



SUMMIT COUNTY BOARD OF COUNTY COMMISSIONERS
1ST AMENDED REGULAR MEETING AGENDA
Tuesday, August 25, 2020, 1:30 p.m.

Due to Public Health concerns and social distancing efforts, this meeting will be conducted virtually and the public is encouraged to join the meeting by following the instructions below:

Please use the link below to join the webinar:

[https://us02web.zoom.us/j/83706800726?
pwd=MkhCOXZMMDZuZzE2c21hL1YzTnpGUT09](https://us02web.zoom.us/j/83706800726?pwd=MkhCOXZMMDZuZzE2c21hL1YzTnpGUT09)

Passcode: 7d.nU8XvZ0

Or Telephone:

**346 248 7799 or 669 900 9128 or 253 215 8782 or 312
626 6799 or 646 558 8656 or 301 715 8592**

Webinar ID: 837 0680 0726

Passcode: 4224747279

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. CITIZEN COMMENT
- V. PROCLAMATIONS & ANNOUNCEMENTS
 - A. Proclamation Declaring September 2020 As Suicide Prevention Month In Summit County, Colorado

Documents:

[PROC A - PROCLAMING SEPTEMBER SUICIDE PREVENTION MONTH.PDF](#)
- VI. CONSENT AGENDA
 - A. Approval Of 8-11-20 Regular Meeting Minutes

Documents:

[CONSENT A - 081120 REG MIN.PDF](#)

B. Warrant List Of 8-1-20 To 8-15-20 (Finance)

Documents:

[CONSENT B - WARRANT LIST 08012020 - 08152020.PDF](#)

C. A Resolution Authorizing The Assignment To The Colorado Housing And Finance Authority Of Private Activity Bond Allocation Of Summit County, Colorado Pursuant To The Colorado Private Activity Bond Ceiling Allocation Act (Attorney/Finance)

Documents:

[CONSENT C2 - 2020 ASSIGNMENT OF ALLOCATION - SUMMIT COUNTY.PDF](#)
[CONSENT C3 - CHFA DRAFT RESO.PDF](#)

D. DV Vistas Sales Contract & County's HOA Declarant Representative (Housing)

Documents:

[CONSENT D1 - RESOLUTION AUTHORIZING SALE OF DILLON VALLEY VISTAS UNITS STAFF REPORT.PDF](#)
[CONSENT D2 - EXHIBIT A - DRAFT PURCHASE AND SALE AGREEMENT 8.13.20.PDF](#)
[CONSENT D3 - DILLON VALLEY VISTAS AUTHORIZING RESO FINAL.PDF](#)

E. Request For Public Hearing And Designation Of Neighborhood For Gateway Grocery & Liquor LLC Dba GATEWAY GROCERY & LIQUOR; Liquor Store; Joseph McIntyre; Located At 23110 U.S. Highway 6 Unit #8; Dillon, CO (Clerk) Public Hearing Requested For September 22, 2020 Regular Meeting

Documents:

[CONSENT E - GATEWAY GROCERY AND LIQUOR LLC NEIGHBORHOOD DESIGNATION MATERIALS.PDF](#)

F. Approval Of A Contract To Buy And Sell Real Estate, 0250 Cove (CR 120) Boulevard 8 (Housing)

Documents:

[CONSENT F1 - MEMO FOR SALE OF LAKESIDE TOWNHOME.PDF](#)
[CONSENT F2 - 0250 COVE \(CR 120\) BOULEVARD 8 DILLON CONTRACT TO BUY AND SELL REAL ESTATE.PDF](#)

G. Approval Of A Resolution Indicating The Approval Of The Commissioners To Sell The Continental Divide National Scenic Trail Mining Claims (Summit County Critical Inholdings) To The United States Forest Service (OS&T)

Documents:

[CONSENT G1 - STAFF REPORT FOR AUTHORIZING RESO.PDF](#)
[CONSENT G2 - CDNST AUTHORIZING RESO FINAL.PDF](#)

VII. PUBLIC HEARING

- A. An Amendment To The Melody Lodge Cabins PUD That Would Remove The Occupancy Restrictions On Cabins 1 & 2 And Replace It With A Workforce Housing Deed Restriction. (PLN19-125/Melody Lodge, Inc.) Lower Blue Basin

Documents:

PH A1 - PLN19-125 MELODY LODGE STAFF REPORT.PDF

PH A2 - PLN19-125 MELODY LODGE STAFF REPORT W ATTACHEMENTS
PUD AND COVENANT.PDF

VIII. ADJOURNMENT

*This agenda is subject to change at any time. Please contact the Manager's Office or visit our website to obtain updates at: <http://www.summitcountyco.gov>

RESOLUTION NO. 2020-

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION PROCLAIMING THE MONTH OF SEPTEMBER 2020 AS “SUICIDE PREVENTION MONTH” IN SUMMIT COUNTY, COLORADO

WHEREAS, in our country, suicide is the third leading cause of death among teenagers; (CDC 2007) and the tenth leading cause for adults (CDC 2013); and

WHEREAS, nationally, one out of every 53 high school students (1.9 percent) reported having made a suicide attempt that was serious enough to be treated by a doctor or a nurse; (CDC 2010) and 3.9 percent of adults made a serious attempt (CDC 2015); and

WHEREAS, maintaining a safe and supportive community is consistent with Summit County Government’s overarching goals, and suicide prevention is consistent with many other efforts to protect the safety of our citizens; and

WHEREAS, a person’s mental health can affect their performance; depression and other mental health issues can interfere with a person’s ability to thrive in Summit County; and

WHEREAS, a suicide can significantly impact other youth, families and community members; and

WHEREAS, “Building Hope, Summit County”, a community coalition comprised of representatives from Summit School District, behavioral health organizations, county agencies, law enforcement, non-profit organizations and the community at large, is dedicated to reducing the frequency of suicide attempts and deaths, and the pain for those affected by suicide deaths, through educational programs, youth prevention programs and intervention services, has identified September 2020 as SUICIDE PREVENTION MONTH and recognizes:

- Suicide as a significant public health problem in Colorado and Summit County; and
- The need to ensure accessible behavioral health services for all children, youth, individuals and families in Summit County, and implementing best practices in reducing suicide risk for citizens of all ages and backgrounds; and
- Suicide prevention is a broad community problem in need of a broad community solution that includes public awareness and focused prevention programming at all levels in Summit County; and

WHEREAS, Summit County continues to be impacted by suicide and strives to prevent another loss of a person’s life by:

- Establishing and communicating protocols for helping people at risk of suicide;
- Establishing protocols for responding to suicide death;

- Providing education and training for the prevention of suicide;
- Offering opportunities for people to learn about suicide prevention;
- Delivering evidence-based suicide prevention strategies to the community; and
- Promoting greater resident awareness regarding available crisis intervention services.

NOW, THEREFORE, BE IT RESOLVED THAT THE SUMMIT COUNTY BOARD OF COUNTY COMMISSIONERS DOES HEREBY JOIN THE HEALTHY FUTURES INITIATIVE AND OTHER COMMUNITY PARTNERS IN DESIGNATING SEPTEMBER 2020 AS SUICIDE PREVENTION MONTH.

APPROVED ON THIS 25TH DAY OF AUGUST, 2020.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**

Thomas C. Davidson
Chair

Karn Stiegelmeier
Commissioner

Elisabeth Lawrence
Commissioner

ATTEST:

Kathleen Neel, Clerk & Recorder



SUMMIT COUNTY BOARD OF COUNTY COMMISSIONERS
Tuesday, August 11, 2020 at 1:30 p.m.
SUMMARY MINUTES

*For assistance or questions regarding special accommodations, accessibility,
or available audio/visual equipment, please contact 970-453-3403 as soon as possible.*

I. CALL TO ORDER

The Meeting of the Board of County Commissioners on Tuesday, August 11, 2020 was called to order by Chair, Karn Stiegelmeier, at 1:30 p.m. in the County Commissioners' Meeting Room, Summit County Courthouse, 208 Lincoln Avenue, Breckenridge, Colorado.

II. ROLL CALL

Board Members present and answered to the roll call were:

Karn Stiegelmeier, Chair
Elisabeth Lawrence, Commissioner
Thomas C. Davidson, Commissioner

Staff Present were as follows: Scott Vargo, County Manager; Jeff Huntley, County Attorney; Keely Ambrose, Assistant County Attorney; Marty Ferris, Finance Director; April Paige, Executive Administrative Manager and Lori Dwyer, Deputy Clerk.

Staff Present via conference phone were as follows: Bentley Henderson, Assistant County Manager and April Kroner, Planning Director

Additional Attendees via conference phone: Libby Stanford, Thomas Chambers, Bryan Webinger, Della Crone and others that did not sign in.

III. APPROVAL OF AGENDA

The agenda was approved, as presented.

IV. CITIZEN COMMENT

V. CONSENT AGENDA

- A.** Approval of 7-28-20 Regular Meeting Minutes. **Approved as presented; and**
- B.** Warrant List of 7-16-20 to 7-31-20 (Finance). **Approved as presented by the Finance Department; and**
- C.** Lot Line Vacate; Lots 29/30, Block 4, Quandary Village, Filing 2 (PLN20-031/Richard Schultenover) Upper Blue Basin. **Approved Resolution 2020-42 as presented; and**

- D. General Subdivision Exemption to adjust lot lines between Lot 1D, and Lots 1B & 1C, Preserve at Wildernest, zoned Wildernest PUD. (PLN20-024/Pratt Family Trust) Lower Blue Basin. **Approved Resolution 2020-43 as presented; and**
- E. Liquor License Renewal for Cris Jo Corporation dba CALA PUB AND RESTAURANT; Hotel & Restaurant; Cristina Kelly; located at 40 Cove Boulevard Unit A, Dillon, CO 80435 (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- F. Liquor License Modification for Keystone Food & Beverage Co. dba VISTA HAUS; Manager Registration; Hotel & Restaurant with Optional Premises; Roger Cardoza; located at 2510 Summit County Road 750, Breckenridge, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- G. Liquor License Renewal for Keystone Food & Beverage Co. dba VISTA HAUS; Hotel & Restaurant with Optional Premises; Roger Cardoza; located at 2510 Summit County Road 750, Breckenridge, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- H. Liquor License Renewal for Myla Rose Saloon LLC dba MYLA ROSE SALOON; Hotel & Restaurant; Michael McNamara II; located at 4192 CO Highway 9, Breckenridge, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- I. Liquor License Renewal for Keystone Restaurant Group LLC dba SNAKE RIVER SALOON; Hotel & Restaurant; Jennifer Buchanan; located at 23074 U.S. Highway 6, Keystone, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- J. Liquor License Renewal for Keystone Food & Beverage Co. dba SKI TIP RANCH; Hotel & Restaurant with Optional Premises; Mark Kimball; located at 0764 Montezuma Road, Keystone, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- K. Liquor License Renewal for Keystone Food & Beverage Co. dba KEYSTONE RANCH; Hotel & Restaurant with Optional Premises; Mark Kimball; located at 1239 Keystone Ranch Road, Keystone, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**
- L. Liquor License Modification for POWDR-COPPER MOUNTAIN LLC dba Copper Mountain Resort; Premise Modification; Amy Geppi; located at 290 Copper Circle; Copper Mountain, CO (Clerk). **The Sheriff's report indicated no record of negative information on the establishment and stated no reason to disapprove the issuance of the license at this time; and**

MOTION: A motion was made by Commissioner Davidson and seconded by Commissioner Lawrence to approve the Consent Agenda, items A-L, and Resolutions 2020-42 and 2020-43 as referenced above.

MOTION PASSED UNANIMOUSLY BY THE BOARD PRESENT

VI. NEW BUSINESS

- A. TDR Map Amendment Revisions - change properties that have had development rights

removed from Receiving, Sending, or Neutral to "Neutral - Development Rights Removed" for the Upper Blue, Lower Blue, and Snake River Basins. (PLN19-155/Summit County Government) Upper Blue, Lower Blue and Snake River Basins.

April Kroner noted that this was a housekeeping issue with only minor changes to the maps to correct issues.

MOTION: A motion was made by Commissioner Davidson and seconded by Commissioner Lawrence to approve Resolution 2020-44, TDR Map Amendment Revisions - change properties that have had development rights removed from Receiving, Sending, or Neutral to "Neutral - Development Rights Removed" for the Upper Blue, Lower Blue, and Snake River Basins. (PLN19-155/Summit County Government) Upper Blue, Lower Blue and Snake River Basins.

MOTION PASSED UNANIMOUSLY BY THE BOARD PRESENT

VII. ADJOURNMENT

The meeting was adjourned at 1:36 p.m.

Respectfully submitted,

Approved by:

Lori Dwyer, Deputy Clerk

Karn Stiegelmeier, Chair

NOTE: These minutes are a summary of the proceedings and motions of the August 11, 2020 Board of County Commissioners' Regular Meeting. The complete digital recording is available in the Office of the Clerk & Recorder, Summit County Courthouse, 2nd Floor, 208 Lincoln Avenue, Breckenridge, Colorado 80424.

Vendor Checks by Date

Check Cut Range from: 8/1/2020 through 8/15/2020

Summit County Finance

Nbr /	Check Number	Check Date	Check Amt	Type	Total Chk Amt
10013	A1 ORGANICS				\$1,360.45
10014	A2CL INC.				\$6,350.00
10043	ALL COPY PRODUCTS INC				\$720.30
10047	ALLIED SECURITY				\$329.25
10057	ALSCO				\$568.82
10061	ALWAYS MOUNTAIN TIME LLC				\$740.00
10179	BRECKENRIDGE ANIMAL CLINIC INC				\$476.31
1129	BRECKENRIDGE MTN METRO DIST				\$11,580.45
1246	BRENNAN COLLINS				\$841.51
1016	BUCK FINLEY				\$11,279.20
1130	BUFFALO MOUNTAIN METRO DIST				\$30,421.39
10196	BUFFALO MTN ANIMAL HOSPITAL				\$261.97
10198	BUILDING TECH. SYSTEMS				\$1,300.00
12295	BURBACH & ASSOCIATES, INC.				\$70.00
10205	C.H. ROBINSON				\$4,250.00
10222	CARRIAGE HOUSE PRESCHOOL				\$13,131.01
10239	CCOM				\$1,135.00
10244	CELTIC EQUIPMENT				\$778.21
11296	CENTRAL SQUARE TECHNOLOGIES, LLC				\$35,525.23
10247	CENTURYLINK				\$1,985.75
10258	CHARLES D JONES CO				\$802.81
10267	CINTAS CORPORATION				\$138.84
12666	CIRRUSMD				\$1,196.00
10275	CIVICPLUS, LLC				\$1,500.00
10276	CIVIL INSIGHT, LLC				\$16,750.00
10329	COLORADO DEPT OF PUB HEALTH & ENV				\$15.50
1131	COLORADO MOUNTAIN COLLEGE				\$200,299.44
10350	COLORADO MOUNTAIN NEWS MEDIA				\$1,914.53
1132	COLORADO RIVER WATER CONS				\$11,251.16
10363	COLORADO STATE UNIVERSITY				\$20,000.00
10364	COLORADO STATE UNIVERSITY - EXTENSI				\$9,425.00
10371	COLUMBINE HILLS CONSTRUCTION, LLC				\$93,559.35
10373	COMCAST				\$10.59
10380	COMPLETE WIRELESS				\$530.00
1133	COPPER MOUNTAIN CONS DIST				\$69,863.73
1134	CORINTHIAN HILL METRO DIST				\$1,238.01
90500	CORONER ONE TIME				\$395.00
11655	COSTAR REALTY INFORMATION INC				\$491.41
12459	COVETRUS NORTH AMERICA				\$429.24
12727	D2 DESIGN INC				\$1,000.00
12397	DANIELLA LUGO				\$166.52
12638	DAVEY COACH SALES INC				\$150,300.00

Vendor Checks by Date

Check Cut Range from: 8/1/2020 through 8/15/2020

Summit County Finance

12209	DEB ROHLF	\$72.00
10436	DEMCO INC	\$275.43
10438	DENVER POST	\$730.95
10449	DILLON MARINA	\$530.20
11992	DR ALISON MCNEILLY	\$1,418.00
10473	EARLY CHILDHOOD OPTIONS	\$18,111.55
1136	EAST DILLON WATER DISTRICT	\$2,696.26
10478	EBMS	\$400,380.33
10486	ELECTRONIC RECYCLERS	\$3,828.25
11969	EMPLOYERS COUNCIL	\$430.00
11517	ENVIROTECH	\$3,376.50
10520	FAMILY INTERCULTURAL RESOURCE	\$18,348.34
10529	FEDERAL EXPRESS	\$201.79
10538	FIRST CALL OF COLORADO, INC	\$542.00
1265	FOURTH STREET CROSSING IMPROVEMENT	\$62.75
1264	FOURTH STREET CROSSING METRO DISTRICT	\$69.02
10554	FREDERIC PRINTING	\$21,946.26
12522	FRONTIER FIRE PROTECTION LLC	\$240.00
10569	GARTH PREUTHUN	\$216.35
10601	GRAINGER	\$144.30
11747	GRAND COUNTY BOARD OF COUNTY	\$1,225.00
11800	GRAND GRAVEL PIT LLC	\$2,176.35
12732	GRIT THERAPY	\$200.00
1138	HEENEY WATER DISTRICT	\$1,052.70
10620	HELENA CHEMICAL	\$4,277.25
10626	HIGH COUNTRY CONSERVATION	\$9,719.41
12252	IMAGE NET CONSULTING LLC	\$3,673.85
10660	INGRAM BOOK CO	\$2,823.86
10663	INSIGHT PUBLIC SECTOR	\$164,598.74
10674	INTERSTATE ENERGY	\$225.00
12773	JARED MUNEIO	\$72.00
12369	JASON DIETZ	\$80.50
12553	JASON LEDERER	\$146.05
12446	JEFFREY WILSON PHOTOGRAPHY	\$995.00
10709	JILL VESNER	\$165.77
11636	JM SILVERTHORNE LLC	\$1,864.90
12301	JUDITH L. DOMBROWSKI	\$1,165.39
10741	JUSTIN MILIZIO, DVM	\$1,626.00
12303	KATHLEEN GROSSNICKLAUS	\$656.61
1139	KREMMLING MEM HOSPITAL DIST	\$3,164.64
1140	LAKE DILLON FIRE PROT DIST	\$199,285.40
10796	LAKE DILLON PRESCHOOL	\$12,166.04
10804	LASER GRAPHICS	\$1,384.20

Vendor Checks by Date

Check Cut Range from: 8/1/2020 through 8/15/2020

Summit County Finance

12285	LAURA VERONICA CHAVEZ	\$378.45
12302	LINDA FARRELL	\$531.04
1280	LISA J TAYLOR	\$5,758.11
10823	LITTLE RED SCHOOLHOUSE	\$13,208.04
1141	LOWER BLUE FIRE PROT DIST	\$467.81
10842	MANSFIELD OIL COMPANY	\$15,221.82
1067	MARGARET MCCLURE	\$5,453.66
10854	MARSHALL & SWIFT	\$3,288.87
10865	MAYA KULICK	\$10.18
10873	MESA OIL	\$679.10
1142	MIDDLE PARK WATER CONS DIST	\$2,274.24
10891	MIDWEST TAPE	\$641.37
10905	MOTOROLA	\$98,495.00
10912	MOUNTAIN PARKS ELECTRIC	\$102.04
10959	NEWCLOUD NETWORKS	\$2,836.05
11568	NORTHWEST COLORADO COUNCIL OF	\$89,139.54
10972	NURSE-FAMILY PARTNERSHIP	\$895.00
10976	OFFICE DEPOT	\$153.04
11949	OPEN ARMS CHILDCARE AND PRESCHOOL	\$6,262.53
10994	OVERDRIVE, INC.	\$1,170.53
11614	PEAK MATERIALS	\$1,142.91
11009	PEAK PERFORMANCE	\$238.17
11034	POWER EQUIPMENT COMPANY	\$5,413.70
11039	PRIORITY DISPATCH	\$6,023.00
11043	PROFESSIONAL COMPLIANCE & TESTING	\$422.00
90820	PUBLIC TRUSTEE ONE TIME	\$27,878.46
12652	QUADIENT LEASING USA, INC	\$418.74
11786	QUEST DIAGNOSTICS	\$1,800.00
1251	RALPH K. SPENCER III	\$1,633.63
12165	RDP BARRICADE CO, LLC	\$683.28
1143	RED, WHITE & BLUE FIRE PROT DIST	\$216,281.75
11089	RESOURCE ENGINEERING	\$3,321.00
11113	ROCKY MOUNTAIN COFFEE ROASTERS	\$131.25
11119	ROCKY MOUNTAIN MONTESSORI	\$11,064.68
11166	SCHOOL SPECIALTY INC	\$71.41
10956	SECURITY SERVICES, LLC.	\$1,206.48
11192	SHOWCASES	\$13.18
11193	SHRED-IT USA LLC	\$107.17
10897	SOUDER, MILLER & ASSOCIATES	\$4,749.50
1144	SOUTH MARYLAND CRK RANCH METRO DIST	\$8,338.23
12493	SPRING BACK COLORADO INC.	\$1,000.00
11100	STANTEC ARCHITECTURE INC.	\$13,403.60
11246	STATE OF COLORADO	\$2,460.83

