staff which will occur before Council. This document has been drafted to give the town two separate options to acquire an interest in the old tailings pile and the processing parcel. Because the old tailings pile is part of the Superfund site and subject to various environmental restrictions, the possibility exists that the town might choose not to obtain fee title to the land even after remediation is completed. In that circumstance, the town would have an option to obtain an easement across the old tailings pile property for recreational purposes. Staff does not see this as a likely outcome where the town would only choose to obtain a recreational easement. However, the town wanted to retain that option if it were deemed prudent in the future from a liability standpoint.

The document also contains a grant of a purchase option for both the OTP and the processing parcel. These options can be exercised independent of each other. Both the easement option and the purchase option are for a period of 25 years. If remediation work has begun on the old tailings pile prior to the expiration of the 25 year period, the options will automatically be extended. While the purchase option is not specifically contingent upon remediation having occurred, it is anticipated this will be the circumstance under which the town would exercise its option. Consistent with the settlement agreement, the purchase option for both parcels contains the ability of battle mountain to reserve easements for the benefit of the bolts lake development. Those easements would not be identified until the option is exercised in the future. Therefore, it may be that by that time battle mountain has no easements to reserve. The document also contains provisions that allow the town to update its environmental due diligence at the time that it chooses to exercise its option.

8. An easement and option agreement for the Maloit Wetlands parcel (Parcel 12). **Exhibit 10**. This document is subject to some additional edits by Staff which will occur before Council. The easement allows for recreational uses of the property – particularly Nordic skiing. It also grants an option for the Town to purchase the Maloit Wetlands parcel once it has been remediated and delisted. The parcel is approximately 17 acres in size. The purchase price is $1.
9. An easement for recreational use of the Consolidated Tailings Pile parcel (Parcel10) and an option granting the right to lease the Consolidated Tailings Pile parcel for a solar array development. **Exhibit 11** This document is subject to some additional edits by Staff which will occur before Council. The easement grants the right to use the parcel as a solar array. The option to lease is specific to how solar purchase agreements require a lease with the landowner. The lease price is $1
10. A restrictive covenant that covers the Restricted Parcels (OTP, Processing Parcel, CTP and Maloit Wetlands). **Exhibit 12** The covenant contains the following limitations:
    - Limitation on operating heavy equipment between the hours of 7:00 a.m. and 8:00 p.m. Monday through Saturday and excluding public holidays.
    - requirement to obtain a Town approved mitigation plan for (i) noise and vibration; (ii) dust, smoke and airborne particulates; (iii) erosion and sedimentation into water bodies; (iv) wildlife; and (v) public roads (debris and damage).
    - no vertical improvements (excluding temporary job site buildings) may be constructed or placed on the Restricted Parcels without the Town's prior written consent.
    - the Restricted Parcels will not be used for: Concrete or asphalt batch plant, Material processing, Industrial purposes, Mining, Waste collection, processing or recycling, Vehicle repair or storage.

    The restrictions must be implemented in a manner consistent with CERCLA and the intent of building Bolts Lake Reservoir and remediating the OTP. The restrictive covenants must be enforced by either the Town of Battle Mountain as the Declarant.

Environmental Due Diligence

Environmental Background

An environmental risk and liability discussion is necessary because the nine parcels listed above are located within or around Operable Unit 3 ("OU3") of the Eagle Mine Superfund Site ("Site"). The Site is an abandoned mining and milling facility located along the banks of the Eagle River near the Town. The Site is impacted by heavy metal contamination from past mining activities. Contaminants include arsenic, cadmium, copper, lead, and zinc in the soils, structures, surface water, sediments, and groundwater. The Site consists of three operable units, but only OU1 and OU3 are relevant to the discussion here.

OU1 was established to control the transport of toxic metals in surface water (Eagle River) and in groundwater. OU1 contains engineered features designed to capture and treat mine waste in surface water and groundwater. A former Site owner and operator, Paramount Communications, Inc., ("Paramount") is the responsible party implementing the OU1 remedy.

The regulatory and environmental enforcement history of OU1 is complex. In broad strokes, the State became concerned about mining-related contamination at the Site in the 1980s and the predecessor agency to the Colorado Department of Public Health and Environment ("CDPHE") was the lead agency at the Site in the 1980s. The State pursued prior owner and operator, Gulf + Western Industries, Inc. (Paramount's predecessor) for natural resource damages, ultimately requiring Paramount to remove, redistribute, and cap certain mining tailings and other waste materials, and take action to control runoff of mine waste in surface and groundwater, as memorialized in a 1988 Consent Decree.

