

**RESOLUTION NO. 18  
SERIES OF 2017**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF  
CARBONDALE, COLORADO, RATIFYING THE SETTLEMENT  
AGREEMENT IN BAILEY FAMILY INVESTMENT COMPANY, LLLP V.  
SUSTAINABLE SETTINGS, INC., ET AL., CASE NO. 2016CV30036**

**WHEREAS**, Bailey Family Investment Company, LLLP sued Sustainable Settings, Inc. on March 11, 2016 in District Court, Pitkin County, Colorado, Case No. 2016CV30036 regarding the Low Line Ditch (the "Ditch") and related easement rights; and

**WHEREAS**, the Court joined the Town of Carbondale and Cold Mountain Ranch, LLLP as necessary parties by virtue of their ownership interests in the Ditch on July 27, 2017; and

**WHEREAS**, the parties to the case engaged in mediation on November 29, 2017, at which time the parties agreed to and signed a settlement agreement (the "Settlement Agreement"), as attached as Exhibit A, to resolve all claims in Case No. 2016CV30036; and

**WHEREAS**, the Board of Trustees has reviewed the terms of the Settlement Agreement;

**NOW THEREFORE**, be it resolved by the Board of Trustees of the Town of Carbondale, Colorado that the Town of Carbondale ratifies the Settlement Agreement in Case No. 2016CV30036, as attached as Exhibit A.

INTRODUCED, READ, AND PASSED THIS 26<sup>th</sup> DAY OF DECEMBER, 2017.

TOWN OF CARBONDALE, COLORADO

By: \_\_\_\_\_

Dan Richardson, Mayor

ATTEST:

  
Cathy Derby, Town Clerk



## EXHIBIT A

### 16CV30036: Settlement Agreement (in Concept) for Low Line Ditch through Sustainable Settings Property

#### **Barns:**

Sustainable will move Ditch and the adjacent lateral to the north and east as displayed in the image below. Sierra Excavating (Gilbert Ramirez) to complete work at Sustainable's sole expense.



#### **Pump and Electric Box:**

Sustainable will move the pump and electric box west of the existing roadway at Sustainable's sole expense.

#### **Fence:**

Down-ditch owners will be responsible for non-chemical maintenance of the Ditch through Sustainable's property

Sustainable will remove the fence that was installed within the past five years (the "Fence"). If Sustainable elects to replace the Fence, replacement shall be as follows:

Area A and B will be field flagged by the parties within 7 days.

Area A is where the strip of land between Low Line and lateral is too tight to accommodate maintenance equipment with a permanent fence. In Area A, Fence must be replaced with electric fencing or another temporary fencing of Sustainable's selection (estimated to be approximately 800 feet of fencing and subject to field verification regarding width of strip between Low Line and lateral).

Area B is where there is sufficient space between the Low Line and the lateral to accommodate a fence, if fence is relocated closer to lateral. (Approximately the lower 1800 feet of the existing new fence, by preliminary calculations).

**Use of Chemicals:**

Chemical Herbicides will not be used by the parties to this Agreement upon the Sustainable Settings property so long as the Sustainable Settings property is owned by Sustainable Settings or being operated as a certified organic facility.

**Other Existing Improvements:**

Existing improvements including the historic fence, shed, and other permanent structures may remain in place.

The willows on the highway-side of the "Buffer Zone" adjacent to the compound can remain.

- Maintenance of the Ditch by the down-ditch owners shall be in the same manner as on the down-ditch properties.
- Final Settlement to be recorded in Pitkin County Real Property Records.
- Subject to ratification by Town of Carbondale Board of Trustees.

*William E. Fale*  
*[Signature]*  
*[Signature]*

*Brook Tolan*