Vendor Checks by Date

Check Cut Range from: 8/1/2020 through 8/15/2020

Summit County Finance

11266	SUMMIT ASSOCIATION OF REALTORS	\$500.00
11271	SUMMIT COMMUNITY CARE CLINIC	\$232.00
11277	SUMMIT COUNTY PRESCHOOL	\$25,837.91
11940	SUMMIT EMBROIDERY	\$435.00
11281	SUMMIT JANITORIAL SYSTEMS INC.	\$600.00
11287	SUMMIT ROLL-OFFS	\$175.00
1145	SUMMIT SCHOOL DISTRICT RE-1	\$803,331.98
1146	SUMMIT SCHOOL DISTRICT RE-1	\$143,965.08
11288	SUMMIT SCHOOL DISTRICT RE-1	\$5,317.46
1148	SWAN'S NEST METRO DIST	\$1,248.38
12455	TAB ASSOCIATES, INC	\$3,256.25
11317	TEAM CLEAN	\$21,844.73
11899	TERRACYCLE REGULATED WASTE LLC	\$545.00
11989	TETRA TECH, INC.	\$101,339.24
11670	THIMGAN & ASSOCIATES	\$2,800.00
1149	TIMBER CREEK WATER DISTRICT	\$614.74
11355	TIMBERLINE DISPOSAL LLC	\$50.00
11356	TIMBERLINE LEARNING CENTER	\$16,927.00
1150	TOWN OF BLUE RIVER	\$6,618.54
1151	TOWN OF BRECKENRIDGE	\$102,954.84
11367	TOWN OF BRECKENRIDGE	\$81.57
1152	TOWN OF DILLON	\$14,461.80
1153	TOWN OF FRISCO	\$9,138.00
1154	TOWN OF MONTEZUMA	\$61.73
1155	TOWN OF SILVERTHORNE	\$7,465.13
11417	USIC LOCATING SERVICES, LLC	\$3,842.78
11419	UTILITY NOTIFICATION CENTER	\$916.35
11421	VALUEWEST, INC.	\$2,950.00
12476	VISIONARY COMMUNICATIONS	\$1,485.00
11432	VOIANCE LANGUAGE SERVICES, LLC	\$531.31
11440	WAGNER EQUIPMENT	\$1,071.95
12445	WEAVER HOLDINGS LLC	\$1,766.00
1156	WEST GRAND SCHOOL DISTRICT	\$4,505.59
1157	WEST GRAND SCHOOL DISTRICT	\$1,547.35
11464	WESTERN SLOPE SUPPLIES	\$312.45
12744	WOLD ARCHITECTS INC	\$1,345.30
11478	XCEL	\$13.49
11538	XEROX FINANCIAL SERVICES	\$1,890.84
12349	ZW USA, INC	\$50.08



assignment of allocation - county

Multifamily Housing Facility Bonds/Single Family Mortgage Revenue Bonds

This Assignment of Allocation (the "Assignment"), dated this _____ day of _____, 2020, is between the County of _____ Colorado (the "Assignor" or the "Jurisdiction") and Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental projects for low- and moderate-income persons and families; and

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single- family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to finance such projects and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2020 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2020, (the "2020 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the Jurisdiction, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2020 Allocation; and

WHEREAS, the Assignor has determined that the 2020 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2020 Allocation assigned herein; and

WHEREAS, the Board of County Commissioners of the Assignor has determined to assign to the Assignee all or a portion of its 2020 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$_____ of its 2020 Allocation [the "Assigned Allocation"], subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of the Assigned Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than the Assigned Allocation, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of one (1) year from the date of this Assignment to finance multifamily rental housing projects located in the Jurisdiction, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the Jurisdiction.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the Assigned Allocation as an allocation for a project with a carryforward purpose or to make a mortgage credit certificate election, in lieu of issuing Revenue Bonds.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multi-family rental housing project located in the Jurisdiction or elsewhere or to finance single-family mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans or mortgage credit certificates to finance single-family housing facilities in the Jurisdiction, provided that any Revenue Bond proceeds attributable to the Assigned Allocation shall be subject to paragraph 2 above.

6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

County of _____, Colorado

By: _____

Name: _____

Title: _____

COLORADO HOUSING AND FINANCE
AUTHORITY

By: _____

Name: _____

Title: _____

RESOLUTION NO. 2020-

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION AUTHORIZING ASSIGNMENT TO THE COLORADO HOUSING AND FINANCE AUTHORITY OF A PRIVATE ACTIVITY BOND ALLOCATION OF SUMMIT COUNTY PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

WHEREAS, the County of Summit is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental projects for low- and moderate-income persons and families; and

WHEREAS, the County of Summit is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, Summit County has an allocation of the 2020 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to **September 15, 2020** (the "2020 Allocation"); and

WHEREAS, Summit County has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the County of Summit and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2020 Allocation; and

WHEREAS, Summit County has determined that the 2020 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") or for the issuance of mortgage credit certificates; and

WHEREAS, the Board of County Commissioners of Summit County has determined to assign \$1,644,537 of its 2020 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the County of Summit and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SUMMIT, STATE OF COLORADO, THAT:

1. The assignment to the Authority of \$1,644,537 of Summit County's 2020 Allocation be and hereby is approved.

2. The form and substance of the Assignment of Allocation is approved; provided, however, that the Board of County Commissioners is authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as they shall deem necessary or appropriate and not inconsistent with the approval thereof by this resolution.

3. The Board of County Commissioners of Summit County and all County officials and employees are authorized to execute and deliver the Assignment of Allocation on behalf of Summit County and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this resolution.

4. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

5. This resolution shall be in full force and effect upon its passage and approval.

ADOPTED THIS 25th DAY OF AUGUST, 2020.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**

ATTEST:

Karn Stiegelmeier, Chair

Kathleen Neel, Clerk & Recorder



HOUSING DEPARTMENT

970.668.4210

www.SummitCountyCO.gov

0037 Peak One Dr. PO Box 5660

Frisco, CO 80443

STAFF REPORT

TO: Board of County

Commissioners **FROM:** Jason Dietz,

Housing Director

Keely Ambrose, Assistant

County Attorney

FOR: August 25, 2020 Regular

Meeting

SUBJECT: Dillon Valley Vistas Signatory for Sales Contract and Authorization to Sign Deeds

Background and Purpose:

On August 18, 2020, the BOCC held a work session and discussed the Dillon Valley Vistas Purchase and Sales Agreement ("PSA"), including having the County Manager sign the PSA. A resolution has been prepared that authorizes the County Manager, Scott Vargo, to sign the PSA for the purpose of facilitating the sale of Dillon Valley Vistas affordable workforce housing units. The resolution also authorizes the Chair of the BOCC, and the Vice-Chair if necessary, to sign the deeds and associated closing documents for the sale of Dillon Valley Vistas affordable workforce housing units on behalf of the BOCC.

**PURCHASE AND SALE AGREEMENT
FOR DILLON VALLEY VISTAS**

This Purchase and Sale Agreement (the "Agreement") is entered into between Summit County Government, a body corporate and politic, ("Seller"), and _____ ("Buyer(s)"). If more than one Buyer, Buyers shall take title to the real property described below as: Tenants in Common, Joint Tenants, Other _____. For purposes of this Agreement, Escrow Agent means Land Title Guarantee Company, Dillon, Colorado, 80435; Phone number (970) 262-1883.

1. **THE PROPERTY.**

(a) **Real Property.** Seller agrees to sell and Buyer agrees to purchase the real property described below:

Lot__ / Unit __, DILLON VALLEY VISTAS PUD, according to the plat/map recorded in the records of the Summit County Clerk & Recorder, Summit County, Colorado,

also known as _____, Summit County, CO 80435,

and the attached Home and other improvements to be constructed in substantial accordance with the marketing plans (the "Plans") prepared by TAB Associates Inc. and the standard features (the Lot/Unit and improvements together are referenced below as the "Home" or the "Property"). The Property will be a part of that project known as Dillon Valley Vistas (the "Project").

(b) **Personal Property.** The Purchase Price will include lighting, heating, plumbing, fixtures, mirrors, range/oven, microwave, dishwasher, refrigerator, washer and dryer itemized in the standard features. Personal property will be conveyed by Bill of Sale.

(c) **Completion of Infrastructure.** Seller will construct all roads, water and sewer systems and utilities for the Property in accordance with approved Plans and applicable County standards. Buyer understands that all infrastructure to serve the Property, including electricity, natural gas and communications utilities, roads, water and sewer service will be complete at the time of closing.

2. **PURCHASE PRICE.** Buyer will pay Seller the Purchase Price for the Property the sum of _____ U.S. Dollars (\$ _____) payable as follows:

(a) **Earnest Money Deposit.** An Earnest Money deposit of \$2,500 (“**Deposit**”) shall be paid by Buyer to Escrow Agent simultaneously with Buyer's delivery of this Agreement. Escrow Agent shall hold the Deposit in its trust account for Buyer and Seller. Unless Buyer terminates this Agreement in accordance with Paragraph 3(a) below, the Deposit shall be deemed to be earned by Seller as of the end of the Due Diligence Period and at such time, the Deposit shall become non-refundable to Buyer in all events except for a default by Seller hereunder. The Deposit shall be applied against the Purchase Price at Closing.

(b) **Funds at Closing.** At Closing, the Buyer shall pay to Seller, in Good Funds, the sum of _____ Dollars (\$ _____), representing the Purchase Price less the Deposit, plus customary closing costs.

(c) **Working Capital Account Contribution.** Buyer agrees to pay to the Dillon Valley Vistas Homeowners Association (the “Association”) at Closing a non-refundable payment equal to three times the monthly installment of the Periodic Assessment for the Lot to be held without interest by the Association to meet unforeseen expenditures, acquire additional services or equipment for the Owners or as a maintenance reserve. Periodic Assessments shall be determined based on the current estimated annual budget for Association operations.

(d) **Good Funds.** All payments required under this Agreement shall be paid by means of cash, certified check, electronic transfer funds or other means of payment which comply with applicable good funds laws. **Seller strongly recommends only relying on wiring instructions that come from a secure source such as in person communication, a phone call that you initiated, or through secure mail or package services. Escrow Agent will only use secure email to send wire transfer information.**

3. DUE DILIGENCE; FINANCING.

(a) **Due Diligence Period.** Buyer shall have forty five (45) days from the date of this Agreement (the “Due Diligence Period”) to: (i) make or obtain, at the expense of Buyer, such investigations of the Property as Buyer deems necessary; (ii) review the Dillon Valley Vistas Homeowners Association Documents described in Paragraph 6 below (the “Association Documents”); and (iii) review and approve the Commitment for Title Insurance described in Paragraph 4 below. During the Due Diligence Period, Buyer or their designated agents shall have access to the Property for purposes of performing any investigations as Buyer shall desire so long as Buyer and their agents are accompanied by Seller’s representative. Buyer can contact Seller’s broker to schedule an appointment for any inspection.

(b) **Notice to Terminate.** If Buyer determines in Buyer’s sole discretion that any of Buyer’s investigations reveal any matters unacceptable to Buyer or that the Title Commitment or any of the Dillon Valley Vistas Homeowners Association Documents are unsatisfactory, Buyer may, prior to the expiration of the Due Diligence Period, provide written notice to Seller terminating this agreement, in which event the Initial Earnest Money Deposit shall be returned to Buyer. If no notice is received by the Seller within the Due Diligence Period Buyer’s right to terminate this Agreement shall be deemed waived. If Buyer does not terminate this Agreement within the Due Diligence Period, then the Association Documents, the Title Commitment and all other matters relating to the Property shall be deemed approved by Buyer, and Buyer irrevocably waives any further right to terminate this Agreement or obtain a refund of the Deposit except where such right is expressly provided and grounds for such termination exist under other paragraphs of this Agreement.

(c) **Loan Objection.** If Buyer is to pay all or part of the Purchase Price with a new

loan, this Agreement is conditional upon Buyer determining whether the new loan is satisfactory to Buyer, in Buyer's sole subjective discretion including its availability, payments, interest rate, terms, conditions, and cost of such new loan. This condition is for the sole benefit of Buyer. Buyer has the right to terminate this Agreement on or before forty five (45) days before the Completion Date ("Loan Objection Deadline"), if Buyer on or before the Loan Objection Deadline notifies Seller that the new loan is not satisfactory to Buyer. If Buyer delivers such notice to terminate the Deposit will be returned to Buyer and this Agreement will be terminated. **If Seller is not in default and does not timely receive Buyer's written notice to terminate, Buyer's Deposit will be nonrefundable**, except as otherwise provided in this Agreement.

(d) **Damages, Liens & Indemnity.** Buyer agrees to indemnify and hold harmless Seller from and against any liability or claims asserted against Seller, the Property or the Project with respect to any investigations by Buyer or with respect to any entry onto the Project prior to closing by Buyer or any agent, employee or invitee of Buyer and without limit to any other right or remedy, Seller shall resort to Buyer's Deposit to satisfy this indemnity.

4. **TITLE INSURANCE.** A current Commitment for an Owner's Title Insurance Policy (the "Title Commitment") in an amount equal to the Purchase Price and copies of all exceptions of record not included among the Association Documents shall be furnished by Seller, at its expense, to Buyer within fifteen (15) days after signature of this Agreement by all parties. After Closing, Seller will, at its expense, cause an Owner's Title Insurance Policy (the "Policy") to be issued and delivered to Buyer.

5. **TITLE OBJECTIONS.** If title is unmerchantable and written notice of such defects rendering title unmerchantable is given to Seller before the expiration of the Due Diligence Period, Seller shall have the option to either: (i) cause such matters that are the subject of the notice of defects to be removed or remedied prior to Closing, (ii) obtain prior to Closing an endorsement to the Title Commitment showing the matters that are the subject of the notice of defects to be insured over and Seller shall pay the full premium for such additional insurance or (iii) terminate this Agreement whereupon Buyer shall be entitled to a prompt refund of the Deposit. Seller shall have no obligation to remove or remedy any matters which are the subject of Buyer's notice of defects. Mineral reservations appearing in patents or other documents of record shall not be the subject of any objections to title on the part of Buyer so long as the company issuing the Title Commitment will, at the expense of Buyer, commit to affirmatively insure over such reservations. There are no water rights to be conveyed with the Property.

6. **RECEIPT FOR ASSOCIATION DOCUMENTS.** Buyer acknowledges receipt of the following Association Documents:

- (a) Dillon Valley Vistas Site Plan
- (b) Declaration of Covenants, Conditions and Restrictions for Dillon Valley Vistas (the "Declaration") and Restrictive Housing Covenant For Dillon Valley Vistas PUD;
- (c) Articles of Incorporation, Bylaws and Rules and Regulations for the Association;
- (e) Estimated Budget;
- (d) Summary soils report and recommendations;
- (e) Limited Warranty.

Buyer understands that any site plan or plat of the Project showing potential completion of all Homes and Lots is illustrative of how the Project could be developed in the future, but may be changed by Seller. Seller reserves the right to amend the Association Documents, specifically including the Declaration, Plats and site

plans at any time before and after the Closing Date, as Seller deems necessary to address market conditions, make any necessary corrections or to meet the requirements of applicable laws, governmental regulations, or federal agencies which guarantee or purchase federal loans. Seller reserves the right to amend the Declaration to add Lots, Homes and common elements to the Project as permitted by the Declaration.

7. CONSTRUCTION OF THE PROPERTY.

(a) **Plans and Specifications.** Improvement will be constructed upon the Property, in substantial conformance with the Plans approved by the applicable governmental authority in which the Property is located. Buyer acknowledges and agrees that Seller reserves the right to make changes or substitutions in the construction of the Property: (i) as may be required, authorized or approved by any governmental entities or agencies; or (ii) as Seller may deem appropriate provided such change does not impair the quality of construction or (iii) materially change the floor plan or reduce the area of the Home by no more than 3%. **Buyer has reviewed and accepted the Marketing Floor Plans and has independently verified square footages contained therein.** Any model home shown to or reviewed by Buyer is only for illustration and may contain upgrades. Buyer should review the Standards Sheet which is part of the Plans to confirm the specifications for the Property.

(b) **Changes to Plans.** Buyer agrees that no changes to the Plans or options or upgrades to the standard features desired by Buyer are binding upon Seller unless the change is made in writing on Seller's Selection Upgrade Sheets and Seller and the Project contractor approve the change in writing. Upon the satisfaction of all of the conditions listed below, Buyer shall be entitled to negotiate with Seller, concerning changes Buyer wishes to have effected to the Property ("Buyer's Modifications"): (i) no modifications can be made to the exterior of the Property; (ii) all modifications must be made to the Property by the Project Contractor; (iii) no modifications can be made which will delay the completion of the improvements; and (iv) all Buyer's Modifications are fully paid for at the time the change order is entered into.

(c) **Buyer's Work Prohibited.** Prior to Closing, Buyer will not perform any physical work on the Property nor interfere with any construction of the Project. Direction and supervision of the construction of the Home rests exclusively with Seller. **Buyer will not give any directions to any work man. Buyer must make an appointment with Seller to schedule any inspection until Closing.** Buyer shall not contract for additional work with Seller's contractors or subcontractors prior to Closing. Buyer agrees that no work will be permitted within the Home by anyone other than Seller until title is transferred. Buyer's obligations under this paragraph shall survive the closing. Should Buyer terminate this Agreement under circumstances where Buyer shall be entitled to a refund of the Deposit then, as a condition to receiving such refund, Buyer shall provide Seller with a written indemnity that there exists no outstanding monies due any person the non-payment of which would give rise to a lien right against the Property.

(d) **Selection.** There will be Selection Sheets, cabinet layouts and floorplans that all need to be approved and signed by Buyer. Once signed, these selections will be considered final acceptance by Buyer. Where any items called for or described in the Plans or the specifications require input or a selection from the Buyer such as a selection of colors, finishes or materials, the Buyer shall deliver a signed Selection Sheet to the Seller indicating the selection desired by Buyer on or before _____. The failure of the Buyer to provide such Selection Sheet will constitute a waiver of the Buyer's right to make a selection and the Seller shall then be free to make a selection on behalf of the Buyer. Seller has chosen products that have natural variations to keep with the rustic theme. Natural variations include knots, grain color change, veining and color changes and texture changes. These variations are to be expected and will not be "fixed." Carpet, granite and tile may have shade differences due to dye lot which is considered standard and will not be "fixed." If selection is unavailable the next closest option will be chosen by Seller on behalf of Buyer.

(e) **Estimated Completion Date.** Seller shall proceed with reasonable diligence to construct the Home, and to complete such construction on or before _____ (the "Completion Date.") A Final Completion Date shall be provided within four (4) weeks of completion. The Completion Date will

automatically be extended as a result of a delay in the delivery of the Home, inability to obtain materials and supplies, delays caused by weather and/or acts of God, or for any other reason resulting from conditions beyond the control of the Seller.

8. **PUNCH LIST.** Within ten (10) days prior to the Closing, Buyer's and Seller's representatives shall inspect the Property and compile a list of defective or incomplete items (the "Punch List"). Seller will diligently prepare completion or correction of all items on the Punch List within forty-five (45) Days after Closing. Such forty-five (45) day period of time shall be extended due to conditions beyond the control of the Seller. The Closing will not be delayed nor will any escrow be required to assure completion of the Punch List items. The Buyer acknowledges that on the Closing Date, the landscaping and other exterior improvements included but not limited to the driveway and exterior painting appurtenant to the Property and in the Project may not be completed, but that Seller will complete as soon as practical, according to plans approved by Summit County.