EPA had placed the Site on the National Priorities List in 1986, and became more involved over time as it became clear that the initial remedial actions were not sufficient to control and remediate mining waste in OU1. EPA sued Viacom International, Inc. (Paramount's successor) in 1995, resulting in a 1996 Consent Decree whereby Viacom was required to perform additional remedial work. Ultimately, in 2018, EPA issued a unilateral administrative order to TCI Communications, LLC (Paramount & Viacom's successor) to compel it to perform additional cleanup work, and filed suit in 2020 to enforce the administrative order; a Consent Decree settling that lawsuit was later entered and is currently in force. Performance of the remedy is ongoing. EPA and the State coordinate their respective activities at the Site, and a 2018 agreement between the agencies provides for meaningful State involvement even while EPA leads on enforcement and oversight.

OU3 was created out of OU1 due to the interest in developing the area into a residential community. It consists of 116 acres privately held by Battle North, LLC and Battle South, LLC (collectively, "Battle," and some of the entities that comprise the "Battle Mountain" group), including the Site. The cleanup focus is on reducing exposure to heavy metals in surface soil to make the area safe for residential use. In 2017, EPA identified two cleanup goals for OU3: (1) Prevent exposure to contaminants in surface soils above levels that are acceptable for current and future land use, and (2) Avoid or minimize adverse impacts to the existing engineered remedial features (those in place to treat surface water and groundwater pursuant to OU1). Battle entered into an Administrative Settlement Agreement and Order on Consent ("ASAOC") with EPA in 2018 after it purchased the OU3 property. The ASAOC designed to manage its liability risks and to guide development. The ASAOC requires land use restrictions to be placed on title to prevent human exposure to contaminants and protects the ongoing cleanup, but also allows EPA to lift restrictions to allow residential use, so long as EPA reviews and approves work plans related to future development to ensure that the additional cleanup is sufficiently protective of human health and the environment. The AOC provides liability protections to Battle so long as it complies with the terms of the agreement and is transferrable to a subsequent owner with EPA approval.

Summary of Current Environmental Conditions

The Town hired Langan Engineering & Environmental Services ("Langan") to complete a Phase I Environmental Site Assessment ("Phase I ESA") of the property. Langan produced a Draft Phase I ESA on March 12, 2024, attached here as **Exhibit 4**. That document concluded that there are no Recognized Environmental Conditions ("RECs") at the Site, meaning that there is no "presence or likely presence of any hazardous substances or petroleum products in, on, or at a property." Langan determined that Controlled Recognized Environmental Conditions ("CRECs") do exist at the site, because legacy contamination is present that is controlled to the satisfaction of the regulatory agencies by environmental use restrictions ("EURs") recorded on title and discussed in more detail below. Langan also concluded there are Business Environmental Risks ("BERs"), which are environmental conditions that can impact business,

including limiting planned uses and increasing costs. The BERs at the Site are the legacy contamination that requires ongoing remediation and use restrictions.

Institutional controls are in place on multiple parcels within the Property in the form of EURs. These include the following:

- **Rec Center Parcel** (parcel 11) and **Maloit Wetlands parcel** (parcel 12): both are part of the Maloit Park area and are currently subject to a use restriction prohibiting all potential uses. (RN# 201919763). Historically, the agencies have approved winter recreational hiking and Nordic skiing and associated Nordic trail grooming in the Maloit Wetlands parcel area when it is covered by snow and intend to modify the use restriction appropriately.

- **Old Tailings Pile Parcel** (parcel 3): currently subject to a use restriction prohibiting all potential uses. (RN# 202112199).

- **Consolidated Tailings Pile Parcel** (parcel 10): current use restrictions allow for only recreational use authorized by owner in consultation with CDPHE, with the exception of activities that may damage the engineered cover, which are prohibited unless authorized in a future agency decision document or an agency-approved MMP or environmental sampling plan; the current restrictions also allow for solar arrays placed on the cover in accordance with specific conditions, such as CDPHE approval and structures designed to prevent damage to the cover. (RN# 201919761).

After remediation of parcels that will be eventually conveyed to the Town (e.g. Old Tailings Pile), these EURs can be modified to allow for new uses of the property.

