

**TOWN OF HOT SULPHUR SPRINGS,
COLORADO**

RESOLUTION NO. 2010-11-1

**A RESOLUTION GRANTING FINAL ACCEPTANCE TO
CERTAIN STREETS AND ASSOCIATED PUBLIC
IMPROVEMENTS WITHIN HIMEBAUGH'S 1ST ADDITION TO
HOT SULPHUR SPRINGS**

WHEREAS, Himebaugh, LLC (Owner) currently owns the streets with Himebaugh's 1st Addition to Hot Sulphur Springs, Hot Sulphur Springs, Colorado, recorded at Reception No. 8708 of the Grand Count Records; and

WHEREAS, Owner has requested that certain streets be finally accepted by the Town of Hot Sulphur Springs (the Town); and

WHEREAS, Owner does not have Town approved engineered construction drawings for streets and associated public improvements (including, but not limited to streets, water, sewer, electric, gas and drainage improvements) in compliance with Section 10-11-2 of the Town Code; and

WHEREAS, Owner does not have an executed Subdivision Improvements Agreement, guaranteeing the completion of said streets and improvements in compliance with Section 10-12-1 of the Town Code; and

WHEREAS, Owner has not provided complete "as-built" plans bearing the certification of a registered Colorado engineer for all public improvements in compliance with Section 10-11-5(C) of the Town Code; and

WHEREAS, understanding that the Owner may or may not have been required to construct the certain streets and associated public improvements pursuant to the applicable requirements of the Town Code, the Town of Hot Sulphur Springs conditionally motioned to accepted certain streets contingent upon the street construction, associated public improvements, and street signs, being verified by town staff; and

WHEREAS, Town staff, not having construction drawings or "as-built" plans of the streets, could only generally verify that street construction and associated public improvements may have been constructed to commonly recognized standards and practices and minimum standards of the Town Code; and

WHEREAS, an independent engineering review was performed on October 23, 2010 in order for the Town to assess the as-built condition of the west half of Ridgeway Avenue and address any issues prior to any Town acceptance of this street; and

WHEREAS, the engineering review identified necessary improvements in order for the Town to consider including the west half of Ridgeway Avenue with the other Himebaugh street and improvement acceptances; and

WHEREAS, the Owner completed minimal improvements and said improvements did not improve the quality of Ridgeway any significantly different from the remainder of the streets within Himebaugh; and

WHEREAS, the Town reserves the right to require additional improvements to Ridgeway Avenue (east of Fourth Street) with any future subdivision phases to the south, including but not limited to the removal of the temporary cul-de-sac and additional compacted road base.

NOW, THEREFORE, BE IT RESOLVED by the Town of Hot Sulphur Springs Board of Trustees as follows:

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Town Board of Trustees.

Section 2. The Town of Hot Sulphur Springs Board of Trustees hereby accepts the following streets and associated public improvements subject to the terms and conditions as hereinafter set forth:

- A. Moffat Avenue (east of Fourth Avenue)
- B. Fourth Street (between Moffat Avenue and Summer Avenue)
- C. Cherry Street (between Moffat Avenue and Ridgeway Avenue)
- D. Summer Avenue (east of Fourth Avenue)
- E. Ridgeway Avenue (east of Fourth Street)

Section 3. Pursuant to Section 10-11-5(C) Final Acceptance of the Town Code, the Owner shall demonstrate the streets and public improvements are free and clear of all liens and encumbrances.

Section 4. Pursuant to Section 10-11-6 of the Town Code, the above referenced streets and all associated public improvements (including, but not limited to streets, water, sewer, electric, gas and drainage improvements) shall be warranted by the Owner for a period of one (1) year from the date of this Resolution.

Section 5. Upon compliance with all applicable Sections herein, the Owner, upon any request of the Town, shall convey the streets referenced in Section 2 to the Town in a manner required to the Town Attorney.

Section 6. Any and all application fees, reimbursement costs for staff review time, public notice costs, recording fees or any other outstanding Town of Hot Sulphur Springs bills or fees associated with the acceptance of the above streets be paid to the Town Clerk PRIOR to the Mayor executing this Resolution and any recording of this Resolution.

Section 7. The Town reserves the right to require additional improvements to Ridgeway Avenue (east of Fourth Street) with any future subdivision phases to the south, including but not limited to the removal of the temporary cul-de-sac and additional compacted road base.

Section 8. The Applicant's compliance with any additional conditions of approval stated in the motion of the Town Board of Trustees for approval of this Resolution.

ADOPTED BY A VOTE OF 6 IN FAVOR, 0 AGAINST, and 0 ABSTAINING THIS
18th DAY OF NOVEMBER, 2010.

TOWN OF HOT SULPHUR SPRINGS

By: [Signature]
Hershal Depina, Mayor

ATTEST:

By: [Signature]
Sandy White, Town Clerk

SEAL