9. CLOSING; TITLE

(a) **Closing Date.** Closing will be held upon completion of the improvements on the Property after notice of completion has been given by Seller to Buyer. The term "Completion" means a date subsequent to the issuance of a final or temporary certificate of occupancy or inspection approval authorizing occupancy by Summit County and also when the Seller deems the improvements to be complete and a final plat has been approved. The date, time and place of Closing shall be designated by the Seller on the first business day after delivery of the Notice of Completion or at such other date as is mutually agreeable to both parties. Possession of the Property will be delivered to the Buyer at Closing. Should Buyer not close at the time and place designated by Seller, then Buyer may be deemed in default of the contract. Buyer acknowledges that any interest rate lock Buyer desires should be discussed with its lender and that Seller is not responsible for interest rate changes if Closing is delayed for any reason, including satisfaction of lending or regulatory requirements. If, after Seller gives notice of Completion, and if Seller agrees to delay the Closing date for more than 14 days after Completion to accommodate Buyer or its lender, Buyer agrees that the Purchase Price stated in paragraph 2 above will increase at the rate of 4% per annum for each day after Completion until Closing occurs.

(b) **Transfer of Title.** Conditioned on the payment or tender of the Purchase Price and compliance with the other terms and satisfaction of conditions by Buyer as required in this Agreement, Seller shall execute and deliver a good and sufficient Special Warranty Deed to Buyer at Closing, conveying the Property free and clear of all liens and encumbrances except the following: general taxes for the year of Closing and thereafter, the West Hills Homeowners Association Documents, any matters referred to in the Title Commitment to which Buyer has not objected, all building, zoning and other land use regulations affecting the Property, and any other title exceptions which do not render title unmarketable. Buyer shall not be relieved of Buyer's obligation to close the purchase of the Property by virtue of the mechanic's lien claims that Seller disputes in good faith and for the ultimate discharge of which Seller and the company providing the Title Commitment shall remain responsible.

(c) **Closing Costs, Documents and Services.** Buyer and Seller shall sign and complete all customary or required documents at or before Closing. Title Company fees for real estate closing and settlement services shall be paid at Closing one-half by Buyer and one-half by Seller. Buyer and Seller shall pay their customary closing costs at Closing.

(d) **Proration of Taxes.** General real estate taxes (based on the most recent levy and assessment) and assessments, general or special, if any, for the year in which the conveyance occurs will be prorated between Seller and Buyer to the date of closing, based on Escrow Agent's best estimate thereof. Such proration shall be final. Buyer agrees to assume and pay any and all further taxes and assessments affecting the Property.

(e) **Other Matters.** Any encumbrances to be paid by Seller may be paid at the time of closing from the proceeds of this transaction or from any other source.

10. **ESCROW AGENT.** This Agreement shall constitute escrow instructions to the Escrow Agent or such other reputable escrow agent located in Colorado as Seller may select. Closing under this Agreement shall be through the Escrow Agent. Any other provisions of this Agreement to the contrary notwithstanding: (i) all money, documents and other items required hereunder to be paid or delivered by any party to another party shall be deposited on or prior to Closing Date with Escrow Agent for payment or delivery to such other party; (ii) when the Escrow Agent ascertains to its reasonable satisfaction that it is ready and able upon Closing to issue the Policy as provided in Paragraph 4 above, the Escrow Agent shall effect the Closing by causing the deed to be recorded in the office of the Clerk and Recorder of Summit County, Colorado, and shall instruct said Clerk and Recorder to mail the deed after recordation to Buyer at its address set forth below, and (iii) upon the Closing, the Escrow Agent shall disburse or deliver all funds, documents and other items deposited and then remaining in escrow to the party entitled thereto pursuant to this Agreement. Buyer and Seller agree that the Escrow Agent shall be responsible only for the safekeeping of the funds, documents and other items deposited in the escrow and for the disposition of same in accordance with this Agreement, together with the performance of any other written instructions executed by Buyer and Seller and accepted by Escrow Agent. If any conflicting demands are made upon Escrow Agent, Escrow Agent may at its sole discretion hold all money, documents and things of value until receipt of mutual written instructions from Seller and Buyer.

11. **DEFAULT.** If Buyer fails to make any payment required by this Agreement within the time such payment is required to be made, or if Closing on the Closing Date for any reason cannot be held as a result of fault, delay or failure of the Buyer, Seller shall have the right, at its option, to terminate this Agreement. Upon such termination, Buyer shall be obligated to Seller in an amount equal to the Deposit paid by Buyer under this Agreement, which amount shall be considered as liquidated damages. Should Seller be unable, or refuse, to complete and close the sale of the Property hereunder, the Buyer may elect to treat this Agreement as terminated in which case all Deposits, including any Deposits for Options/Upgrades, shall be returned to Buyer, as the Buyer's sole and exclusive remedy. **The remedies set forth herein shall be the sole and exclusive remedies of the parties and Buyer waives to the maximum extent provided by applicable law any right or claim to specific performance and to damages, whether actual, consequential, special, punitive or otherwise, resulting as a consequence of any breach or default hereunder by Seller.**

12. **PROHIBITION AGAINST ASSIGNMENT AND RECORDATION.** This Agreement shall not be assigned or recorded by Buyer. If this Agreement is assigned or recorded by Buyer, the Seller may at its election terminate this Agreement and retain all Deposits made by Buyer as liquidated damages. Any attempted assignment of this Agreement will be void. The recording of this Agreement shall not be construed as constituting a cloud upon the title or affecting any sale or conveyance thereafter as any such recording is a nullity. If this Agreement is terminated by Seller as allowed in this Paragraph, recordation of a notice of the termination of this Agreement by Seller shall constitute a quit claim unto Seller of any and all right, title and interest Buyer may have in and to the Property. Buyer irrevocably appoints Seller their attorney-in-fact for the purpose of executing, delivery and recording such notice of termination.

13. **NOTICES.** Any and all notices to any of the parties permitted under this Agreement shall be deemed given when hand delivered, e-mailed with verification that the other party has received such e-mail transmission, transmitted by facsimile machine, or the parties may use Federal Express or other overnight carrier, in which event such notice shall be deemed given the next business day. Said notices shall be addressed to such party at the addresses set forth on the signature page of this Agreement or otherwise designated by such party for such purpose.

14. **FIRPTA REPORTING REQUIREMENTS.** Seller represents it is not a foreign partnership (i.e., limited liability company) as such term is defined in Section 1445 of the Internal Revenue Code as amended and regulations issued thereunder. The parties understand that Seller's Federal Employer Identification Number,

Buyer's social security number together with any other information relating to the transaction herein described, may be disclosed to the Internal Revenue Service by either of the parties or by Escrow Agent in compliance with reporting requirements imposed by law. At closing, Seller shall deliver to Buyer a Non-Foreign Affidavit containing such information as required by Internal Revenue Code Section 1445(b)(2) and the regulations issued thereunder.

15. **SUMMIT COMBINED HOUSING AUTHORITY.** Pursuant to CRS § 12-61-101(2)(b)(II), the Summit Combined Housing Authority (SCHA) is not a "real estate broker" as defined by law, and is not subject to regulation by the Colorado Real Estate Commission. Accordingly, any reference to the "Brokerage Firm" in this Agreement is not meant to refer to SCHA acting as a "real estate broker" as that term is defined by law, but is instead to SCHA acting as a multi-jurisdictional housing authority and as a public official in the conduct of its official duties as described in Section 12-61-101(2)(b)(II), C.R.S. SCHA when acting as a Transaction Broker will perform all of its duties in conformance with Colorado law applicable to transaction brokers, CRS § 12-61-807.

16. DISCLOSURES REQUIRED BY COLORADO LAW

(a) Common Interest Community Disclosure: **THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. BUYERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. BUYERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**

(b) Special Taxing Districts Disclosure. **SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS THE PROPERTY IS SUBJECT TO BY CONTACTING THE COUNTY TREASURER'S OFFICE, REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND OBTAINING ANY FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

(c) Oil, Gas, Water and Mineral Disclosure:

(i) **THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE**

OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.

(ii) SURFACE USE AGREEMENT: THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

(iii) OIL AND GAS ACTIVITY: OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.

(iv) ADDITIONAL INFORMATION: BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

17. **NOTICE REGARDING SOURCE OF POTABLE WATER.** Pursuant to Colorado law, Seller provides the following disclosure. THE SOURCE OF POTABLE WATER FOR THE PROPERTY IS A WATER PROVIDER WHICH CAN BE CONTACTED AS FOLLOWS:

NAME:	Dillon Valley District
ADDRESS:	P.O. Box 3428, Dillon, CO 80435-3428
WEB SITE:	www.dillonvalleydistrict.com
TELEPHONE:	(970) 668-5500

SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. BUYER MAY WISH TO CONTACT THIS WATER PROVIDER TO DETERMINE THE LONG- TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.

18. **CARBON MONOXIDE ALARMS.** Seller will install an operational carbon monoxide alarm within fifteen feet of the entrance to each bedroom or in a location as required by the applicable building code.

19. **EFFECT OF THIS AGREEMENT.** The delivery of this Agreement to the Buyer by the Seller shall not constitute an offer binding upon the Seller nor shall Seller have any obligation thereunder until such time as Seller receives this Agreement properly executed by the Buyer and accompanied by the Initial Earnest Money Deposit and is further conditioned upon Seller's execution of this Agreement and the delivery of a copy thereof to Buyer.

20. MISCELLANEOUS.

(a) **Entire Agreement.** This Agreement constitutes the entire contract and understanding between Buyer and Seller with respect to the subject matter hereof and all previous negotiations and statements are hereby merged into this Agreement. Neither Buyer nor Seller shall be bound by any terms, conditions, statements or representations, oral or written, not confirmed in this Agreement or the Association Documents. Each party acknowledges that in the execution of this Agreement, it has not been induced, persuaded or motivated by any promise or representation made by the other party unless expressly set forth herein. This

Agreement can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of Seller and Buyer.

(b) **Binding Effect.** This Agreement shall be binding upon the parties hereto, their heirs, successors and assigns.

(c) **Colorado Law.** This Agreement is made and entered into in the State of Colorado and shall be construed in accordance with the laws of that State. Should any dispute arise between the parties hereto concerning any provision of this Agreement, the Dispute Resolution provisions set forth in Section 21, below, shall govern and be mandatory.

(d) **Electronic Execution.** As an alternative to physical delivery, this Agreement and any written notice may be delivered in electronic form by facsimile or e-mail. Documents with original signatures shall be provided upon the request of either party.

(e) **Counterparts.** This Agreement may be executed in counterparts by each party separately and such copies taken together shall constitute one Agreement binding on all of the parties.

(f) **Further Acts.** Buyer agrees upon Seller's request to promptly perform such further acts and execute and deliver such further agreements or documents as may be reasonably necessary to effectuate and carry out the provisions of this Agreement. Buyer agrees to provide the Title Company with Buyer's taxpayer identification number, social security number or employee identification number.

(g) **Time of the Essence.** Time is of the essence in the performance of any and all provisions of this Agreement.

(h) **Survival.** All of the provisions and conditions of this Agreement that are not contemplated to have been satisfied upon Closing or of an ongoing character or nature, shall survive the sale to Buyer and shall not be merged therein.

(i) **Time Periods.** If any time period referred to in this Agreement shall end on a Saturday, Sunday or legal holiday, such time period shall automatically be extended to the first regular business day thereafter.

(j) **Forfeiture of Earnest Money.** In the event of forfeiture of the Deposit by Buyer, all sums forfeited shall automatically become the sole property of Seller.

(k) **Recommendation of Legal Counsel.** Buyer acknowledges that Seller and the real estate brokers participating in the transaction represented by this Agreement have advised that this Agreement has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this Agreement.

(l) **Commission Rule E-37.** Closing services shall be provided by a title insurance company designated by the Seller. The fee charged for such services, not to exceed \$300, shall be divided equally between the Buyer and the Seller at Closing.

(m) **Interim Inspections.** Buyer understands and agrees that during the construction of the Project, due to hazardous conditions and insurance and security requirements, neither Buyer nor his representatives shall go on the Project or inspect the Property unless accompanied by an authorized representative of Seller. Buyer's Broker must schedule an appointment with Seller's Broker for any interim inspection.

(n) **RESPA Disclosure.** As required by the Real Estate Settlement Procedures Act of 1974, Buyer acknowledges that Seller has not directly or indirectly required Buyer, as a condition of sale, to purchase either an owner's or mortgagee's title insurance Policy from any particular title company. Seller advises Buyer that it will purchase, at Seller's sole cost and expense, an Owner's Policy of Title Insurance from a title company selected by Seller. Buyer may elect to change such insurance to a company of its choice and shall pay at Closing, that portion, if any, of the title insurance premium charged by the title insurance company selected by Buyer in excess of the premium that would have been charged by the title insurance company initially selected by Seller.

(o) **Price and Agreement.** Buyer acknowledges and agrees that the Purchase Price is the result of an arm's-length negotiation with Seller and is not based on (i) any agreement guaranties, promises, representations or warranties concerning property values, or (ii) the past, present, or future prices paid or to be paid for other Lots in the Project. Buyer further acknowledges and agrees that Seller has no obligation to take any action or refrain from taking any action in connection with the development or marketing of any property in the Project that would support or enhance the value of the Property.

(p) **Radon Gas.** The Colorado Department of Health and the United States Environmental Protection Agency (the "EPA") have detected elevated levels of naturally occurring radon gas in certain areas throughout the State of Colorado. The EPA has voiced concerns about the possible adverse effects to human health from the long term exposure to high levels of radon gas. Buyer is hereby advised that Seller is not qualified and has not undertaken to evaluate all aspects of this issue and that, with respect to the Property, Seller has made no representations or warranty, express or implied, concerning the presence or absence of radon gas in the soils at or adjacent to the Property. Buyer hereby (i) acknowledges that it has read the foregoing disclosure and fully understands its content and (ii) for itself, its heirs, administrators, executors, successors and assigns, releases Seller from any and all liability with respect to the matters discussed in this paragraph.

(q) **Investments and Rental Income.** Buyer acknowledges that neither Seller, Broker, nor any of their respective employees, agents or sales agents, have represented or offered the Lot as an investment opportunity for appreciation of value or as a means of obtaining income from the rental thereof. Buyer acknowledges that neither Seller, Broker, nor any of their respective employees, agents or sales agents, have made any representations as to rental or other income from the Lot or as to any other economic benefit, including possible advantages from the ownership of the Lot under federal or state tax laws, to be derived from the purchase of the Lot.

21. **DISPUTE RESOLUTION PROCEDURES; MEDIATION, ARBITRATION.** Any claim arising out of or related to this Agreement which is not resolved through negotiation, shall be subject to mandatory mediation as a condition precedent to the institution of further legal proceedings as set forth herein, and then only through arbitration.

(a) Mediation. A demand for mediation shall be served by the claiming party on the other party within thirty (30) days of the dispute, and a mutually agreeable mediator with a minimum of 10 years' experience in real estate law shall be immediately chosen. The mediation shall be held in Summit County, Colorado, unless otherwise agreed by the parties. The parties shall share the mediator's fee and any filing fees equally.

(b) Arbitration. In the event that mediation is unsuccessful, then any dispute, controversy or claim arising out of or relating in any way to this Agreement, including without limitation any dispute concerning the construction, validity, interpretation, enforceability or breach, shall be exclusively resolved by binding arbitration upon a party's submission of the dispute to arbitration. The demand for arbitration shall be made within a reasonable time after the close of Mediation, and in no event shall it be made after 30 days from the end of Mediation. This agreement to arbitrate shall be specifically enforceable. The arbitration shall be conducted by one arbitrator and if the Parties are not able to agree upon the selection of an arbitrator, within fourteen days of commencement of an arbitration proceeding by service of a demand for arbitration, the arbitrator shall be selected by the American Arbitration Association in accordance with the terms of this agreement. The arbitrator shall have

a minimum of ten years of experience in real estate law and shall also have served as an arbitrator at least three times prior to their service as an arbitrator in this arbitration. The arbitration shall be conducted in accordance with the then existing Commercial Rules of the American Arbitration Association, or as mutually agreed upon by the parties. It is the intent of the parties that, barring extraordinary circumstances, arbitration proceedings will be concluded within one hundred and twenty days from the date the arbitrator is appointed. The arbitrator[s] shall have no authority to award punitive, consequential, special or indirect damages.

22. ADDITIONAL PROVISIONS:

Warranty: The Warranty is provided by the developer of the Project. At closing, the Warranty shall be assigned from Seller to Buyer, and Buyer will have all rights and remedies belonging to "Summit County" as set forth in the Warranty.

This Agreement is executed by Buyer on _____, 20_.

Signature

Signature

BUYER INFORMATION: (please indicate mailing address as well as a street address for FedEx/UPS, etc. delivery)

Printed name

Mailing Address: _____

Telephone No.: _____

Printed name

Courier Address: _____

Fax No.: _____

SELLER:

Seller accepts this Agreement this _____ day of _____, 20_.

Board of County Commissioners of Summit County, a body corporate and politic

By: Scott Vargo
Title: County Manager
Address: P.O. Box 68
Breckenridge, CO 80424
Telephone No.: 970-453-3404

RESOLUTION NO. 2020-

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY AS PART OF AN AFFORDABLE WORKFORCE HOUSING PROJECT, AND IN CONNECTION THEREWITH, AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF PURCHASE AND SALE AGREEMENTS BETWEEN THE COUNTY, AS OWNER, AND INDIVIDUAL BUYERS WITH RESPECT TO THE SUBJECT REAL PROPERTY; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, Summit County, Colorado (the “County”) is a political subdivision of the State of Colorado duly organized and existing pursuant to the Constitution and the laws of the State of Colorado; and

WHEREAS, the Board of County Commissioners (the “Board”) of the County is authorized, pursuant to Section 30-11-101(b), (c) and (d), Colorado Revised Statutes, and other provisions of law to: (1) purchase and hold real and personal property for the use of the County, (2) sell and convey any real or personal property owned by the County, (3) make all contracts and do all other acts in relation to the property and concerns necessary to the exercise of its corporate and administrative powers; and

WHEREAS, the Board is the owner of a certain parcel of real property described as Lot 0, Block 1, Dillon Valley Sub #1, located in Summit County, Colorado, (the “Property”) that it acquired for the purpose of developing, constructing, and selling affordable workforce housing units to qualified members of the local workforce; and

WHEREAS, the development and construction of a 12 unit workforce housing project on the Property, known as Dillon Valley Vistas, has commenced, and it is anticipated that sale of finished units will begin before the end of 2020; and

WHEREAS, a deed restriction has been developed and finalized that will ensure that the units of housing constructed on the Property will be resided in and continue to be affordable to members of the local workforce and their families who have low or moderate income; and

WHEREAS, the Board hereby finds and determines that it is necessary, convenient and in furtherance of the governmental purposes of the County and in the best interests of the County and its inhabitants that the County convey title to the finished affordable workforce housing units comprising Dillon Valley Vistas to qualified purchasers per the terms of the recorded deed restriction and to establish other such processes and authorizations as necessary to complete such transactions as contemplated herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO:

Section 1. The County Manager (the “Manager”), acting on behalf of the County, is hereby authorized to negotiate, enter into, execute and deliver the Purchase and Sale Agreements with prospective buyers of Dillon Valley Vistas affordable housing units. The County Manager, acting on behalf of the County, is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the

Purchase and Sale Agreements, which, upon advice of the County Attorney, are deemed necessary and appropriate.

Section 2. The Chair, or Vice-Chair, acting on behalf of the County, is hereby authorized to negotiate, enter into, execute and deliver the Deeds and other associated closing documents relating to the purchase and sale of Dillon Valley Vistas affordable housing units. The Deeds shall be attested to by the County Clerk or Deputy Clerk (the "Clerk") and the Clerk shall affix the seal of the County thereon. The Chair is authorized to execute the Receipt Certificate in form as attached to the Lease.

Section 3. The officials, agents, representatives and employees of Summit County are hereby authorized and directed to take all actions necessary or appropriate to effect the provisions of this Resolution.