Potential Liability Risks & Sources of Increased Costs

Once it becomes the owner and/or operator at parcels located within OU3 of the Site, the Town will be subject to potential environmental liability for environment conditions that exist at the Site. These potential risks and liabilities are as follows:

- **CERCLA Liability**. The federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") imposes a broad liability scheme that subjects owners and operators of facilities where hazardous substances have been released into the environment to cleanup obligations and allows for cost recovery law suits by the government and private parties. Due to the involvement of EPA at the Site, and the fact that other liable parties have been identified and are engaged in ongoing remedial efforts, is unlikely (at this time and given current conditions) that EPA would require the Town to conduct further cleanup or sue the Town for cleanup costs. However, if conditions at the Site change, particularly if the Town were responsible for releases of contaminants, did not comply with agency directions or orders, or caused contamination to worsen in any way, that assessment could change.

- **Other Regulatory Liability**. While the State does not affirmatively require cleanup of most sites where disposal occurred prior to 1980, Colorado law prohibits the discharge or reuse of contaminated soil or groundwater encountered during soil disturbing activities (such as utility trenching for installation or maintenance, demolition of foundations, or any other subsurface excavation) without prior regulatory approval for reuse of soils and/or a dewatering permit that may require treatment prior to discharge of contaminated groundwater.[1] Otherwise, offsite

[1] *See* CDPHE Corrective Action Guidance Document, Appendix 2: Contained-out Determination Procedure for Environmental Media Contaminated with RCRA Hazardous Waste (May 2002), available electronically at:

disposal of both soil and groundwater at a facility authorized to accept contaminated environmental media will be required. These requirements impose additional costs and potential liability on the Town in the event of construction or other site management disturbs contaminated media.

- **Common Law/Third Party Liability**. If the Town's activities at the Site cause or exacerbate the migration of existing contamination onto other properties (e.g., through utility design that facilitates migration of groundwater contamination, or through improper disposal of contaminated media), the Town could face citizen suit or common law claims from other property owners requiring cleanup or reimbursement of cleanup costs or other damages, such as diminution of property value or personal injury and property damage.

Liability Management Recommendations & Status

Property rights to be acquired have been tailored to avoid "owner" and "operator" liability under CERCLA by limiting the scope of rights in contaminated parcels to easements for non-invasive recreational and open space uses until cleanup is complete. By carefully limiting the scope of rights (rather than immediately leasing or acquiring these parcels in fee title), the Town is less likely to be considered an owner or operator under CERCLA obligated to conduct cleanup or pay for the cleanup costs of others. In addition, the Town has identified and pursued the following additional strategies to mitigate environmental risk and costs.

- **Perform All Appropriate Inquiry to Establish BFPP Status**. CERCLA provides a defense to liability to purchasers of property that are not responsible for contamination on the property and perform "all appropriate inquiry" prior to purchase or lease and certain "continuing obligations" after that point.[2] This defense is known as the "Bona Fide Prospective Purchaser" or "BFPP" defense.[3] All appropriate inquiry can be accomplished by performing a compliant Phase I ESA not more than 180 days prior to acquisition.[4] *A final, compliant Phase I ESA has been completed and is currently being updated before the Town closes on the transfer of property interests.*

- **Transfer Liability Protections of the Battle AOC.** The AOC includes a covenant by the United States not to sue or take administrative action against Battle Mountain for existing contamination, work and future response costs, and contribution protection from third party claims against Battle Mountain with respect to existing contamination.[5] The AOC contemplates that if Battle Mountain transfers the Property or any part thereof, it can transfer the rights, benefits, and obligations of the AOC subject to EPA's discretion (and that EPA will consult with CDPHE on such transfer).[6] *EPA and the Town have completed negotiation of the required transfer document. The transfer of the rights, benefits, and obligations of the AOC effective upon the transfer of title to property so that the Town can succeed to the same protections from regulatory enforcement by EPA and third-party contribution lawsuits that Battle*

https//oitco,hylandcloud.com/CDPHERMPop/docpop/docpop.aspx. The "contained =-out" rules identify treatment procedures that allow soil and other media containing listed hazardous wastes to be managed as something other than a hazardous waste. State underground storage tank regulations, requiring reporting of petroleum constituents in soil, also govern this matter. *See* 7 C.C.R. 1101-14 (Storage Tank Regulations), § 4-2 (Suspected Release Investigation and Confirmation Steps). The Colorado Water Quality Control Commission regulates the permitting of construction dewatering discharges. It is forbidden to discharge water carrying any pollutant into state water from a point source without first having obtained a permit from the Water Quality Control Division, *See* 5 C.C.R. 1002-61 (Colorado Discharge Permit System Regulations), § 61.3(1) (Applicability).

