

TOWN OF MINTURN, COLORADO
ORDINANCE NO. 05 - SERIES 2024

**AN ORDINANCE APPROVING THE DEVELOPMENT AND VESTED PROPERTY
RIGHTS AGREEMENT IMPLEMENTING THE BOLTS LAKE SETTLEMENT
AGREEMENT**

WHEREAS, the Town of Minturn (“**Town**”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“**Town Council**”) is authorized to act; and

WHEREAS, the Vested Property Rights Statute, C.R.S. § 24-68-101, *et seq.* authorizes local governments to enter into development agreements with landowners providing that a landowner’s property rights shall be vested for a period exceeding three (3) years, if such period is warranted in light of all relevant circumstances; and

WHEREAS, Town Council has authority pursuant to the Home Rule Charter and C.R.S. § 31-16-101, *et seq.* to adopt and enforce all ordinances; and

WHEREAS, in the exercise of this authority, Town Council has previously adopted § 16-21-710 of the Minturn Municipal Code (“**Municipal Code**”), concerning vested property rights; and

WHEREAS, Municipal Code § 16-21-710(b)(2)(h) provides that a development agreement constitutes a site specific development plan which may establish vested property rights; and

WHEREAS, C.R.S. § 24-68-104(2) and Municipal Code § 16-21-710(c)(3) require that development agreements establishing a vested property right in excess of three (3) years be adopted as legislative acts subject to referendum; and

WHEREAS, Battle North, LLC, a Georgia limited liability company (“**Battle North**”) submitted a request to the Town for approval of the Development and Vested Property Rights Agreement Implementing the Bolts Lake Settlement Agreement, a copy of which is attached as Exhibit A (“**Development Agreement**”), to establish vested property rights in excess of three (3) years for the property it owns, which property is legally described and graphically depicted as Exhibit A to the Development Agreement (“**Battle North Property**”); and

WHEREAS, Town Council finds that approval of the Development Agreement is warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, market conditions, that development of the Battle North Property will take more than three (3) years to complete, and that such development will require substantial financial commitments for the construction of infrastructure improvements; and

WHEREAS, Town Council further finds that approval of the Development Agreement will provide for orderly growth in accordance with the Town’s policies and goals, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic

growth, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which C.R.S. § 24-68-101, *et seq.* and Municipal Code § 16-21-710 were enacted; and

WHEREAS, in February of 2008, in connection with the annexation and then-contemplated development of certain real property, which real property included, but is not limited to, the Battle North Property, the Town approved: (1) zoning pursuant to Ordinance No. 12-2008; and (2) Preliminary Subdivision Plat pursuant to Resolution No. 19-2008 (collectively, and together with the Town resolutions and/or ordinances approving such instruments, “**Prior Approvals**”), which Prior Approvals will be terminated as applied to the Battle North Property as part of the approval of the Development Agreement and effective upon the recording of the Development Agreement with the Eagle County Clerk and Recorder; and

WHEREAS, between 2006 and 2012, in connection with the annexation and then-contemplated development of certain real property, which real property included, but is not limited to, the Battle North Property, the Town entered into the: (1) Wastewater Service Agreement pursuant to Ordinance No. 1-2006; (2) Battle Mountain Annexation Agreement and Vested Property Rights Development Agreement pursuant to Ordinance No. 10-2008; (3) Water Service Agreement pursuant to Ordinance No. 11-2008; (4) Agreement Regarding Escrows and Funding pursuant to Resolution No. 5-2012; (5) three Escrow Agreements subsequently amended pursuant to Resolution Nos. 6-2012, 7-2012, 8-2012, 12-2012, and 13-2012; and (6) Memorandum of Understanding Relating to Battle Mountain Project pursuant to Resolution No. 27-2016 (collectively, and together with the Town resolutions and/or ordinances approving such instruments, “**Prior Agreements**”) with the then-owner(s) of the Battle North Property, which Prior Agreements and any vested property rights established pursuant to C.R.S. § 24-68-101 *et seq.* will be terminated as applied to the Battle North Property as part of the approval of the Development Agreement and effective upon the recording of the Development Agreement with the Eagle County Clerk and Recorder.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein as if set forth in full.

2. Development Agreement Approved. Town Council hereby approves the Development Agreement between the Town of Minturn Water and Sanitation Activities Enterprise (“**Enterprise**”), the Town, and Battle North in substantially the form attached to this ordinance as Exhibit A and authorizes the Mayor to execute the Development Agreement on behalf of the Enterprise and the Town.

3. Termination of Prior Approvals, Prior Agreements, and Prior Vested Property Rights. The Town Council hereby approves the termination of the following, and such

terminations will be effective upon the recording of this ordinance with the Eagle County Clerk and Recorder in accordance with Paragraph 5:

(a) Prior Approvals. The Town Council approves the termination of the Prior Approvals as applied to the Battle North Property. Accordingly, the Battle North Property will be released from the encumbrance of the Prior Approvals, which will be of no further force or effect as applied to the Battle North Property and any parties to such Prior Approvals will be released from all rights, obligations, and liabilities arising out of such Prior Approvals as they may pertain to the Battle North Property.

(b) Prior Agreements. The Town Council approves the termination of the Prior Agreements as applied to the Battle North Property. Accordingly, the Battle North Property will be released from the encumbrance of the Prior Agreements, which will be of no further force or effect as applied to the Battle North Property and the parties to such Prior Agreements will be released from all rights, obligations, and liabilities arising out of such Prior Agreements as they may pertain to the Battle North Property.

(c) Prior Vested Property Rights. Vested property rights previously established pursuant to C.R.S. § 24-68-101 *et seq.* and/or by virtue of the Battle Mountain Annexation Agreement and Vested Property Rights Development Agreement (Ordinance 10, Series 2008) will be extinguished as applied to the Battle North Property.

4. Post-Approval Notice. The Town Clerk is hereby authorized and directed to cause publication of the notice required pursuant to C.R.S. § 24-68-103(1)(c) within fourteen (14) days following approval of this ordinance on second reading.

5. Recording. This ordinance and the Development Agreement will not be recorded with the Eagle County Clerk and Recorder until the condition precedent set forth in Section 1.2 of the Development Agreement occurs.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 17TH DAY OF APRIL 2024. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 17TH DAY OF APRIL 2024 AT 5:30PM. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THIS 1ST DAY OF MAY 2024.

THIS ORDINANCE WILL BE LEGALLY EFFECTIVE THIRTY (30) DAYS AFTER PUBLICATION FOLLOWING THE DATE ON WHICH TOWN COUNCIL APPROVED THIS ORDINANCE ON SECOND READING; PROVIDED, HOWEVER, AND NOTWITHSTANDING SUCH EARLIER EFFECTIVE DATE OF THIS ORDINANCE, THE DEVELOPMENT AGREEMENT APPROVED BY THIS ORDINANCE WILL NOT BE RECORDED WITH THE EAGLE COUNTY CLERK AND RECORDER OR LEGALLY EFFECTIVE OR BINDING ON ANY PARTY PRIOR TO IMPLEMENTATION OF THE SETTLEMENT AS DEFINED IN AND IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT (AS SUCH TERMS ARE DEFINED IN THE DEVELOPMENT AGREEMENT).

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

EXHIBIT A
DEVELOPMENT AND VESTED PROPERTY RIGHTS AGREEMENT
IMPLEMENTING THE BOLTS LAKE SETTLEMENT AGREEMENT

[To be included.]