Section 4. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED THIS 25TH DAY OF AUGUST, 2020.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**

Karn Stiegelmeier, Chair

ATTEST:

Kathleen Neel, Clerk & Recorder



KATHLEEN NEEL, CLERK & RECORDER

LIQUOR LICENSING
(970) 453-3472

208 East Lincoln Ave. | P.O. Box 1538 | Breckenridge, CO 80424
liquorlicensing@summitcountyco.gov

LIQUOR LICENSE REVIEW

Trade/Corporate Name: Gateway Grocery & Liquor LLC
Establishment Name (DBA): Gateway Grocery & Liquor
Physical Address: 23110 U.S. Highway 6 Unit #18 Keystone, CO 80435
Mailing Address: 23110 U.S. Highway 6 Unit #18 Keystone, CO 80435
Licensee Name/Representative: Joseph McIntyre
Registered Manager: Joseph McIntyre
Date of Application: August 13, 2020

Applicant Type: LLC
 PARTNERSHIP
 INDIVIDUAL
 CORPORATION

Action Requested: RENEWAL
 NEW APPLICATION
 TRANSFER OF OWNERSHIP
 MODIFICATION OF PREMISES
 MANAGER REGISTRATION
 RELATED FACILITY
 TASTINGS PERMIT

License Type: HOTEL & RESTAURANT
 RESORT COMPLEX
 TAVERN
 LIQUOR STORE
 RESORT COMPLEX
 FMB OFF
 BEER & WINE

STAFF COMMENTS:

SHERIFF'S OFFICE COMMENTS:

CLERK & RECORDER COMMENTS:

To be provided in Public Hearing materials.

Complete application and proper fees submitted.

BOCC INFORMATION:

LOCAL LICENSING AUTHORITY:

MEETING AGENDA DATE:

Summit County Board of Commissioners

Tuesday, August 25, 2020



Request for Designation of Neighborhood & Public Hearing Date

Gateway Grocery & Liquor LLC | Gateway Grocery & Liquor



Stacey Nell
Chief Deputy Clerk
Clerk & Recorder
August 25, 2020





Background Information

- **Applicant:** Gateway Grocery & Liquor LLC, single member LLC by Joseph McIntyre
- **Establishment Name:** Gateway Grocery & Liquor
- **Address:** 23110 U.S. Highway 6 Unit #8, Keystone
- **Type of License Sought:** Liquor Store
 - Off-Premise consumption only
 - Beer/Wine/Liquor
- **Reapplication due to surrendered License at premises by previous Licensee on June 29**



Prospective Timeline

- **Application Date.....August 13**
- **Request for Neighborhood Designation & Public Hearing Scheduling.....August 25 (Today)**
- **Applicant will be notified of Public Hearing date and Neighborhood Designation**
- **Public Notice of Public Hearing (Summit County Journal and at Premises).....September 11**
- **Requested Public Hearing.....September 22**





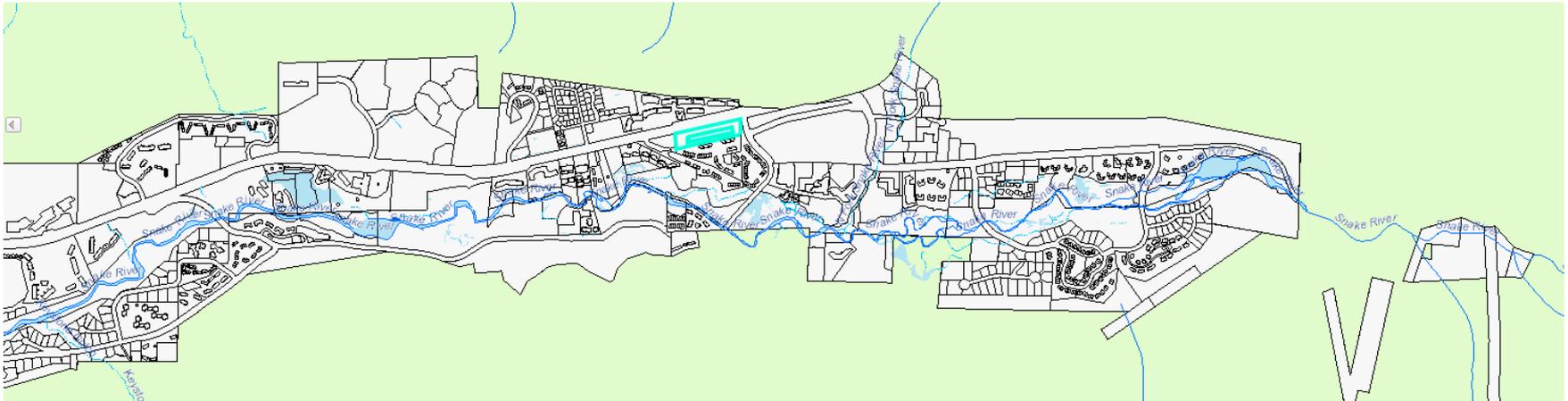
Needs & Desires

- The purpose of designating a neighborhood lies in Statute:
 - C.R.S. 44-3-301(2)(a) “Before granting any license, all licensing authorities shall consider...the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions...”
 - C.R.S. 44-3-312(2)(a) “Before entering any decision approving or denying the application, the local licensing authority shall consider...the reasonable requirements of the neighborhood...the local licensing authority shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood.”



Proposed Designated Neighborhood

- A 2-mile radius encompasses the Keystone area exclusively and entirely and is the typical radius designated for Licensees in this area





Applicant Responsibilities

- Petition (optional):
 - Obtain signatures only from adult inhabitants residing in given neighborhood for more than six months each year, of the Designated Neighborhood
 - Submit a signed Affidavit of Circulator and any signatures to Clerk & Recorder's Office no later than 10 days prior to the Public Hearing date set by the BOCC **AND/OR:**
- Submit remonstrances regarding desires of adult inhabitants of designated neighborhood supporting reapplication/new liquor license





Public Hearing Request

- C.R.S. 44-3-311(1): “...the Local Authority shall schedule a public hearing upon the application *not less than 30 days* from the date of application...”
- Proposed/Requested Public Hearing: **September 22**
 - 10 day prior Public Notice at premises
 - 10 day prior Public Notice in Summit County Journal
- Clerk & Recorder will communicate with applicant when Public Hearing date is set by BOCC



OFFICE OF THE COUNTY ATTORNEY

970.453.3402 ph | 970.453.3535 f 208 East Lincoln Ave. | PO
Box 68

MEMORANDUM

To: Board of County Commissioners
From: Keely Ambrose, Assistant County Attorney
Jason Dietz, Housing Director
Date: August 25, 2020
Re: Sale of Lot 8 Block 8 Summit Cove Sub #4, AKA Lakeside Townhomes

In February of this year, the BOCC acquired the above-captioned unit for local affordable workforce housing purposes. A housing-helps type deed restriction has been recorded on the property and the property is under contract to be purchased by a local individual who meets the established criteria for purchase and occupancy of the unit. The acquisition and sale of the property has been discussed previously with the BOCC at multiple work-sessions.

Staff recommends that the BOCC approve the contract for sale of the unit for \$285,000, as well as approve the Chair and Vice-Chair to sign the deed and associated closing documents.



Summit Real Estate

Isabel Rawson isabel@summitrealestate.com

Ph: 970.389.0397

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS1-5-19) (Mandatory 7-19)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

CONTRACT TO BUY AND SELL REAL ESTATE (RESIDENTIAL)

Date: 7/14/2020

AGREEMENT

1. AGREEMENT. Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. Kelly Conway (Buyer) will take title to the Property described below as

Joint Tenants Tenants In Common Other Severalty.

2.2. No Assignability. This Contract IS NOT assignable by Buyer unless otherwise specified in Additional Provisions.

2.3. Seller. Summit County Government (Seller) is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of Summit, Colorado:

LOT 8 BLOCK 8 SUMMIT COVE SUB # 4 AKA LAKESIDE TOWNHOUSES

known as No. 0250 Cove (CR 120) Boulevard, 8 Dillon, CO 80435,

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Inclusions - Attached. If attached to the Property on the date of this Contract, the following items are included unless excluded under Exclusions: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories) and garage door openers (including n/a remote controls). If checked, the following are owned by the Seller and included (leased items should be listed under Due Diligence Documents): None Solar Panels Water Softeners Security Systems Satellite Systems (including satellite dishes). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. Inclusions - Not Attached. If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under Exclusions: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.

2.5.3. Personal Property - Conveyance. Any personal property must be conveyed at Closing by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except n/a.

67 Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

68 **2.5.4. Other Inclusions.** The following items, whether fixtures or personal property, are also
69 included in the Purchase Price: n/a
70

71 If the box is checked, Buyer and Seller have concurrently entered into a separate
72 agreement for additional personal property outside of this Contract.

73 **2.5.5. Parking and Storage Facilities.** The use or ownership of the following parking
74 facilities: **Surface**; and the use or ownership of the following storage facilities:
75 **As Deeded and per HOA Rules.**
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77 Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should
78 investigate. **2.6. Exclusions.** The following items are excluded (Exclusions): n/a
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81 **2.7. Water Rights/Well Rights.**

82 **2.7.1. Deeded Water Rights.** The following legally described water rights:
83 n/a
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85 Any deeded water rights will be conveyed by a good and sufficient n/a deed at Closing.

86 **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in
87 §§ 2.7.1, 2.7.3 and 2.7.4, will be transferred to Buyer at Closing: n/a
88

89 **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well.
90 Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water
91 Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in
92 Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water
93 Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing
94 well form for the well and pay the cost of registration. If no person will be providing a closing service in
95 connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The
96 Well Permit # is n/a.
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98 **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are
99 as follows: n/a
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101 **2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other
102 Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey
103 such rights to Buyer by executing the applicable legal instrument at Closing.
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106 **3. DATES, DEADLINES AND APPLICABILITY.**

107 **3.1 Dates and Deadlines.**

Item No.	Reference	Event	Date or Deadline	
1	§ 4.3	Alternative Earnest Money Deadline	7/15/2020	Wednesday
Title				
2	§ 8.1, § 8.4	Record Title Deadline	7/28/2020	Tuesday
3	§ 8.2, § 8.4	Record Title Objection Deadline	7/29/2020	Wednesday
4	§ 8.3	Off-Record Title Deadline	7/28/2020	Tuesday
5	§ 8.3	Off-Record Title Objection Deadline	7/29/2020	Wednesday
6	§ 8.5	Title Resolution Deadline	7/31/2020	Friday
7	§ 8.6	Right of First Refusal Deadline		
Owners' Association				
8	§ 7.2	Association Documents Deadline	7/21/2020	Tuesday
9	§ 7.4	Association Documents Termination Deadline	7/28/2020	Tuesday
Seller's Disclosures				
10	§ 10.1	Seller's Property Disclosure Deadline	7/21/2020	Tuesday
11	§ 10.10	Lead-Based Paint Disclosure Deadline	n/a	
Loan and Credit				

133	12	§ 5.1	New Loan Application Deadline	7/17/2020	Friday
134	13	§ 5.2	New Loan Termination Deadline	8/21/2020	Friday
135	14	§ 5.3	Buyer's Credit Information Deadline	n/a	
137	15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	n/a	
138	16	§ 5.4	Existing Loan Deadline	n/a	
140	17	§ 5.4	Existing Loan Termination Deadline	n/a	
141	18	§ 5.4	Loan Transfer Approval Deadline	n/a	
142	19	§ 4.7	Seller or Private Financing Deadline	n/a	
144	Appraisal				
145	20	§ 6.2	Appraisal Deadline	8/19/2020	Wednesday
146	21	§ 6.2	Appraisal Objection Deadline	8/20/2020	Thursday
147	22	§ 6.2	Appraisal Resolution Deadline	8/21/2020	Friday
148	Survey				
149	23	§ 9.1	New ILC or New Survey Deadline	n/a	
150	24	§ 9.3	New ILC or New Survey Objection Deadline	n/a	
151	25	§ 9.3	New ILC or New Survey Resolution Deadline	n/a	
152	Inspection and Due Diligence				
153	26	§ 10.3	Inspection Objection Deadline	7/21/2020	Tuesday
154	27	§ 10.3	Inspection Termination Deadline	7/28/2020	Tuesday
155	28	§ 10.3	Inspection Resolution Deadline	7/28/2020	Tuesday
156	29	§ 10.5	Property Insurance Termination Deadline	7/28/2020	Tuesday
157	30	§ 10.6	Due Diligence Documents Delivery Deadline	7/21/2020	Tuesday
158	31	§ 10.6	Due Diligence Documents Objection Deadline	7/28/2020	Tuesday
159	32	§ 10.6	Due Diligence Documents Resolution Deadline	7/28/2020	Tuesday
160	33	§ 10.7	Conditional Sale Deadline	n/a	
161	34	§ 10.10	Lead-Based Paint Termination Deadline	n/a	
162	Closing and Possession				
163	35	§ 12.3	Closing Date	8/27/2020	Thursday
164	36	§ 17	Possession Date	8/27/2020	Thursday
165	37	§ 17	Possession Time	Time of Funding	
166	38	§ 28	Acceptance Deadline Date	7/15/2020	Wednesday
167	39	§ 28	Acceptance Deadline Time	10:00 PM MT	
168	40	n/a	n/a	n/a	
169	41	n/a	n/a	n/a	

Note: If **FHA** or **VA** loan boxes are checked in § 4.5.3 (Loan Limitations), the **Appraisal** deadlines **DO NOT** apply to **FHA** insured or **VA** guaranteed loans.

3.2. Applicability of Terms. Any box checked in this Contract means the corresponding provision applies. If any deadline blank in § 3.1 (Dates and Deadlines) is left blank or completed with the abbreviation "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

4. PURCHASE PRICE AND TERMS.

199 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as
200 follows:
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Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$285,000.00	
2	§ 4.3	Earnest Money		\$3,000.00
3	§ 4.5	New Loan		\$279,747.00
4	§ 4.6	Assumption Balance		
5	§ 4.7	Private Financing		
6	§ 4.7	Seller Financing		
7	<i>n/a</i>	<i>n/a</i>		
8	<i>n/a</i>	<i>n/a</i>		
9	§ 4.4	Cash at Closing		\$2,253.00
10		TOTAL	\$285,000.00	\$285,000.00

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4.2. Seller Concession. At Closing, Seller will credit to Buyer \$ *n/a* (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

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4.3. Earnest Money. The Earnest Money set forth in this Section, in the form of a personal check or wire transfer, will be payable to and held by Land Title, Dillon (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

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4.3.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

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4.3.2. Return of Earnest Money. If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 25 and, except as provided in § 24 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form.

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4.4. Form of Funds; Time of Payment; Available Funds.

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4.4.1. Good Funds. All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

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4.4.2. Time of Payment; Available Funds. All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer represents that Buyer, as of the date of this Contract, **Does** **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

264
4.5. New Loan.

265 **4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2 (Seller
266 Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan
267 origination fees as required by lender.

268 **4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing
269 appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in §
270 4.5.3 (Loan Limitations) or § 30 (Additional Provisions).

271 **4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following
272 types of loans: **Conventional** **FHA** **VA** **Bond** **Other** *n/a*.

273 **4.5.4. Loan Estimate – Monthly Payment and Loan Costs.** Buyer is advised to review
274 the terms, conditions and costs of Buyer's New Loan carefully. If Buyer is applying for a residential loan, the
275 lender generally must provide Buyer with a Loan Estimate within three days after Buyer completes a loan
276 application. Buyer also should obtain an estimate of the amount of Buyer's monthly mortgage payment.

277 **4.6. Assumption.** (Omitted as inapplicable)

278 **4.7. Seller or Private Financing.** (Omitted as inapplicable)

TRANSACTION PROVISIONS

5. FINANCING CONDITIONS AND OBLIGATIONS.

282 **5.1. New Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or
283 more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such
284 lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and
285 exercise reasonable efforts to obtain such loan or approval.

286 **5.2. New Loan Review.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this
287 Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is
288 satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. This
289 condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 25.1, on or before **New**
290 **Loan Termination Deadline**, if the New Loan is not satisfactory to Buyer, in Buyer's sole subjective discretion.
291 Buyer does not have a Right to Terminate based on the New Loan if the objection is based on the Appraised
292 Value (defined below) or the Lender Requirements (defined below). **IF SELLER IS NOT IN DEFAULT AND**
293 **DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY**
294 **WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

295 **5.3. Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional
296 (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which
297 approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's**
298 **Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit
299 report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may
300 verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by
301 Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this
302 transaction. If the Cash at Closing is less than as set forth in § 4.1 of this Contract, Seller has the Right to
303 Terminate under § 25.1, on or before Closing. If Seller disapproves of Buyer's financial ability or
304 creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 25.1, on or
305 before **Disapproval of Buyer's Credit Information Deadline**.

306 **5.4. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller must deliver
307 copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan**
308 **Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the
309 provisions of such loan documents. Buyer has the Right to Terminate under § 25.1, on or before **Existing**
310 **Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole
311 subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is
312 conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in
313 § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on
314 such deadline. Seller has the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective
315 discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such
316 compliance as set forth in § 4.6.

331
332 **6. APPRAISAL PROVISIONS.**

333 **6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified
334 appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised
335 Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs
336 necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

337
338 **6.2. Appraisal Condition.** The applicable appraisal provision set forth below applies to the respective
339 loan type set forth in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.

340
341 **6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value
342 is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline**
343 Buyer may, on or before **Appraisal Objection Deadline**:

344 **6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this
345 Contract is terminated; or

346
347 **6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by
348 either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the
349 Purchase Price (Lender Verification).

350
351 **6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or
352 before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement
353 thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution**
354 **Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination,
355 i.e., on or before expiration of **Appraisal Resolution Deadline**.

356
357 **6.2.2. FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract,
358 the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to
359 incur any penalty by forfeiture of Earnest Money deposits or otherwise unless the purchaser (Buyer) has been
360 given, in accordance with HUD/FHA or VA requirements, a written statement issued by the Federal Housing
361 Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender, setting forth the appraised
362 value of the Property of not less than \$ n/a. The purchaser (Buyer) shall have the privilege and option of
363 proceeding with the consummation of this Contract without regard to the amount of the appraised valuation.
364 The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and
365 Urban Development will insure. HUD does not warrant the value nor the condition of the Property. The
366 purchaser (Buyer) should satisfy himself/herself that the price and condition of the Property are acceptable.

367
368 **6.2.3. VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract,
369 the purchaser (Buyer) shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to
370 complete the purchase of the Property described herein, if the Contract Purchase Price or cost exceeds the
371 reasonable value of the Property established by the Department of Veterans Affairs. The purchaser (Buyer)
372 shall, however, have the privilege and option of proceeding with the consummation of this Contract without
373 regard to the amount of the reasonable value established by the Department of Veterans Affairs.

374
375 **6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements,
376 removals or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property
377 (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract
378 terminates on the earlier of three days following Seller's receipt of the Lender Requirements, or Closing, unless
379 prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Requirements; (2) the
380 Lender Requirements have been completed; or (3) the satisfaction of the Lender Requirements is waived in
381 writing by Buyer.

382
383 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be
384 timely paid by Buyer Seller. The cost of the Appraisal may include any and all fees paid to the appraiser,
385 appraisal management company, lender's agent or all three.

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389
390 **7. OWNERS' ASSOCIATION.** This Section is applicable if the Property is located within a Common
391 Interest Community and subject to the declaration (Association).

392
393 **7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A**
394 **COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY.**
395 **THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS'**
396

397 **ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND**
398 **REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS**
399 **WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN**
400 **OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE**
401 **ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL**
402 **IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE**
403 **COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN**
404 **ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND**
405 **THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON**
406 **INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE**
407 **ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY**
408 **AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**

412 **7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association
413 Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller
414 authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's
415 obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents,
416 regardless of who provides such documents.

418 **7.3. Association Documents.** Association documents (Association Documents) consist of the
419 following:

420 **7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of
421 organization, operating agreements, rules and regulations, party wall agreements and the Association's
422 responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

424 **7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive
425 boards' or managers' meetings; such minutes include those provided under the most current annual disclosure
426 required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the
427 minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent
428 minutes, if any (§§ 7.3.1 and 7.3.2, collectively, Governing Documents); and

430 **7.3.3.** List of all Association insurance policies as provided in the Association's last Annual
431 Disclosure, including, but not limited to, property, general liability, association director and officer professional
432 liability and fidelity policies. The list must include the company names, policy limits, policy deductibles,
433 additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

435 **7.3.4.** A list by unit type of the Association's assessments, including both regular and
436 special assessments as disclosed in the Association's last Annual Disclosure;

438 **7.3.5.** The Association's most recent financial documents which consist of: (1) the
439 Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial
440 statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's
441 last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list
442 of the fees and charges (regardless of name of title of such fees or charges) that the Association's community
443 association manager or Association will charge in connection with the Closing including, but not limited to, any
444 fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update
445 fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change
446 Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working
447 capital due at Closing and (6) reserve study, if any (§§ 7.3.4 and 7.3.5, collectively, Financial Documents);

449 **7.3.6.** Any written notice from the Association to Seller of a "construction defect action"
450 under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or
451 disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation
452 to disclose adverse material facts as required under § 10.2 (Disclosure of Adverse Material Facts; Subsequent
453 Disclosure; Present Condition) including any problems or defects in the common elements or limited common
454 elements of the Association property.

