

**TOWN OF RED CLIFF
RESOLUTION 5, SERIES 2023**

A RESOLUTION EXTENDING THE EXPIRATION OF THE WATER AND WASTEWATER USE RATE VARIANCES EXHIBITED IN RESOLUTION 2, SERIES 2021 FOR MANGOS MOUNTAIN GRILL AND ROCKY MOUNTAIN ADVENTURE RENTALS LOCATED AT 166 ½ EAGLE STREET, RED CLIFF, COLORADO

WHEREAS, the Town of Red Cliff, Colorado (the "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, the Town owns, maintains and operates a water and wastewater system for the benefit of residential and commercial customers in the Town;

WHEREAS, Part 4 of Article 1 of Chapter 13 of the Town's Municipal Code ("Code") establishes the rates to be charged by the Town to customers for their use of the Town's water and wastewater system;

WHEREAS, pursuant to § 13-1-180(b) of the Code, the Town's Board of Trustees ("Board") has the authority to grant a variance from the provisions of Article 1 of Chapter 13 of the Code, including the rate structure established by Part 4 of Article 1 of Chapter 13 of the Code, by resolution based on unusual conditions, unique circumstances or undue hardship, subject to the terms and conditions imposed by the Board;

WHEREAS, pursuant to the rate structure established by Part 4 of Article 1 of Chapter 13 of the Code, NYSA Real Estate, LLC, the owner of the real property located at 166 1/2 Eagle Street, is required to pay the Town a monthly fee of \$1350.00 (10 SFE's) which consists of a water rate of \$1000 and a monthly wastewater rate of \$350 for the businesses known as Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system;

WHEREAS, NYSA Real Estate, LLC, has asked the Board to grant a variance from the monthly water and wastewater rates it is required to pay the Town pursuant to Part 4 of Article 1 of Chapter 13 of the Code for Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system;

WHEREAS, Applicant has previously benefited from a variance originally granted by the Town effective April 1, 2012, pursuant to which it has been paying the Town a total of \$408.98 per month for Mango's Mountain Grill's use of the Town's water and wastewater system;

WHEREAS, the variance pursuant to which Applicant has been paying a reduced rate to the Town for Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system expired on June 19, 2019, but Applicant has continued to pay the Town \$408.98 per month for Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system, without objection from the Town;

WHEREAS, the Board has determined that it would be appropriate and in the best interests of the Town and the Applicant to enact a new resolution extending the approved variance requested by Applicant from the date of this Resolution with a slight increase in the SFEs charged from 3.029481 to 3.73978 for a twelve-month period of time; and,

WHEREAS, the Board has determined that the unique circumstances applicable to Mango's Mountain Grill and Rocky Mountain Adventure Rentals justify granting Applicant a variance from the water and wastewater rates otherwise established by Part 4 of Article 1 of Chapter 13 of the Code for Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system, on the terms and conditions set forth herein.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF RED CLIFF, COLORADO:

1. The monthly base rate for water and wastewater services for Mango's Mountain Grill's and Rocky Mountain Adventure Rental's use of the Town's water and wastewater system shall be \$504.87, effective November 8, 2023.

2. The monthly base rate for water and wastewater services at Mango's Mountain Grill and Rocky Mountain Adventure Rentals established by paragraph 1 shall remain in place for 12 months.

3. At the end of the 12-month period, Applicant shall apply to the Town for a variance from the water and wastewater rates established at that time. If Applicant fails to apply for a variance from the water and wastewater rates established at that time, or if the Town denies Applicant's request for a variance submitted in accordance with this paragraph, Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system, Applicant shall be required to pay the Town the water and wastewater rates as established at that time.

4. The variance authorized through this Resolution is conditioned on Applicant complying with all other rules, regulations and standards of conduct established by Article 1 of Chapter 13 of the Code in connection with Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system. The Town reserves the right to revoke the variance approved through this Resolution after affording Applicant an opportunity to be heard if Applicant fails in any way to comply with the rules, regulations and standards of conduct established by Article 1 of Chapter 13 of the Code in connection with Mango's Mountain Grill's and/or Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system.

5. If the Town revokes the variance approved through this Resolution, Applicant will be required to pay the Town the water and wastewater rates established by Part 4 of Article 1 of Chapter 13 of the Code for Mango's Mountain Grill's and Rocky Mountain Adventure Rentals' use of the Town's water and wastewater system effective the first day of the month immediately following revocation of the variance approved through this Resolution.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 7th day of November 2023.

TOWN OF RED CLIFF:



Duke Gerber, Mayor

ATTEST:



Melissa Matthews, Town Administrator/Clerk