[2] *Id.* at § 9601(35)(B).

[3] *Id.* at § 9601(40).

[4] The standards for "all appropriate inquiries" are set out in 40 C.F.R. pt. 312. *See, specifically,* 40 C.F.R. § 312.20.

[5] *Id.* at XX & XIV.

[6] *Id.* at § II.9.

Mountain has with respect to the property interests acquired. A copy of the Transfer is attached as **Exhibit 5***.*

- **Obtain EPA/State Comfort Letters**. CERCLA "comfort letters" can also be used by EPA or state agencies to provide property owners with some assurances regarding their regulatory liability (or lack thereof) at a property. An EPA regional office or a state agency may issue a comfort letter that communicates key information about the property's conditions, its cleanup status, and information that may assist a party with assessing its potential liability status, to try and help interested parties with making informed decisions regarding the purchase, lease, or redevelopment of the property.[7] These letters also outline "continuing obligations" the agencies have identified to help property owners maintain BFPP defenses discussed above. *The Town has requested, and EPA and CDPHE have offered, Comfort Letters that explain site conditions, regulatory status, and set forth the continuing obligations the Town must satisfy to maintain its CERCLA protections and status as a BFPP. These letters give the Town assurances that the agencies do not intend to pursue cleanup or costs from the Town under federal or state authorities absent contributing or exacerbating contamination at the Site or improper land use or soil and groundwater management or disposal practices. EPA's letter has been finalized and the CDPHE letter is still being finalized as of the date of this memorandum.*

- **Governmental Immunity Protections**. The Colorado Governmental Immunity Act (GIA) provides the Town, as a public entity, with certain protections against private party tort lawsuits. It provides that any "public entity"[8] is immune from liability in "all claims for injury[[9]] which lie in tort or could lie in tort."[10] Thus, the Town would be protected by the GIA if faced with tort claims arising out of environmental contamination, such as claims by property owners, individuals, or purchasers that are injured by onsite or migrating contamination. Claims barred by the GIA include third-party suits alleging harms to property related to negligence, nuisance, trespass or failure to disclose[11] that are related to environmental contamination.[12] In addition, the Town would be immune to claims to recover compensatory relief for bodily injury, and may be immune from tort claims arising out of diminution in property value (though no Colorado court has yet addressed this specific issue).[13] *The protections of the*

[7] *See* EPA, Memorandum re: 2019 Policy on Issuance of Superfund Comfort/Status Letters (Aug. 2, 2019), available at https://www.epa.gov/sites/default/files/2019-08/documents/comfort-status-ltr-2019-mem_0.pdf

[8] "Public entity" is defined to be "the state, the judicial department of the state, any county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof." Colo. Rev. Stat. § 24-10-103(5). Under this definition, Thornton is a "public entity" covered by the GIA.

[9] "Injury" is defined as "death, injury to a person, damage to or loss of property, of whatsoever kind, which, if inflicted by a private person, would lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant." Colo. Rev. Stat. § 24-10-103.

[10] *Bd. of Cnty. Comm'rs of Summit Cnty. v. DeLozier*, 917 P.2d 714, 715-16 (Colo. 1996) (holding that a claim for promissory estoppel against government, which lies in contract law and not tort law, is not barred by the GIA when the claim could not be a tort claim for purposes of analysis); Colo. Rev. Stat. § 24-10-106(1).

[11] Failure to disclose claims can arise in tort or contract, depending on the context.

[12] *E.g.*, *Lawrence v. Buena Vista Sanitation Dist.,* 989 P.2d 254 (Colo. App. 1999) (holding that claims against sanitation district for trespass, negligence, and negligence per se, related to migrating contamination, were barred by GIA); *Jilot*, 944 P.2d at 571 (nuisance and trespass claims related to migrating contamination from underground storage tanks lies in tort); *Aztec Minerals*, 940 P.2d at 1025 (claim alleging negligence on the part of the state for failure to inform plaintiff of risks associated with environmental contamination was barred by GIA).

[13] *City of Colorado Springs v. Conners*, 993 P.2d 1167, 1173 (Colo. 2000) (recognizing that the GIA provides immunity from actions seeking compensatory damages for personal injuries in cases as diverse as: (1) a plaintiff seeking to recover compensatory money damages from the Department of Highways even though the Department had breached a duty under the Excavation Requirements Statute; (2) an action for replevin seeking return of a vehicle

Colorado GIA are automatic; the Town need not take any steps to obtain these protections.