455 **7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents.
456 Buyer has the Right to Terminate under § 25.1, on or before **Association Documents Termination Deadline**,
457 based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective
458 discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer,
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463 at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received by Seller on
464 or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the
465 Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller
466 after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does
467 not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association
468 Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the
469 provisions of § 8.6 (Right of First Refusal or Contract Approval).
470
471

472 8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

473 8.1. Evidence of Record Title.

474 **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the
475 title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record**
476 **Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title
477 Commitment), in an amount equal to the Purchase Price, or if this box is checked, an **Abstract of Title**
478 certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as
479 soon as practicable at or after Closing.
480

481 **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the
482 title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record**
483 **Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title
484 Commitment), in an amount equal to the Purchase Price.
485

486 If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.
487

488 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment **Will** **Will Not**
489 contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete
490 or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements,
491 (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time
492 of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed
493 tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by **Buyer**
494 **Seller** **One-Half by Buyer and One-Half by Seller** **Other** n/a.
495

496 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or
497 delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require
498 a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance
499 Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.5 (Right to Object to Title,
500 Resolution).
501

502 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats,
503 declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other
504 documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in
505 the Title Commitment furnished to Buyer (collectively, Title Documents).
506

507 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,
508 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of
509 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the
510 documents required in this Section will be at the expense of the party or parties obligated to pay for the
511 owner's title insurance policy.
512

513 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title
514 covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title**
515 **Deadline**.
516

517 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title
518 Commitment and any of the Title Documents as set forth in § 8.5 (Right to Object to Title, Resolution) on or
519 before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or
520 content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title
521 condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are
522 not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title
523 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title
524 Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such
525
526
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528

529 documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2)
530 any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title
531 Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2
532 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to
533 Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required
534 by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title
535 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the
536 Abstract of Title, Title Commitment and Title Documents as satisfactory.
537

538
539 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true
540 copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all
541 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
542 other title matters (including, without limitation, rights of first refusal and options) not shown by public records,
543 of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New**
544 **Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate
545 if any third party has any right in the Property not shown by public records (e.g., unrecorded easement,
546 boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any
547 unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2
548 (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on
549 or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the
550 **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review
551 and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection
552 pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in §
553 8.5 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title
554 Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters
555 and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.
556

557
558 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**
559 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**
560 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**
561 **MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF**
562 **SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO**
563 **DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
564 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**
565 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE**
566 **PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
567 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**
568

569
570 A tax certificate from the respective county treasurer listing any special taxing districts that effect the
571 Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is
572 located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective
573 discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that
574 the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**,
575 Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's
576 inclusion in a special taxing district as unsatisfactory to Buyer.
577

578
579 **8.5. Right to Object to Title, Resolution.** Buyer's right to object, in Buyer's sole subjective
580 discretion, to any title matters includes those matters set forth in § 8.2 (Record Title), § 8.3 (Off-Record Title), §
581 8.4 (Special Taxing District) and § 13 (Transfer of Title). If Buyer objects to any title matter, on or before the
582 applicable deadline, Buyer has the following options:
583

584
585 **8.5.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any
586 title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not
587 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on
588 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's
589 Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to
590 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title
591 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2 (Record Title), § 8.3
592
593
594

595 (Off-Record Title) or § 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically
596 extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

597 **8.5.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under
598 § 25.1, on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole
599 subjective discretion.
600

601 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property
602 or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and
603 conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to
604 approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or
605 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly
606 notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this
607 Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.
608

609 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and
610 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the
611 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,
612 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of
613 easements, leases and other unrecorded agreements, water on or under the Property, and various laws and
614 governmental regulations concerning land use, development and environmental matters.
615

616 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE
617 PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND
618 TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE
619 MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS,
620 OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE
621 PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE
622 PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**
623

624 **8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE
625 PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE
626 AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE
627 COUNTY CLERK AND RECORDER.**
628

629 **8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR
630 ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,
631 WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,
632 PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING
633 FACILITIES.**
634

635 **8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL
636 INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,
637 INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE
638 COLORADO OIL AND GAS CONSERVATION COMMISSION.**
639

640 **8.7.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be
641 excepted, excluded from, or not covered by the owner's title insurance policy.
642

643 **8.8. Consult an Attorney.** Buyer is advised to timely consult legal counsel with respect to all such
644 matters as there are strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and
645 **Off-Record Title Objection Deadline**).
646

647 **9. NEW ILC, NEW SURVEY.**

648 **9.1. New ILC or New Survey.** If the box is checked, a: 1) **New Improvement Location Certificate**
649 **(New ILC)**; or, 2) **New Survey** in the form of n/a; is required and the following will apply:
650

651 **9.1.1. Ordering of New ILC or New Survey.** **Seller** **Buyer** will order the New ILC or New
652 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,
653 certified and updated as of a date after the date of this Contract.
654

655 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be
656 paid, on or before Closing, by: **Seller** **Buyer** or: n/a
657

658 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or
659
660

661 the provider of the opinion of title if an Abstract of Title) and n/a will receive a New ILC or New Survey on or
662 before **New ILC or New Survey Deadline**.

663 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by
664 the surveyor to all those who are to receive the New ILC or New Survey.
665

666 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a
667 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or
668 change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion,
669 waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.
670

671 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object to the **New ILC or**
672 **New Survey**. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in
673 Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**,
674 notwithstanding § 8.3 or § 13:
675

676 **9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this Contract is
677 terminated; or

678 **9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that
679 was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires
680 Seller to correct.
681

682 **9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received
683 by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed
684 in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will
685 terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's
686 written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before
687 expiration of **New ILC or New Survey Resolution Deadline**.
688
689

690

DISCLOSURE, INSPECTION AND DUE DILIGENCE

691

692 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE, AND**
693 **SOURCE OF WATER.**
694

695 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller
696 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's
697 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of
698 this Contract.
699

700 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller
701 must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract.
702 Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an
703 adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer.
704 Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days
705 after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges
706 that Seller is conveying the Property to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults**."
707

708 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right
709 to have inspections (by one or more third parties, personally or both) of the Property and Inclusions
710 (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the
711 roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of
712 the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and
713 communication services), systems and components of the Property (e.g., heating and plumbing), (4) any
714 proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise
715 (whether on or off the Property) and its effect or expected effect on the Property or its occupants is
716 unsatisfactory, in Buyer's sole subjective discretion, Buyer may:
717

718 **10.3.1. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to
719 Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct; or
720

721 **10.3.2. Terminate.** On or before the **Inspection Termination Deadline**, notify Seller in writing,
722 pursuant to § 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection**
723 **Termination Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in §**
724
725
726

727 **3.1 for Inspection Termination Deadline.**

728 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before
729 **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on
730 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**
731 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or
732 before expiration of **Inspection Resolution Deadline**.

733 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other
734 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,
735 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that
736 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any
737 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold
738 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any
739 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by
740 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including
741 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the
742 termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection
743 Resolution.

744 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of
745 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or
746 before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the Property
747 Insurance, in Buyer's sole subjective discretion.

748 **10.6. Due Diligence.**

749 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver
750 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to
751 Buyer on or before **Due Diligence Documents Delivery Deadline**:

752 **10.6.1.1.** All current leases, including any amendments or other occupancy
753 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the
754 Property that survive Closing are as follows (Leases): n/a

755 **10.6.1.2.** Other documents and information:
756 ***any and all documents referring to the deed restriction***

757 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and
758 object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are
759 unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents**
760 **Objection Deadline**:

761 **10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this
762 Contract is terminated; or

763 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description
764 of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

765 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents
766 Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and
767 Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution**
768 **Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller
769 receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on
770 or before expiration of **Due Diligence Documents Resolution Deadline**.

771 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of
772 that certain property owned by Buyer and commonly known as n/a. Buyer has the Right to Terminate under §
773 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if
774 such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller
775 does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right
776 to Terminate under this provision.

777 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer
778 Does Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of
779 Water Addendum disclosing the source of potable water for the Property. There is **No Well**. Buyer Does

793 **Does Not** acknowledge receipt of a copy of the current well permit.

794 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE**
795 **GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED**
796 **SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

798 **10.9. Existing Leases; Modification of Existing Leases; New Leases. [Intentionally Deleted]**

799 **10.10. Lead-Based Paint**

800 **10.10.1. Lead-Based Paint Disclosure.** Unless exempt, if the Property includes one or
801 more residential dwellings constructed or a building permit was issued prior to January 1, 1978, for the benefit
802 of Buyer, Seller and all required real estate licensees must sign and deliver to Buyer a completed Lead-Based
803 Paint Disclosure (Sales) form on or before the **Lead-Based Paint Disclosure Deadline**. If Buyer does not
804 timely receive the Lead-Based Paint Disclosure, Buyer may waive the failure to timely receive the Lead-Based
805 Paint Disclosure, or Buyer may exercise Buyer's Right to Terminate under § 25.1 by Seller's receipt of Buyer's
806 Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline**.

807 **10.10.2. Lead-Based Paint Assessment.** If Buyer elects to conduct or obtain a risk
808 assessment or inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards,
809 Buyer has a Right to Terminate under § 25.1 by Seller's receipt of Buyer's Notice to Terminate on or before the
810 expiration of the **Lead-Based Paint Termination Deadline**. If Buyer's Notice to Terminate would otherwise be
811 required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller
812 on or before Closing. Buyer may elect to waive Buyer's right to conduct or obtain a risk assessment or
813 inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards. If Seller does
814 not receive Buyer's Notice to Terminate within such time, Buyer accepts the condition of the Property relative to
815 any Lead-Based Paint as satisfactory and Buyer waives any Right to Terminate under this provision.

816 **10.11. Carbon Monoxide Alarms. Note:** If the improvements on the Property have a fuel-fired
817 heater or appliance, a fireplace, or an attached garage and include one or more rooms lawfully used for
818 sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires that Seller assure the
819 Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each
820 Bedroom or in a location as required by the applicable building code.

821 **10.12. Methamphetamine Disclosure.** If Seller knows that methamphetamine was ever
822 manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose
823 such fact. No disclosure is required if the Property was remediated in accordance with state standards and
824 other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S., Buyer further acknowledges that Buyer has
825 the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever been used
826 as a methamphetamine laboratory. Buyer has the Right to Terminate under § 25.1, upon Seller's receipt of
827 Buyer's written Notice to Terminate, notwithstanding any other provision of this Contract, based on Buyer's test
828 results that indicate the Property has been contaminated with methamphetamine, but has not been remediated
829 to meet the standards established by rules of the State Board of Health promulgated pursuant to §
830 25-18.5-102, C.R.S. Buyer must promptly give written notice to Seller of the results of the test.

831 **11. TENANT ESTOPPEL STATEMENTS. [Intentionally Deleted]**

840 **CLOSING PROVISIONS**

841 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

842 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing
843 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and
844 Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's
845 lender is required to provide the Closing Company, in a timely manner, all required loan documents and
846 financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and
847 documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller
848 will sign and complete all customary or reasonably-required documents at or before Closing.

849 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions **Are** **Are**
850 **Not** executed with this Contract.

859 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the
860 date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing
861 will be as designated by Land Title, Dillon.

862 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of
863 service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title
864 companies).

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868 **13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract,
869 including the tender of any payment due at Closing, Seller must execute and deliver the following good and
870 sufficient deed to Buyer, at Closing:

871 special warranty deed general warranty deed bargain and sale deed quit claim deed personal
872 representative's deed n/a deed. Seller, provided another deed is not selected, must execute and deliver a
873 good and sufficient special warranty deed to Buyer, at Closing.
874

875 Unless otherwise specified in §30 (Additional Provisions), if title will be conveyed using a special
876 warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in
877 §38-30-113(5)(a), C.R.S.
878
879

880 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts
881 owed on any liens or encumbrances securing a monetary sum, including, but not limited to, any governmental
882 liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not
883 and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or
884 from any other source.
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888 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

889 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs
890 and all other items required to be paid at Closing, except as otherwise provided herein.

891 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by
892 Buyer Seller One-Half by Buyer and One-Half by Seller
893 Other n/a
894

895 **15.3. Status Letter and Record Change Fees.** At least fourteen days prior to **Closing Date**,
896 Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident
897 to the issuance of Association's Status Letter must be paid by None Buyer Seller One-Half by
898 Buyer and One-Half by Seller. Any Record Change Fee must be paid by None Buyer Seller
899 One-Half by Buyer and One-Half by Seller .
900

901 **15.4. Local Transfer Tax.** The Local Transfer Tax of n/a % of the Purchase Price must
902 be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller.
903

904 **15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property,
905 payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at
906 Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller. The Private Transfer
907 fee, whether one or more, is for the following association(s): n/a in the total amount of % of the Purchase Price
908 or \$.
909

910 **15.6. Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of
911 this Contract, do not exceed \$n/a for:

912 Water Stock/Certificates Water District
913 Augmentation Membership Small Domestic Water Company n/a and must be paid at Closing by
914 None Buyer Seller One-Half by Buyer and One-Half by Seller
915
916

917 **15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction
918 must be paid when due by None Buyer Seller One-Half by Buyer and One-Half by Seller.
919

920 **15.8. FIRPTA and Colorado Withholding.**

921 **15.8.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of
922 the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not
923 occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this
924 Section is checked, Seller represents that Seller IS a foreign person for purposes of U.S. income taxation. If

925 the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S.
926 income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably
927 requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes
928 Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax
929 advisor to determine if withholding applies or if an exemption exists.
930

931 **15.8.2. Colorado Withholding.** The Colorado Department of Revenue may require a
932 portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after
933 Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any
934 reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing
935 Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to
936 determine if withholding applies or if an exemption exists.
937
938

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940 **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.** The following will be prorated to the **Closing**
941 **Date**, except as otherwise provided:

942 **16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any and
943 general real estate taxes for the year of Closing, based on **Taxes for the Calendar Year Immediately**
944 **Preceding Closing** **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any
945 applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or **Other** *n/a*.
946

947 **16.2. Rents.** Rents based on **Rents Actually Received** **Accrued**. At Closing, Seller will
948 transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful
949 deductions and notify all tenants in writing of such transfer and of the transferee's name and address. Seller
950 must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such
951 Leases.
952

953 **16.3. Association Assessments.** Current regular Association assessments and dues
954 (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the
955 regular Association Assessments for deferred maintenance by the Association will not be credited to Seller
956 except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be
957 obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special
958 assessment assessed prior to **Closing Date** by the Association will be the obligation of **Buyer** **Seller**.
959 Except however, any special assessment by the Association for improvements that have been installed as of
960 the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller.
961 Seller represents there are no unpaid regular or special assessments against the Property except the current
962 regular assessments and *n/a*. Association Assessments are subject to change as provided in the Governing
963 Documents.
964

965 **16.4. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and *n/a*.
966

967 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.
968

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971 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at
972 **Possession Time**, subject to the Leases as set forth in § 10.6.1.1.
973

974 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and
975 will be additionally liable to Buyer for payment of \$ 300 per day (or any part of a day notwithstanding § 18.1)
976 from **Possession Date** and **Possession Time** until possession is delivered.
977

978 Buyer represents that Buyer will occupy the Property as Buyer's principal residence unless the
979 following box is checked, then Buyer **Does Not** represent that Buyer will occupy the Property as Buyer's
980 principal residence.
981

982 If the box is checked, Buyer and Seller agree to execute a Post-Closing Occupancy Agreement.
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984 **GENERAL PROVISIONS**
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991 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**
992 **18.1. Day.** As used in this Contract, the term “day” means the entire day ending at 11:59 p.m., United
993 States Mountain Time (Standard or Daylight Savings, as applicable).
994 **18.2. Computation of Period of Days, Deadline.** In computing a period of days (e.g., three days after
995 MEC), when the ending date is not specified, the first day is excluded and the last day is included. If any
996 deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline **Will**
997 **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be
998 checked, the deadline will not be extended.
999

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1002 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;**
1003 **AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be
1004 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.
1005 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other
1006 perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the
1007 total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be
1008 paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller’s reasonable efforts to
1009 repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or before **Closing**
1010 **Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer
1011 elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all
1012 insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the
1013 Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may
1014 not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing,
1015 the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the
1016 option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller’s
1017 insurance company and Buyer’s lender; or (2) the parties may enter into a written agreement prepared by the
1018 parties or their attorney requiring the Seller to escrow at Closing from Seller’s sale proceeds the amount Seller
1019 has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of
1020 any deductible that applies to the insurance claim.
1021 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and
1022 communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or
1023 plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is
1024 earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size,
1025 age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such
1026 Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by
1027 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or
1028 replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under §
1029 25.1, on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair
1030 or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives
1031 such a credit, Seller’s right for any claim against the Association, if any, will survive Closing.
1032 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending
1033 condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly
1034 notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or
1035 before **Closing Date**, based on such condemnation action, in Buyer’s sole subjective discretion. Should Buyer
1036 elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is
1037 entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of
1038 the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the
1039 Purchase Price.
1040 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to
1041 walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions
1042 complies with this Contract.
1043 **19.5. Home Warranty.** Seller and Buyer are aware of the existence of pre-owned home warranty
1044 programs that may be purchased and may cover the repair or replacement of such Inclusions.
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1057 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller
1058 acknowledge that the respective broker has advised that this Contract has important legal consequences and
1059 has recommended the examination of title and consultation with legal and tax or other counsel before signing
1060 this Contract.
1061

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1063 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines
1064 in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including
1065 Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as
1066 provided in this Contract or waived, the non-defaulting party has the following remedies:
1067

1068 **21.1. If Buyer is in Default:**

1069 **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest
1070 Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest
1071 Money is not a penalty and the Parties agree the amount is fair and reasonable. Seller may recover such
1072 additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force
1073 and effect and Seller has the right to specific performance or damages, or both.
1074

1075 **21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1.**
1076 **is checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to
1077 Seller and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES
1078 and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4,
1079 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform
1080 the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional
1081 damages.
1082

1083 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all
1084 Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be
1085 proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the
1086 right to specific performance or damages, or both.
1087

1088
1089
1090 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event
1091 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must
1092 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and
1093 expenses.
1094

1095
1096 **23. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not
1097 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties
1098 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot
1099 impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to
1100 the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the
1101 cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute
1102 is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the
1103 other at that party's last known address (physical or electronic as provided in § 27). Nothing in this Section
1104 prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the
1105 date of written notice requesting mediation. This Section will not alter any date in this Contract, unless
1106 otherwise agreed.
1107

1108
1109
1110 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must
1111 release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In
1112 the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the
1113 Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any
1114 proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of
1115 competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and
1116 legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money
1117 Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the
1118 case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the
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parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 23 (Mediation). This Section will survive cancellation or termination of this Contract.

25. TERMINATION.

25.1. Right to Terminate. If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision.

25.2. Effect of Termination. In the event this Contract is terminated, all Earnest Money received hereunder will be returned to Buyer and the parties are relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

27. NOTICE, DELIVERY AND CHOICE OF LAW.

27.1. Physical Delivery and Notice. Any document, or notice to Buyer or Seller must be in writing, except as provided in § 27.2 and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

27.2. Electronic Notice. As an alternative to physical delivery, any notice, may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or n/a.

27.3. Electronic Delivery. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

27.4. Choice of Law. This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

28. NOTICE OF ACCEPTANCE, COUNTERPARTS. This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 27 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

29. GOOD FAITH. Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations; Title Insurance, Record Title and Off-Record Title; New ILC, New Survey;**

1189 and **Property Disclosure, Inspection, Indemnity, Insurability, Due Diligence and Source of Water.**

1190
1191 **ADDITIONAL PROVISIONS AND ATTACHMENTS**

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1193
1194 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the
1195 Colorado Real Estate Commission.)
1196 **A. Buyer has been turned in application to the SCHA and is pending approval. Buyer has been**
1197 **approved for the Smith Ranch Project.**

1198
1199 **31. OTHER DOCUMENTS.**

1200 **31.1.** The following documents **are a part** of this Contract:

1201 **Pre-qual letter**

1202
1203 **31.1.1.** Post-Closing Occupancy Agreement. If the Post-Closing Occupancy Agreement box is
1204 checked in § 17 the Post-Closing Occupancy Agreement is a part of this Contract.

1205
1206
1207 **31.2.** The following documents have been provided but are **not** a part of this Contract:

1208 **n/a**

1209
1210 **SIGNATURES**

1211
1212
1213
1214
1215 *Kelly Conway*

1216
1217 Date: **7/15/2020**

1218 Buyer: **Kelly Conway**

1219
1220
1221
1222 **[NOTE: If this offer is being countered or rejected, do not sign this document.**

1223
1224
1225 *Scott Vargo*

1226
1227
1228
1229 Date: **7/15/2020**

1230 Seller: **Summit County Government**
1231 **By: Scott Vargo, County Manager**

1232
1233 **END OF CONTRACT TO BUY AND SELL REAL ESTATE**

1234
1235
1236
1237
1238
1239 **32. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

1240 (To be completed by Broker working with Buyer)

1241
1242 Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if
1243 Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not
1244 already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest
1245 Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of
1246 Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual
1247 instructions, provided the Earnest Money check has cleared.

1248
1249
1250 Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation
1251 requested under § 23.
1252
1253
1254

1255 Broker is working with Buyer as a Buyer's Agent Transaction-Broker in this transaction. This is a
1256 Change of Status

Customer. Broker has no brokerage relationship with Buyer. See § 33 for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by Listing Brokerage Buyer Other *n/a*.

Brokerage Firm's Name: **Summit Real Estate**

Brokerage Firm's License #: **EC40019410**



Date: **7/14/2020**

Broker's Name: **Isabel Rawson**

Broker's License #: **FA100022779**

Address: **PO Box 2389 Dillon, CO 80435**

Ph: **970.389.0397** Fax: Email Address: **isabel@summitrealestate.com**

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker Does Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Seller as a Seller's Agent Transaction-Broker in this transaction. This is a Change of Status.

Customer. Broker has no brokerage relationship with Seller. See § 32 for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by Seller Buyer Other *n/a*.

Brokerage Firm's Name: **Mountain Metro Real Estate**

Brokerage Firm's License #: **EC.100033787**



Date: **8/5/2020**

Broker's Name: **Kathy Christina**

Broker's License #: **ER.040046049**

Address: **411 S. Main St. Unit 16; PO Box 3757 Breckenridge, CO 80424**

Ph: **970-389-1321** Fax: *n/a* Email Address: **SkiProperties@gmail.com**



OFFICE OF THE COUNTY ATTORNEY

970.453.3402 ph | 970.453.3535 f 208 East Lincoln Ave. | PO
Box 68

STAFF REPORT

TO: Board of County Commissioners
FROM: Keely Ambrose, Assistant County Attorney
FOR: August 25, 2020
REQUEST: Approval to proceed with sale of Continental Divide National Scenic Trail (CDNST) claims to the US Forest Service and designation of authorized signatory

As has been discussed at length and previously authorized on January 28, 2020, Summit County desires to convey to the US Forest Service a series of mining claims along the Continental Divide National Scenic Trail (CDNST) in the Snake River Basin backcountry. The large majority of the Continental Divide Trail is on USFS lands, and is maintained by the USFS.

Sale of the parcels to the USFS will facilitate seamless management, and accomplish a long-term goal to preserve public access to the parcels. It will also generate funds for Summit County to acquire additional open space lands.

Staff recommends that the Board of County Commissioners authorize the sale of the claims, as indicated in the attached resolution, which resolution also designates the Chair of the BOCC, or the Vice-Chair if the Chair is unavailable, as the authorized signatory for this transaction.

Cc: Scott Vargo, Bentley Henderson, Jeff Huntley

RESOLUTION NO. 2020-

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY, AND IN CONNECTION THEREWITH, AUTHORIZING THE EXECUTION AND DELIVERY OF DEEDS AND OTHER ASSOCIATED DOCUMENTS BETWEEN THE COUNTY, AS OWNER, AND THE UNITED STATES OF AMERICA AS BUYER, REGARDING THE SUBJECT REAL PROPERTY; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, Summit County, Colorado (the “County”) is a political subdivision of the State of Colorado duly organized and existing pursuant to the Constitution and the laws of the State of Colorado; and

WHEREAS, the Board of County Commissioners (the “Board”) of the County is authorized, pursuant to Section 30-11-101(b), (c) and (d), Colorado Revised Statutes, and other provisions of law to: (1) purchase and hold real and personal property for the use of the County, (2) sell and convey any real or personal property owned by the County, (3) make all contracts and do all other acts in relation to the property and concerns necessary to the exercise of its corporate and administrative powers; and

WHEREAS, the Board is the owner of a certain parcel of real property described in Exhibit A and known as the CDNST Claims, located in Summit County, Colorado, (the “Property”) that it acquired for open space purposes; and

WHEREAS, the Board has discussed at length the sale of the CDNST Claims to the Department of Agriculture of the United States of America in order to facilitate seamless management of public lands and ensure public access to such lands; and

WHEREAS, on January 28, 2020 the Board voted to proceed with the sale of the CDNST claims and authorized the Chair of the BOCC to send a letter to the United States Forest Service documenting the Board’s approval of the sale; and

WHEREAS, the parties are ready to proceed to sign the option agreement for the Property and move forward with the sale, as such option agreement was already approved in draft form on January 28, 2020; and

WHEREAS, the Board hereby finds and determines that it is necessary, convenient and in furtherance of the governmental purposes of the County and in the best interests of the County and its inhabitants that the County convey title of the CDNST Claims and establish other such processes and authorizations as necessary to complete such transactions as contemplated herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO:

Section 1. The Chair of the BOCC, Karn Stiegelmeier, or the Vice-Chair Elisabeth Lawrence if the Chair is unavailable, acting on behalf of the County, is hereby authorized to execute and deliver the Option Agreement with the Department of Agriculture of the United States of America for the purchase

and sale of the CDNST Claims. In addition, the Chair, or the Vice-Chair if the Chair is unavailable, is hereby authorized to execute and deliver the Deed(s) and other associated closing documents relating to the conveyance of the CDSNT Claims. The Deed(s) shall be attested to by the County Clerk or Deputy Clerk (the "Clerk") and the Clerk shall affix the seal of the County thereon.

Section 2. The officials, agents, representatives and employees of Summit County are hereby authorized and directed to take all actions necessary or appropriate to effect the provisions of this Resolution.

Section 4. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED THIS 25TH DAY OF AUGUST, 2020.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**

Karn Stiegelmeier, Chair

ATTEST:

Kathleen Neel, Clerk & Recorder

**BOARD OF COUNTY COMMISSIONERS
AUGUST 25, 2020
PLANNING CASE #PLN19-125 : MELODY LODGE CABINS PUD
MINOR PUD AMENDMENT
PUBLIC HEARING**

PROJECT INFORMATION:

Location: The Melody Lodge Cabins Planned Unit Development is located at 33 CR 1602 or, more generally, on the southwest side of Green Mountain Reservoir near the intersection of Heeney Road and State Highway 9 in the Lower Blue River Basin.

Project/Request: A Minor Amendment to the Melody Lodge Cabins PUD to remove the length of occupancy restrictions on Cabins 1 & 2 and replace the occupancy restriction with a restrictive housing covenant to provide affordably priced housing for low to moderate-income persons on a permanent basis.

ISSUES:

None

PLANNING COMMISSION RECOMMENDATION:

The Lower Blue Planning Commission does not review minor PUD amendments.

RESOLUTION STATUS

Resolution to be drafted subsequent to BOCC decision.

STAFF RECOMMENDATION:

Approval with seven findings and one condition.

ATTACHMENTS:

1. Draft Melody Lodge Cabins PUD and Existing Exhibits
2. New Restrictive Housing Covenant and Notice of Lien and Exhibits



STAFF REPORT

TO: Board of County Commissioners
FROM: Dan Osborn, Senior Planner
FOR: Meeting of August 25, 2020
SUBJECT: PLN19-125 - Melody Lodge Cabins PUD - Minor PUD Amendment
APPLICANT: Dale and Debra Mitchener

REQUEST: A Minor Amendment to the to the Melody Lodge Cabins PUD to remove the length of occupancy restrictions for Cabins # 1 and # 2 in favor of a restrictive covenant providing affordably priced housing for low to moderate-income person on a permanent basis.

PROJECT DESCRIPTION:

Location: The Melody Lodge Cabins Planned Unit Development is located at 33 CR 1602 or, more generally, on the southwest side of Green Mountain Reservoir near the intersection of Heeney Road and State Highway 9 in the Lower Blue River Basin.

Legal Description: Part of Lot 2 of Section 33 and part of Lot 5 of Section 34, Twp 2 S, R. 79 W. of the 6th P.M., more particularly described as follows:

Beginning at a point on the section line common to said Sections 33 and 34, at the Southeast corner of Lot 2 of said Section 33, which is also the Southwest corner of Lot 5 of said Section 34; thence, with the South line of said Lot 2 North 89° 53' West, 300.0 feet; thence due North 681.02 feet; thence South 47° 26' East, 407.34 feet to a point on said section line; thence continuing South 47° 26' East, 192.9 feet; thence South 63° 41' East 226.0 feet; thence South 49° 29' East 269.0 feet to the South line of said Lot 5; thence with said South line, North 89° 47' West, 548.3 feet to the point of beginning and containing 5.79 acres, more or less, together with improvements thereon.

Existing Zoning: Melody Lodge Cabins PUD
Existing Uses: The property contains a fee-simple market-rate lodge building, a series of small fee-simple market-rate cabins and a deed-restricted affordable rental unit in addition to various outbuildings.

Adjacent land uses:
East: USFS, Davis Springs Campground
West: Agricultural, zoned A-1
North: USFS, Davis Springs Campground
South: Agricultural, zoned A-1.

BACKGROUND:

The applicant and owner, Melody Lodge, Inc., have submitted this request for a Minor PUD Amendment to modify the current length of stay occupancy restrictions on vacation Cabin #1 and Cabin #2 described in the approved PUD and corresponding "Restrictive Covenant for the Sale and Use of Vacation Cabin Units". Cabins # 1 & 2 are a connected duplex and have been previously subdivided. The duplex cabins are subject to restrictions that limit their occupancy to six (6) consecutive months and eight (8) cumulative months in any calendar year. Melody Lodge, Inc., has owned the duplex since the original PUD was approved in 2006 (PLN06-023). During this time, the owner has been unable to sell the properties, consistently receiving feedback from buyers that the occupancy restrictions are unappealing. In addition, the operations of Melody Lodge have slowed and it no longer operates as a seasonal resort, primarily from lack of demand and changing consumer preferences. Therefore, in combination with the existing occupancy limitations and declining seasonal demand, the owners indicate they are struggling to realize a financial benefit from the duplex and are unable to sell them out-right as market-rate units. For this reason, they are requesting that the BOCC approve the removal of the occupancy limitations in exchange for converting the restrictive covenant to an affordable housing restriction acceptable to the Summit County Housing department and Summit County Housing Authority. The application has been reviewed by both the Housing department and the Summit County Housing Authority, which have both determined that the intent of the PUD amendment as well as deed restriction comply with the recently adopted Summit County Affordable Workforce Housing Deed Restriction Guidelines. As discussed more fully below, because the request complies with these regulations and the County Land Use and Development Code regarding transferable development rights, the request is exempt from the requirement to bring additional density to the project. Staff has included a condition of approval requiring the applicant to record the amended PUD concurrently with the deed restriction.

While staff is generally supportive of the request to add an affordable workforce housing restriction, this property has had a complex land-use history for which staff provides the following timeline for the Boards consideration.

In 1957, a parcel split was approved creating a 5.79-acre parcel where the existing Melody Lodge Cabins are located. The parcel when originally approved was bisected by the old Highway 9 right-of-way (now Heeney Road); however, the subject site is considered one parcel. The original Melody Lodge cabins were located on the eastern portion of the subject site and constructed in the late 1930's. In the late 1990's, additional cabins were approved for the western portion of the property (PLN97-02 and PLN98-207). These cabins have been constructed, two of which, cabins #1 and #2, are the subject of this request.

The prior owners of the property applied for a minimum lot size variance in 1984 to allow for an expansion of the long-standing resort/dude ranch use on the property. On March 8, 1984, the Board of Adjustment received a letter from the Planning Department staff explaining the reason that the minimum lot size variance request by the owners of Melody Lodge was pursued rather than a rezoning request before the Planning Commission. The letter in essence stated that the variance application was before the Board based on an interpretation by the Planning Director that the Melody Lodge fit the definition in the Summit County Development Code ("Code") of a **resort/dude ranch**. The definition of such a use at that time was:

"A facility for receiving guests which for remuneration provides lodging, food or cooking facilities and other services which may include but not be limited to the following: pack trips, horse riding, jeep trips, hiking, fishing, hunting, and other recreational activities."

The Planning Director thus reasoned that the variance request was the proper venue to

"legitimize" the existing facility given the current zoning on the site (A-1); that resort/dude ranch was a permitted use in the A-1 zoning district at that time; and that the only item that created the non-conforming status for the site was the minimum lot size of the A-1 zoning district of 20 acres.

The disposition of the property as a resort/dude ranch over the years is exhibited in the procedural history of the various Planning cases pertaining to the property, as follows:

PLN84-02 - On March 14, 1984, the Board of Adjustment approved a minimum lot size variance request by the owner of the property to allow a resort/dude ranch in the A-1 zoning district on a substandard lot (the zoning district requires a minimum lot size of 20 acres). In approving the minimum lot size variance request, the Board of Adjustment in their motion limited the allowed uses to the following:

- 4,800 sq. ft. main lodge with six lodging bedrooms, an owner's residence, a small retail space, and a bar/restaurant;
- 2 one-bedroom rental cabins;
- 2 two-bedroom rental cabins;
- 1 three-bedroom rental cabin; and
- a stable (limited to a maximum of eight horses).

With the exception of the stable, all of these uses, and any supporting/accessory structures, were to be located on the 1½ acre portion of the property on the east side of Heeney Road (CR 30) [as noted, Heeney Road still bisects the 5.79 acre parcel]. Under this proposal, it was anticipated that at full occupancy the Melody Lodge facility could accommodate 60 guests at the bar/restaurant, 30 overnight guests, an unspecified number of employees, and the owners.

PLN89-48 - On June 1, 1989, the Lower Blue Planning Commission heard a preliminary rezoning request to change the zoning from A-1 to PUD (Planned Unit Development) for the Melody Lodge facility. The request to rezone the property to PUD would allow for the same uses approved with the minimum lot size variance approval (see PLN#84-02 list of uses above). The preliminary rezoning request was never followed up as the applicant apparently was not the property owner at the time and the PUD rezoning never was completed.

December 5, 1996 Lower Blue Planning Commission Discussion Item - The Lower Blue Planning Commission, under Discussion Item, heard a presentation by Dale and Debra Mitchner about a potential rezoning request to allow four (4) new buildings (3 one-bedroom cabins and 1 two-bedroom duplex cabin (2 two-bedroom units within one structure) on the west side of Heeney Road (CR 30) in exchange for eliminating the bar/restaurant from the main lodge, not enlarging the existing main lodge or existing cabins, and not converting the existing garage into living quarters. The Lower Blue Planning Commission indicated at the meeting that, at that point in time, there was little support for expanding the total number of bedrooms available for lodging purposes or for any increase in the total number of guests. At that meeting, the Lower Blue Planning Commission did recommend that the Mitchners develop a proposal for a change in use of the property that would not increase the intensity over that which was then allowed under the minimum lot size variance approval. To change the allowed uses on the property the owners had two options, either (1) rezone the property or (2) amend the existing variance to allow the new uses. Both the Planning Director and the Lower Blue Planning Commission indicated that the most appropriate review process to address the Mitcheners' desire to expand the resort/dude ranch use would be to pursue an amendment to the existing variance. This determination was based upon the concern that a similar rezoning application would have had significant inconsistencies with the Lower Blue Master Plan, and no new commercial uses were

to be allowed in that portion of the Basin.

PLN97-02 - On April 6, 1997, the Board of Adjustment heard a request by the Mitchners to amend the 1984 minimum lot size variance to delete the allowed bar/restaurant use and permit the expansion of the facility to include four new lodging units (3 one-bedroom cabins not to exceed 700 square feet in size and one duplex cabin consisting of 2 two-bedroom units not to exceed 2,200 square feet in size). The request was continued to the May 21, 1997 Board of Adjustment meeting to allow the Lower Blue Planning Commission to review and provide comments about the proposal in regard to the long term lodging (proposed by the applicants) versus short term lodging (as required per the definition of resort/dude ranch in the County Development Code); on-site parking concerns; visual impact concerns; and recreational vehicle storage concerns. On April 21, 1997, the Lower Blue Planning Commission reviewed the request to amend the 1984 minimum lot size variance at the request of the Board of Adjustment and forwarded the following comments:

- Visual impacts - The Lower Blue Planning Commission felt that the trade-off of losing the bar/restaurant use would justify the expansion of the commercial lodging units on the west side of Heeney Road (CR 30) and that the potential visual impacts created by the increase in density could be mitigated by conditions through the Site Plan Review process;
- Long term versus short term lodging - per the discussion that occurred during the April 21st Planning Commission meeting, the consensus appeared to be that the Mitchners' proposed winter lodging would not exceed five (5) months and therefore the Lower Blue Planning Commission felt that the extended winter lodging proposed by the Mitchners was adequately covered in the Development Code's definition of short term rentals, which restricts the use of a rental unit on a continuing basis to less than six (6) months. By taking this approach, the Lower Blue Planning Commission wanted it clearly understood that the winter lodging would not be interpreted as allowing multi-family residential uses on the property in direct conflict with the Lower Blue Master Plan and establish a precedent for other properties in the area to request similar treatment;
- On-site parking - The Lower Blue Planning Commission recommended that the Board of Adjustment limit the number of on-site parking spaces on the west side of Heeney Road (CR30) to a maximum ratio of 1.5 spaces per lodging bedroom (allowing for a maximum of eleven (11) parking spaces on the west side of the property and limit the east side of the property to a maximum of the existing ten (10) spaces for a total on-site parking capacity of 21 spaces; and
- Recreational Vehicle (RV) storage -The Lower Blue Planning Commission recommended to the Board of Adjustment that the property owner's RVs, boats, utility trailers, etc., should comply with the Development Code Section 3815.05 et, seq. standards for RV storage. The parking of the guests' RVs, boats, utility trailers, etc. should be limited to a maximum of one (1) week (seven consecutive days). The storage of RVs, boats, utility trailers, etc., not owned by the Mitchners should be prohibited.

The Board of Adjustment approved the amendment to the 1984 minimum lot size variance including as conditions of approval the recommendations of the Lower Blue Planning Commission from their April 21, 1997 meeting and adding another condition requiring a

limitation on the number of horses permitted on-site to those of the property owner as per Development Code Section 3802, et. seq., due to the limited area available on-site and lack of access to adjoining areas of open space and/or public lands suitable for a commercial horse riding operation. The variance amendment allowed for a maximum of three (3) one- bedroom commercial lodging cabins not to exceed 700 square feet each; a new duplex (each half being a maximum of two-bedrooms) commercial lodging cabin not to exceed 2,200 square feet and elimination of the bar/restaurant allowed under the 1984 minimum lot size variance. The Board of Adjustment used the following findings in their decision to approve the variance request:

Due to the unique nature of this application to amend a grandfathered variance granted in 1984,

the question of whether or not the strict application of the County's Zoning Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner in the development of the property because of special circumstances applicable to the property such as size, shape, topography or other extraordinary or exceptional physical conditions is not applicable in this case.

With compliance with the conditions set forth in this resolution the proposed amendment to the existing Melody Lodge variance granted in 1984 should pose no significant threat to the public health, safety, or welfare due to the fact that adequate access is available and an adequate water supply and sewage disposal will be provided.

The requested variance amendment is consistent with the purpose and intent of the County's Zoning Regulations due to the fact that additional lodging cabins not exceeding four in number and/or 4,300 sq. ft. of development will not be incompatible with the neighboring Forest Service or agricultural lands, represents a better designed, more efficient and economical use of land and its resources because it will redistribute the allowed uses on the property, minimize visual impacts along the CR #30 view corridor, and facilitate proper sewage disposal in an effort to protect the water quality of Green Mountain Reservoir.