- **Obtain Environmental Legal Liability Insurance**. Also often known as "pollution legal liability" insurance, PLL policies typically provide coverage (subject to site-specific exclusions) for cleanup costs, for third party claims as well as certain indemnification obligations. Environmental insurance is unlikely to provide coverage for costs of cleanup or management of contaminated media during cleanup and redevelopment, but typically will cover third party claims in similar circumstances. In instances where there is regulatory approval existing for contamination controls (like here), such coverage may include additional cleanup of newly discovered contamination or if the government re-opens a regulatory closed site and requires additional remedial action. *Battle Mountain has a PLL policy covering the Site. The Town is currently negotiating with Battle Mountain and the insurer so that the Town may become listed as an additional named insured on the Battle Mountain policy. If coverage is not available under the Battle Mountain policy, or is not sufficiently broad for the Town, the Town will continue to pursue coverage that would take effect at the time it takes title or leasehold interests to individual properties—i.e., when the risk of "owner" or "operator" liability exposure is more likely to arise. Because of the cost and variations in coverage available in the market over time, any purchase of such coverage would be subject to separate Town Council approval.*

While there may be expenses and regulatory processes associated with the management and use of property within the Site as a result of historical contamination, the liability protections discussed above are expected to substantially limit the likelihood that the Town will face material environmental liabilities or expenses associated with its planned acquisition of easements, leasehold interests, or fee title to properties within the Site.

Valuation Due Diligence

The Town commissioned an appraisal of the parcels that it will receive in fee or in which it will obtain easement rights. Jonathan Lengel is a licensed appraiser who specializes in complex valuations in and around Eagle County. A copy of his appraisal report was previously provided. A summary of the appraisal valuation is below. It is important to note two variables. First, the appraisal makes assumptions about the future uses of the parcels. The Code amendments zoned the parcels that the Town will receive in fee as "holding zone." This means that before any land use can occur on these parcels, there will be a public process to determine how the land should be used. As such, the value associated with each parcel could change depending on the future zoning designation. Second, the valuations are in current dollars and contemplate a current conveyance to the Town. Some parcels with meaningful valuation will not be transferred to the Town until the Bolts Lake Reservoir is completed and environmental remediation undertaken. As such, the future value that the Town will obtain could be discounted to account for time.

and compensatory damages for its unlawful detention, loss of use, and physical damage; and (3) an action seeking damages from harm to the plaintiff's professional reputation and ability to earn a living, pain and suffering, and destruction of the value of his professional education).

Market Values

PARCEL NAME	PARCEL ID	ZONING	CONCEPTUAL USAGE	DATE OF VALUE	MARKET VALUE
Highlands 1	Parcel A	Holding District	Low Density Residential	January 15, 2024	$6,700,000
Highlands 2	Parcel B	Holding District	Low Density Residential	January 15, 2024	$9,800,000
Old Tailings Pile	Parcel C	Holding District	High Density Residential	September 1, 2028	$26,000,000
Recreation Center	Parcel D	Holding District	Public arts/recreation Restricted Residential	January 15, 2024	$796,000
Reservoir South	Parcel E	Holding District	Reservoir access for public	January 15, 2024	$25,000
Highway Tract B	Parcel F	Holding District	Recreation	January 15, 2024	$30,000
Highway Tract D	Parcel G	Holding District	Recreation	January 15, 2024	$8,000
Consolidated Tailings Pile	Parcel H	Bolts OS/Rec. Dist.	Recreation/public utility	January 15, 2024	$525,000
Soil Processing	Parcel I	Bolts OS/Rec. Dist.	Recreation/reservoir access for public	September 1, 2028	$3,700,000
Maloit Wetlands	Parcel J	Bolts OS/Rec. Dist.	Recreation	January 15, 2024	$30,000

The combined value of the parcels and property interests that the Town will eventually acquire is around $47,600,000. This is a substantial value to the Town. The Settlement Agreement provides that the land obtained in the settlement also compensates the water enterprise fund. To that end, proceeds from the sale of a portion of the property can be used to assist with costs associated with a water treatment plant.

Legal Due Diligence

The Town will obtain title insurance for the parcels conveyed to it. The Town attorney has undertaken a review of the title commitment and is working with the title company to have any inapplicable exceptions removed. The Town is paying the costs of the title insurance policy. There are no water rights conveyed as part of this transaction.

Matters Required for Closing

Closing is scheduled to occur on September 9. At Closing documentation will be executed that terminates the pending litigation “with prejudice” meaning that the claims cannot be re-filed.