While the 1984 approval probably constitutes a grant of special privilege under the County's current Land Use & Development Code, the proposed amendment does not increase the disparity between what is normally approved for property owners of such non-conforming parcels and as such is not inconsistent with the criteria established under Section 12505.04(A)(4) of the Summit County Land Use & Development Code.

The proposed amendment constitutes a more reasonable use of the property than does some of the uses currently allowed under the variance granted in 1984.

This parcel was created in 1957 and as such constitutes a legal parcel for the purposes of Section 12505.04(A)(6) of the Code.

PLN98-207 - On January 7, 1999, the Lower Blue Planning Commission approved a site plan review request by the Mitchners for Melody Lodge for the 3 one-bedroom cabins and 1 duplex cabin not to exceed a total of 3,556 square feet on the west side of the property that reflected the approved 1997 amendment to the 1984 minimum lot size variance (PLN#97-02).

PLN00-33 - on March 10, 2000, the Code Administrator approved a minor site plan review modification to PLN#98-207 to allow for 3 one-bedroom commercial lodging/short term rental cabins with dimensions of 24 feet by 24 feet and a 28 foot by 33 foot garage to be constructed beneath the approved duplex cabin located on the west side of Heeney Road (CR 30) subject to

the conditions of approval in PLN#98-207 and PLN#97-02 and three additional conditions:

- The garage cannot exceed 1,000 square feet and can only be used as a garage (cannot be converted into any other use, such as another living unit);
- A landscaping plan is required for review and approval by the Planning Department prior to issuance of a building permit for the commercial lodging cabins; and

PLN0-025 - On June 2, 2005, the Lower Blue Planning Commission approved a site plan review modification request by the Mitchners to remove certain landscaping requirements. The applicants requested that the Lower Blue Planning Commission exempt them from completion of the landscaping and irrigation plans approved as a part of the January 7, 1997 site plan review approval. The exemption was requested due to the associated costs, reduced construction impact to the existing native vegetation, and reduced water delivery from upstream users during a drought.

PLN05-103 - A Planning Commission and Board of County Commissioners work session application to consider rezoning the parcel from A-1 to PUD to allow for the potential conversion of existing short-term rental units and accessory commercial uses to 10 residential dwelling units and accessory commercial uses. On January 5, 2006, the Mitcheners presented plans to convert the existing cabins and rental unit located in the main lodge from a commercial short-term unit to a free-market for-sale residence along with the primary dwelling unit on the property. Staff recommended that the work session not be granted as it did not meet the criteria for a work session and the application was withdrawn.

PLN06-023 - On May 23, 2006, the Board of County Commissioners approved a request to rezone approximately 5.79 acres from A-1 (Agriculture) to PUD (Planned Unit Development) to allow for the conversion of the existing short-term commercial lodging cabins, associated main lodge building (consisting of both retail commercial use and a duplex living quarters), and accessory uses into eight (8) for-sale, fee-simple, market-rate units with deed-restricted occupancy limitations, two (2) deed-restricted affordable units, and related accessory uses.

PLN06-085 - On October 24, 2006, a Class 6 PUD modification request was approved to amend the continuous occupancy limitations for the fee-simple market-rate vacation cabins from “six (6) consecutive months or less and six (6) cumulative months in any calendar year” to “six (6) consecutive months or less”.

CRITERIA FOR DECISION

Section 12203.02 of the Summit County Land Use and Development Code (“Code”) states that the BOCC may approve a minor PUD modification zoning amendment, only if the application meets all relevant County regulations and standards and provided the BOCC makes the following findings:

- A. The proposed PUD modification is consistent with the efficient development and preservation of the entire PUD.
- B. The proposed PUD modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the PUD or the public interest.

- C. The proposed PUD modification is not granted solely to confer a special benefit upon any person.
- D. The proposed PUD modification is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- E. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations and Rezoning Policies.
- F. The proposed PUD modification is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
- G. The proposed PUD modification amendment is not substantial and conforms to the intent and integrity of the original PUD and the PUD modification has been determined to be a minor amendment in accordance with Section 12202.04.

The Proposed PUD Modification is Consistent with the Efficient Development and Preservation of the Entire PUD

The minor PUD modification will not adversely alter the character of the Melody Lodge Cabins PUD nor will it impede efficient development. Since its original approval in 2006 (PLN06-023), the PUD has allowed a variety of lodge units as well as fee-simple, occupancy limited seasonal cabins. The conversion of two units, Cabin #1 and #2, to year-round restricted affordable housing are similar in nature and will provide needed housing in the Lower Blue basin.

The Proposed PUD Modification Does Not Affect, In a Substantially Adverse Manner, Either the Enjoyment of Land Abutting Upon or Across a Street from the PUD or the Public Interest

This minor PUD amendment will not affect the use of the lot or the adjacent lots in the area. The development within the Melody Lodge PUD is similar in nature and does not increase density. Because the proposed units meet the County's affordable housing guidelines and Code requirements found in Section 3809, they do not require TDR's or additional development rights.

The properties within the Melody Lodge Cabins PUD are further controlled by the Covenants, Conditions and Restrictions for the Melody Lodge Cabins (CC&R). This document provides for access, maintenance and other HOA responsibilities typically found within a PUD. County staff have reviewed these documents and found them to be acceptable.

The Proposed PUD Modification is not Granted Solely to Confer a Special Benefit Upon Any Person

The intent of the request is to facilitate the efficient development of this parcel and to provide additional affordable housing in the Lower Blue Basin. Therefore, this PUD modification intends to serve the larger Summit County community and will not solely benefit any one person.

The Proposed PUD Modification is in General Conformance with the Goals, Policies/Actions and Provisions of the Summit County Countywide Comprehensive Plan and any Applicable Basin Master Plans

Conformance with the Countywide Comprehensive Plan

Land Use Element:

- Goal C: Maintain the current level of density in Summit County.
- Goal D: Guide the appropriate development of land through the County's master plans and development regulations.

Conformance with the Lower Blue Master Plan and Heeney/Green Mountain Reservoir Subbasin Plan:

- Goal A: Allow for development in a manner that preserves the existing residential character, peace and quiet, and the rural and resort environment of the Heeney community and the area around the Green Mountain Reservoir.
- Policy/Action 10: No specific properties or site have been identified or mapped as potential locations for affordable workforce housing in the Heeney/Green Mountain Reservoir Subbasin Plan. However, there could be properties not identified that exhibit characteristics that would make them good sites for affordable workforce housing. If there is a situation when such a property in the subbasin plan area is proposed for affordable workforce housing, the property's suitability shall be determined by the appropriate review authority, in conjunctions with any proposed development application, on a case-by-case basis.

This minor PUD amendment does not alter the approved number of units and specifically preserves the existing residential character of the area and of the Melody Lodge Cabins PUD. Further, the PUD amendment is in accordance with the intent of the Melody Lodge Cabins PUD and maintains the character of the area. In reviewing the application, staff has considered the existing use, proximity to employment centers, access, and transportation in addition to the lack of affordable housing in the area and determined that the proposed amendment is in general conformance with the Goals, Policies/Actions and Provisions of the applicable Master Plans. The proposal will provide needed affordable housing to a historically underserved area of ranching and agricultural uses.

The Proposed PUD Modification is Consistent with the Purpose and Intent of the County's Zoning Regulations and Rezoning Policies

Upon original adoption and subsequent amendments, the Melody Lodge Cabins PUD has been found to comply with the intent of the County zoning regulations and rezoning policies, and this proposed PUD modification is not changing the intensity of use or the development plan of the PUD, so the proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations and rezoning policies.

The Proposed PUD Modification is Consistent with Public Health, Safety and Welfare, as Well as Efficiency and Economy in the Use of Land and its Resources

This PUD modification does not compromise any health or safety standards. This PUD modification will continue the efficient use of the subject parcel by allowing the applicant to develop the site in accordance with the Melody Lodge Cabins PUD and applicable Master Plan policies.

The Proposed PUD Modification Amendment is Not Substantial and Conforms to the Intent and Integrity of the Original PUD and the PUD Modification Has Been Determined to be a Minor Amendment in Accordance with Section 12202.04

This PUD modification is minor in nature, maintains the intent of the original Melody Lodge Cabins PUD, does not increase the number of units in the PUD, does not change the permitted uses of the PUD, or decrease the amount of open space within the PUD.

STAFF RECOMMENDATION:

Staff recommends that the Board of County Commissioners approve PLN19-125, A Minor Amendment to the Melody Lodge Cabins PUD to remove the length of occupancy restrictions on Cabins 1 & 2 and replace the occupancy restriction with a restrictive housing covenant to provide affordably priced housing for low to moderate-income persons on a permanent basis, with seven findings and one condition.

FINDINGS:

1. The proposed PUD modification is consistent with the efficient development and preservation of the entire Melody Lodge Cabins PUD. The modification will comply with the standards as listed in the PUD.
2. The proposed PUD modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the Melody Lodge Cabins PUD or the public interest.
3. The proposed PUD modification is not granted solely to confer a special benefit upon any person.
4. The proposed PUD modification is in general conformance with the goals, policies/actions and provisions of the Land Use elements pertaining to density in the Summit County Countywide Comprehensive Plan, and the Snake River Master Plan.
5. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations and Rezoning Policies. This amendment does not allow for additional units within the PUD.
6. The proposed PUD modification is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
7. The proposed PUD amendment is not substantial and conforms to the intent and integrity of the original Melody Lodge Cabins PUD and the PUD modification has been determined to be a minor amendment in accordance with Section 12202.04.

CONDITION:

1. The Melody Lodge Cabins PUD shall be recorded concurrently with the restrictive housing deed restriction.

Melody Lodge Cabins Planned Unit Development Designation

This Melody Lodge Cabins Planned Unit Development Designation ("Designation") originally approved on May 23, 2006, and revised on October 24, 2006, is hereby revised on this 24th-25th day of October-August 2006-2020 by the Board of County Commissioners ("County Commissioners") of Summit County, Colorado ("County"). This PUD designation is for certain real property located in the County as described in attached Exhibit A, hereinafter referred to as the "Property."

This PUD Designation establishes permitted land uses and restrictions permitted on the Property, its development plan, and sets forth specific development regulations which must be adhered to by Dale Mitchener and Debra Gregory-Mitchener ("Mitcheners") and their successors, heirs, agents and assigns, as owners of the Property in whole or in part, as collectively referred to herein as the "Owner/Developer(s)". This designation also specifies obligations which must be fulfilled in a timely manner in accordance and conjunction with this Designation by the Owner/Developer.

Where this Designation does not address a specific development standard or requirement of the Summit County Land Use and Development Code ("Development Code"), the provisions of the Development Code shall apply. Where the Designation addresses a specific development standard or requirement, the provisions of this PUD Designation shall supersede only such specific provisions of the Development Code.

A. PERMITTED USES AND DEVELOPMENT PLAN

Use and existing development on the property shall be in accordance with the specific requirements set forth in this PUD designation and in substantial compliance with the PUD Plan attached hereto as Exhibit B, as well as the applicable provisions of the Development Code.

1. Land Use and Permitted Uses

Use and development of the property shall be in accordance with the PUD Designation's Development Plan attached hereto as Exhibit B, and pursuant to the following specific requirements:

The Land Use and Permitted Uses within the Melody Lodge PUD are as follows:

a. East Side of Heeney Road (County Road 30):

- i. **Lodge Building** - first floor - Fee-simple market-rate single-family residence to be occupied by Property Manager or Owner/Developer and their successors and assignees with occupancy permitted year-round.
- ii. **Lodge Building** - second floor - Deed-restricted affordable rental unit per the applicable Summit Housing Authority standards with occupancy permitted year-round;
- iii. **Cabin A** - Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- iv. **Cabin B** - Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant; and
- v. **Cabin C** -Fee-simple market-rate vacation cabin with restricted continuous

occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;

- vi. **The existing detached garage** located on the east side of Heeney Road (County Road 30) shall be limited to the use by the Mitcheners, or other duly designated Property Manager and/or Owner/Developer/occupant of the first floor of the lodge building for the storage of vehicles, and such other miscellaneous articles necessary for the maintenance and upkeep of the vehicles stored therein, as well as items typically found stored in such structures.
- vii. **The existing detached storage shed** located on the east side of Heeney Road (County Road 30) that is limited to use by the Mitcheners, or other duly designated Property Manager and/or Owner/Developer/occupant of the first floor of the lodge building for the storage of miscellaneous articles necessary for the maintenance and upkeep of the physical improvements, structures and common open space associated with the Melody Lodge Planned Unit Development.

b. West Side of Heeney Road (County Road 30):

- i. **Cabin #1** – ~~(e)Eastern ½ of duplex cabin~~ shall have a recorded Covenant Restriction to restrict ownership, occupancy, and sale of the unit in such a fashion as to provide, on a permanent basis, affordably priced housing for low to moderate-income persons. This unit shall be occupied as stipulated in the “Restrictive Housing Covenant and Notice of Lien for Cabin #1 and Cabin #2 of Melody Lodge Cabins PUD, Summit County Colorado” attached and recorded as part of this PUD designation; Fee simple market rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- ii. **Cabin #2** – ~~(w)Western ½ of duplex cabin~~ shall have a recorded Covenant Restriction to restrict ownership, occupancy, and sale of the unit in such a fashion as to provide, on a permanent basis, affordably priced housing for low to moderate-income persons. This unit shall be occupied as stipulated in the “Restrictive Housing Covenant and Notice of Lien for Cabin #1 and Cabin #2 of Melody Lodge Cabins PUD, Summit County Colorado” attached and recorded as part of this PUD designation; Fee simple market rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- iii. **Cabin 3** – Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- iv. **Cabin #4** – Fee-simple deed-restricted affordable for-sale housing unit per applicable Summit Housing Authority standards with occupancy permitted year-round;
- v. **Cabin #5** – Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- vi. **A stables area** on the west side of Heeney Road (County Road 30) limited to private use solely for the Mitcheners, or other duly designated Property Manager and/or

Owner/Developer/occupant of the first floor of the lodge building subject to the limitations as listed below in the Animal Keeping subsection and the Development Code regulations; and

- vii. **Outdoor storage** on the west side of Heeney Road (County Road 30) subject to the limitations as listed below in the Outdoor Storage sub-section and the Development Code regulations.

c. Accessory Uses

Animal keeping -

Animal keeping shall be restricted as follows:

- i. For all units and commercial use, the keeping of domestic pets as defined in the Development Code shall be permitted with restrictions developed and approved by the governing homeowners' association documents and the Development Code. Where the two sets of regulations conflict, the stricter of the two shall prevail.
- ii. The keeping of all other animals, including, but not limited to horses, shall be prohibited for all owners except lodge building owner. The lodge-building owner shall be restricted as to the number and types of animals as allowed by the Development Code.

d. Recreational Vehicles, Snowmobiles, All Terrain Vehicles, Boats, Ancillary Trailers and Utility Trailers -

- i. Parking of recreational vehicles (RVs), snowmobiles, All Terrain Vehicles (ATVs), boats, ancillary trailers and utility trailers owned by the Owners/Developers within the PUD is limited to a period to run parallel with the time frame of their occupancy with a maximum total time limit of eight (8) months.
- ii. RVs, utility trailers, boats and boat trailers owned by the Property Manager or Owner/Developer shall comply with the regulations of the Development Code for parking and the outdoor storage requirements of such items.
- iii. All such aforementioned RV parking areas shall be specifically designated in the governing homeowner association documents.
- iv. All other types of outdoor storage of any motor vehicle, RVs, snowmobiles, ATVs, boats, ancillary trailers, and utility trailers are prohibited within the PUD.

e. Outdoor Storage:

- i. All outdoor storage shall comply with the regulations of the Development Code.

2. Development Plan

The approximate square footages of the living space in the existing buildings on the property are as follows:

West - 3 one bedroom cabins =	576 sq. ft. x 3 =	1728 sq. ft.
2 two bedroom units in duplex =	920 sq. ft. x2 =	1840 sq. ft.
East - 1 one bedroom cabin =		331 sq. ft.
1 one bedroom cabin =		645 sq. ft.
1 one bedroom cabin =		825 sq. ft.
1 lodge building duplex main level =		1447 sq. ft.
1 lodge building duplex main level =		714sq ft.

Total =
living space

7530 sq. ft. total

No new structures or additional dwelling units are permitted other than those currently existing on-site and listed under Permitted Uses. The occupancy of the cabins except ~~Cabin #1, and Cabin #2, and~~ the residences in the lodge building, and the one other designated deed-restricted affordable full-time County employee cabin, will be restricted to no more than six (6) consecutive months and eight (8) months in any calendar year for any particular occupant. All uses permitted herein, including accessory, temporary and conditional uses, shall be restricted to those uses allowed when the property was utilized as short term rental unit lodging use, and further in accordance with the use restrictions set forth herein, and with the associated accessory uses as listed below as permitted by the current minimum lot size variance amendment. Said current minimum lot size variance amendment is attached as Exhibit C and incorporated herein as if referenced in full.

B. DEVELOPMENT STANDARDS

- 1. Building height** - All of the buildings currently exist and are restricted from any future exterior alterations, including changing the existing buildings' heights.
- 2. Setbacks** - All of the buildings currently exist and are restricted from any exterior additions or remodeling that would expand or contract from the current existing building bulk and mass. All buildings built in 2000 are per approved Summit County setback. All "original" buildings are per "grandfathered" setbacks. No further setback encroachments or extensions of such grandfathered encroachments are permitted without specific variance allowing the same.
- 3. Parking** - Per the minimum lot size variance amendment from 1997, the parking requirement has been established at 1.5 spaces per bedroom, requiring a maximum of 21 parking spaces on the property.
- 4. Designated open space area/public use area** -
 - a. Open space areas:** The remainder of the property on both sides of Heeney Road (CR 30), not currently occupied either by structures or used for the Owner/Developer's RV parking area and private stable area, shall be hereby designated as privately owned open space. The open space areas shall remain open and free from all new improvements. The Owner/Developer shall establish a Homeowners Association ("HOA") and establish governing documents for the same to adequately address the ownership and maintenance of such open space areas associated with the Melody Lodge PUD.
 - b. Public Use areas:** Pursuant to Section 8601 of the Summit County Land Use & Development Code, the Owner/Developer will be required to provide public use areas upon subdivision or subdivision exemption. The requirement for public use areas may be met by either payment of fees, land dedication, or obtaining credits for construction of recreational facilities. Dedication of an easement or a bond for the fees will be required prior to recordation of any final plat for the project.
- 5. Signs and lighting** - All signs shall comply with the Summit County Sign Regulations as now in effect or hereafter amended. No signage, other than public safety signs fully consistent with the Manual for Uniform Traffic Control Devices shall be erected within the PUD until approved by the applicable Review Authority. All lighting shall comply with the requirements of the Development Code.
- 6. Architectural design requirements** - All future upgrades or improvements to the current structures

within the Melody Lodge Cabins PUD shall continue to reflect the present character of the existing cabins. The existing cabins' height, bulk and mass, and footprint shall not be altered from its existing form and location. Any maintenance of the exterior of any of the cabins or exterior remodeling of the exterior of the existing cabins shall not change the buildings' height, bulk, mass or general appearance.

7. Employee Housing and Summit County Housing Authority support –

- a. The owner/developer shall participate in an affordable housing program with the Summit County Housing Authority for the ~~two~~ affordable units described in this document. Evidence of the participation shall be provided to the Summit County Planning Department prior to approval of the subdivision or subdivision exemption of the property.

8. Air quality – No new solid fuel burning devices may be installed in any of the structures other than those that comply with current Environmental Protection Agency standards.

9. Water quality – All water systems have been completed within the Melody Lodge Cabins PUD and comply with the water quality mitigation requirements established in the Development Code.

10. Site plan review – A site plan was completed and approved in 1998 prior to construction of the newer cabins were built. Said site plan is attached to this PUD as Exhibit C and shall be incorporated herein as if referenced in full. Site Plan Reviews shall be conducted in accordance with the requirements of the Development Code.

11. Homeowner's Association/Governing Documents – Prior to subdivision or subdivision exemption approval, Owner/Developer shall provide for the establishment of a homeowner's association on the property, and prepare governing documents for such association that adequately address the relevant requirements set forth herein.

C. REQUIRED IMPROVEMENTS

Required improvements currently exist and the PUD land use section restricts any new development. Access, water systems, sewer systems, fire protection, vegetation management, utilities and easements and landscaping have all been addressed in the 2000 variance amendment and site plan. Any new construction is limited to minimal upgrades, improvements and maintenance of the existing structures and site subject to the restrictions and limitations as listed in this document.

D. IMPLEMENTATION

1. Platting requirements -

A preliminary and final subdivision plat or a subdivision exemption plat, whichever is deemed appropriate under the Summit County Subdivision Regulations, shall be submitted for review and approval by the County prior to any subdivision of the property.

E. GENERAL PROVISIONS

1. Enforcement -

The provisions of the Melody Lodge Cabins planned unit designation and the development plan relating to the use of land and the location of common open space shall run in favor of Summit County and shall be enforceable at law or in equity by the County without limitation on any power or regulation otherwise granted by law. Other provisions of the Melody Lodge Cabins planned unit development designation and the development plan shall run in favor of the residents, occupants and owners of the planned unit development, but only to the extent expressly provided in, and in

accordance with the terms of, the Melody Lodge Cabins planned unit development designation and the development plan. Provisions not expressly stated as running in favor of the residents, occupants or owners of the planned unit development shall run in favor of the County.

2. Breach of provisions of PUD designation -

If at any time any provision or requirements stated in the Melody Lodge Cabins planned unit development designation has been breached by the Owner/Developer, the County may withhold review and approval of any permits, applications or other matters pertaining to the Property, until such breach has been remedied; provided, however, that the County shall not take affirmative action on account of such breach until it shall have first notified the Owner/Developer in writing and afforded the Owner/Developer a reasonable opportunity to remedy the same.

3. Binding Effect -

The Melody Lodge Cabins planned unit development designation shall run with the land and be binding upon the Owner/Developer, their respective successors, heirs, agents, representatives and assigns, and any and all persons who may hereafter acquire an interest in the Property or any part thereof, with the exception that provisions of this designation may be modified through an amendment in accordance with the procedure stated in the County Development Review Procedures. This designation shall be recorded in order to put prospective purchasers or other interested persons on notice as to the terms contained herein.

4. Amendments -

- a. Amendments to the provisions of this PUD Designation shall be received and acted upon as a rezoning application, subject to the County's procedures for zoning amendments and to the requirement for findings under the Planned Unit Development Act of 1972 at C.R.S. 24-67- 106(3)(b), unless such amendment is determined to be minor in nature.
- b. Amendments to the provisions of this PUD Designation may be initiated by, and the applicant on any application for such amendment may be, any of the following persons or entities (each, a "Permitted Applicant") acting alone or together:
 - i. The County Commissioners,
 - ii. The Planning Commission,
 - iii. The Planning Director of the Planning Department,
 - iv. Any owner of fee title to any real property within the Property on the condition that the owner's real property would directly be affected by such amendment (an "Affected Property Owner"),
 - v. Anyone having written permission from an Affected Property Owner, or
 - vi. A public entity having the power to obtain title to the property through condemnation.
- c. Notwithstanding Subsection E.4. (B) above, if the effect of any amendment to this PUD Designation would be to subject any property to this Designation that was not previously subject to this PUD Designation (any "Additional Property"), the owner of such Additional Property must be an applicant on the application for such amendment or otherwise provide its written consent to its Additional Property to this PUD Designation.
- d. Amendments to this PUD Designation initiated by one or more Permitted Applicants that are approved in accordance with the Code shall be binding upon all owners of property subject to such amended PUD Designation.

5. Notices -

Notice to County:
Board of County Commissioners
PO Box 68
Breckenridge, CO 80424

Notice to Owner/Developer
Dale Mitchener
Debra Gregory-Mitchener
1534 County Road 30
Heeney, CO 8049

All notices so given shall be considered delivered three days after the mailing thereof, excluding weekends or official holidays. Either party, by notice so given, may change the address to which future notices shall be sent.

6. Entire Designation -

This Designation contains all provisions and requirements incumbent upon the Owner/Developer relative to the Melody Lodge Cabins planned unit development, except as modified by subsequent action of the Board of County Commissioners in accordance with procedures set forth in the Summit County Land Use & Development Code and the Colorado Planned Unit Development Act (CRS 24-67-106) for amending planned unit developments, and except that nothing contained herein shall be construed as waiving any requirements of the Summit County Land Use & Development Code or other regulations otherwise applicable to the development of the Property.

7. Effective Date -

This Designation must be signed by both the Summit County Board of County Commissioners and the Owner/Developer and must be recorded by the Summit County Clerk and Recorder in order to become effective. The effective date shall be the date of recordation.

8. PUD Review Requirements -

The Summit County Land Use & Development Code, Chapter 12, includes procedures and requirements for review of all planned unit developments. The Owner/Developer shall be on notice of these requirements and shall insure that information necessary for the periodic review is made available to the County within the time frames as may be established in Chapter 12. The Owner/Developer further understands that failure to provide the necessary information or to proceed with the review process may result in development approvals within the PUD being withheld.

IN WITNESS WHEREOF, the County and the Owner/Developer have executed this Designation as of the date first written above.

BOARD OF COUNTY COMMISSIONERS
OF SUMMIT COUNTY, COLORADO

BY: _____
Karn Stiegelmeier, Chair

Kathleen Neel, Clerk and Recorder

BY: _____
Dale Mitchener

BY: _____
Debra Gregory-Mitchener

Exhibit A – Legal Description, Melody Lodge Property

Part of Lot 2 of Section 33 and part of Lot 5 of Section 34, Twp 2 S, R. 79 W. of the 6th P.M., more particularly described as follows:

Beginning at a point on the section line common to said Sections 33 and 34, at the Southeast corner of Lot 2 of said Section 33, which is also the Southwest corner of Lot 5 of said Section 34; thence, with the South line of said Lot 2 North 89° 53' West, 300.0 feet; thence due North 681.02 feet; thence South 47° 26' East, 407.34 feet to a point on said section line; thence continuing South 47° 26' East, 192.9 feet; thence South 63° 41' East 226.0 feet; thence South 49° 29' East 269.0 feet to the South line of said Lot 5; thence with said South line, North 89° 47' West, 548.3 feet to the point of beginning and containing 5.79 acres, more or less, together with improvements thereon.

Exhibit B
Site Plan

EAST SIDE

Lodge Building (2 story duplex) with attached store and detached garage - Deeded as one parcel with 2 living units:

Main level - residence occupied by Property Manager or the Owner/Developer and their successors and assignees.

Upstairs level - a deed-restricted, affordable housing rental unit, per Summit County Housing Authority.

- Cabin A
- Cabin B
- Cabin C

WEST SIDE

- Cabin #1 (1/2 of duplex)
- Cabin #2 (1/2 of duplex)
- Cabin #3
- Cabin #4
- Cabin #5

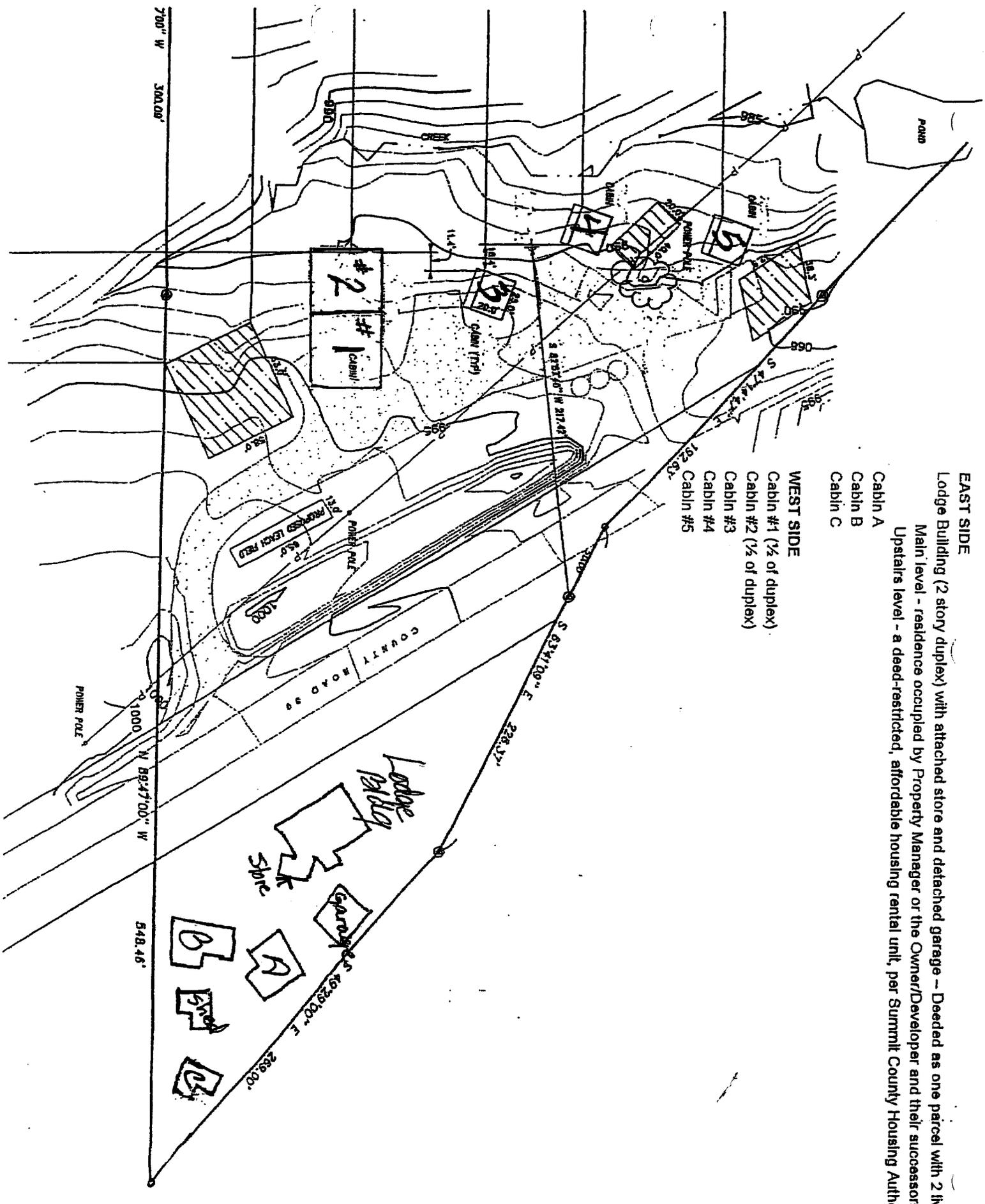


Exhibit C
BOA97-02
Resolution
(Resolution #97-05)

RESOLUTION NO. 97-05

Before the Board of Adjustment
of the County of Summit
State of Colorado

FILE COPY

APPROVING AN AMENDMENT TO THE 1984 VARIANCE FOR THE MELODY LODGE THAT ALLOWS FOR THE CONSTRUCTION OF UP TO A MAXIMUM OF THREE (3) NEW ONE BEDROOM COMMERCIAL LODGING CABINS NOT EXCEEDING 700 SQ.FT. AND ONE (1) NEW DUPLEX UNIT, EACH HALF OF WHICH MAY HAVE UP TO ONE TWO BEDROOM COMMERCIAL LODGING UNIT WITH THE ENTIRE DUPLEX NOT EXCEEDING 2,200 SQ.FT. ALONG WITH THE ELIMINATION OF THE BAR/RESTAURANT ALLOWED UNDER THE 1984 VARIANCE ON A 5.79 ACRE PARCEL, A PORTION OF SECTIONS 33 & 34, T2S, R79W (Applicants: Dale & Debra Mitchener)

WHEREAS, Dale & Debra Mitchener have applied to the Board of Adjustment to amend the existing Melody Lodge variance, approved by the County in 1984, to allow the construction of up to a maximum of three (3) new one bedroom commercial lodging cabins not exceeding 700 sq.ft. and one (1) new duplex, each half of which may have up to a two bedroom commercial lodging unit with the entire duplex not exceeding 2,200 sq.ft. along with the elimination of the bar/restaurant allowed under the 1984 variance on a 5.79 acre parcel, a portion of Sections 33 & 34, T2S, R79W; and,

WHEREAS, the Community Development Division has reviewed the application and recommended that it be approved; and,

WHEREAS, the Board of Adjustment has reviewed the application at public hearings held on April 16, 1997 and May 21, 1997 with public notice as required by law and considered the evidence and testimony presented at those hearings; and,

WHEREAS, the Board of Adjustment finds as follows:

1. Due to the unique nature of this application to amend a grandfathered variance granted in 1984, the question of whether or not the strict application of the County's Zoning Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner in the development of the property because of special circumstances applicable to the property such as size, shape, topography or other extraordinary or exceptional physical conditions is not applicable in this case.
2. With compliance with the conditions set forth in this resolution the proposed amendment to the existing Melody Lodge variance granted in 1984 should pose no significant threat to the public health, safety, or welfare due to the fact that adequate access is available and adequate water and sewage disposal will be provided.

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Doris L. Brill - Summit County Recorder

3. The requested variance amendment is consistent with the purpose and intent of the County's Zoning Regulations due to the fact that additional lodging cabins not exceeding four in number and/or 4,300 sq.ft. of development will not constitute an incompatible use with the neighboring Forest Service or agricultural lands, represents a better designed, more efficient and economical use of land and its resources because it will redistribute the allowed uses on the property, minimize visual impacts along the CR #30 view corridor, and facilitate proper sewage disposal in an effort to protect the water quality of Green Mountain Reservoir.
4. While the 1984 approvals probably constitute an grant of special privilege, the proposed amendment does not increase the disparity between what is normally approved for property owners of such non-conforming parcels and as such is not inconsistent with the criteria established under Section 12505.04(A)(4) of the Summit County Land Use & Development Code.
5. The proposed amendment constitutes a more reasonable use of the property than do some of the uses currently allowed under the variance granted in 1984.
6. This parcel was created in 1939 and as such constitutes a legal parcel for the purposes of Section 12505.04(A)(6) of the Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF SUMMIT COUNTY, COLORADO, THAT an amendment to the Melody Lodge variance that allows up to a maximum of three (3) new one bedroom commercial lodging cabins not exceeding 700 sq.ft. each and a new duplex, each half consisting of up to a maximum of a two bedroom commercial lodging cabin with a maximum of 2,200 sq.ft. for the entire duplex along with the elimination of the bar/restaurant allowed under the '84 variance on a 5.79 acre parcel, a portion of Section 33 & 34, T2S, R79W, is hereby approved subject to the following conditions:

1. Under no circumstances shall there be any new additions, expansions, or implementation of new uses for the 1½ acre portion of the subject property on the east side of CR #30. The property owners may apply for the necessary permits to conduct remodeling of any existing structures on the east side of CR #30 for the purposes of bringing said structures up to current building codes or to address legitimate concerns for the safety of the owners, guests, and/or general public. Specifically, the existing uses on the 1½ acre portion of the property on the east side of CR #30 are as follows:
 - The existing lodge of 2,620 sq.ft. which includes the owners residence, two lodging bedrooms, a 364 sq.ft. retail area, and assorted support uses
 - Three one bedroom cabins
 - Three small support structures (garage, pump house, & workshop)
 - Ten (10) parking spaces
2. This variance establishes the maximum number of units, structures, and allowable uses for the subject property. It does not guarantee the property owner that such units, structures, or uses can actually be implemented on the property. No new units, structures or uses of any kind shall be constructed until the property owners have obtained site plan approval for such units, structures, or uses from the Lower Blue Planning Commission in compliance with Section 12600 et.seq. of the Summit County Land Use & Development Code. All applicable requirements for sewage disposal and water supply for all uses and structures on the subject property shall be met as part of any future site plan approvals.
3. All rentals of the lodging cabins shall be short term as defined in Section 15100(313) of the Summit County Land Use & Development Code.
4. The number of parking spaces allowed on the west side of CR #30 is limited to 1.5 spaces/lodging bedroom. No additional parking on the west side of CR #30 is allowed.

5. Storage of any RVs, boats, or utility trailers owned by the owner(s) of the Melody Lodge shall be regulated as per the requirements of Section 3815.05 et.seq. of the Summit County Land Use & Development Code.
6. Parking of RVs, boats, or utility trailers owned by guests of the Melody Lodge on the property shall be limited to a period not to exceed seven (7) continuous days.
7. Storage of RVs, boats, or utility trailers not owned by guests of the Melody Lodge and/or for periods exceeding seven (7) continuous days is prohibited.
8. Due to the limited area available and lack of access to adjoining open areas suitable for a commercial horseback riding operation, the keeping of horses is hereby limited to those animals owned by the owner of the Melody Lodge as per the requirements of Section 3802 et.seq. of the Summit County Land Use & Development Code.

ADOPTED this 21st day of May, 1997.

BOARD OF ADJUSTMENT
OF SUMMIT COUNTY, COLORADO

BY: Bob Flint
Bob Flint, Chairman

ATTEST:

Alan Hanson
Alan Hanson, AICP
Senior Planner

**RESTRICTIVE HOUSING COVENANT AND NOTICE OF LIEN
FOR CABIN #1 AND CABIN #2 OF MELODY LODGE CABINS PUD,
SUMMIT COUNTY COLORADO**

This Restrictive Housing Covenant and Notice of Lien for the Melody Lodge Cabins PUD, Summit County, Colorado, (this "Covenant") is made this _____ day of _____, 2020, by Dale Mitchener and Debra Gregory-Mitchener, hereinafter referred to as "Owner" or "Declarant", and approved and accepted by Summit County, Colorado, a body corporate and politic, hereinafter to as "County" or "Beneficiary,"

RECITALS

WHEREAS, Owner is the owner of Cabins #1 and #2, Melody Lodge Cabins, according to the plat of Melody Lodge Cabins P.U.D. recorded on March 12, 2007 at Rec. No. 849370 in the records of the Summit County Recorder, Summit County, Colorado (together, the "Duplex Cabins" and each a "Duplex Cabin"); and

WHEREAS, the Duplex Cabins are subject to The Melody Lodge Cabins Planned Unit Development Designation as amended (the "PUD") as originally recorded on January 9, 2007 at Rec. No. 844040 and amended by a resolution recorded that same day at Rec. No. 844039 created pursuant to the County's Land Use and Development Code (the "Code"); and

WHEREAS, the Duplex Cabins were originally restricted under the PUD to occupancy of any one person to six consecutive and eight cumulative months in any calendar year;

WHEREAS, such occupancy restriction was furthered by a restrictive covenant titled "Restrictive Covenant for the Sale and Use of Vacation Cabin Units" contained in a series of documents recorded under a single entry on March 13, 2007 at Rec. No. 849578, (the "Existing Covenant"); and

WHEREAS, in conjunction with this Restrictive Covenant, the County has amended the PUD to remove the occupancy restriction and replace it with a requirement that each Duplex Cabin must be restricted to occupancy by a "Qualified Occupant" as defined herein;

WHEREAS, this Restrictive Covenant shall replace in its entirety the Existing Covenant;

WHEREAS, the Parties desire to create a valid and enforceable restrictive covenant running with the land assuring that the Duplex Cabins will henceforth be used solely for countywide workforce housing purposes by a "Qualified Occupant" as defined herein; and

WHEREAS, the Parties agree that this Restrictive Covenant, upon execution and recordation, satisfies the intent of the PUD with regards to the use of the Duplex Cabins.

WHEREAS, Declarant agrees to restrict the acquisition and/or transfer of the Units to Qualified Buyers who meet the appropriate income category established by the County for each Unit

purchased, as set forth in Summit County Affordable Workforce Housing Deed Restriction Guidelines, Resolution No. 2019-94, December 10, 2019; and

WHEREAS, Declarant agrees that this Covenant shall constitute an agreement setting forth the maximum sale (“Initial Sale Price”) and resale price for which a Unit may be sold (“Maximum Resale Price”) and the terms and provisions controlling the sale of the Unit; and

WHEREAS, by this Covenant, Declarant hereby restricts the Unit from use and occupancy inconsistent with the terms as set forth in this Covenant; and

WHEREAS, under this Covenant Declarant intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use of the Units described and provided for herein shall be and are hereby made covenants running with the land and are intended to be and shall be binding upon the Declarant and all subsequent owners and occupiers of such Units for the stated term of this Covenant, unless and until this Covenant is released and terminated in the manner hereafter described.

NOW, THEREFORE, for value received, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby represents, covenants, and agrees as follows:

ARTICLE 1 PURPOSE AND INTENT

The purpose and intent of this Restriction is to restrict ownership, occupancy, and sale of each Unit in such a fashion as to provide, on a permanent basis, affordably priced housing for low to moderate income persons. Each Unit is intended to be occupied by Qualified Owners or Authorized Lessees, which Qualified Owners or Authorized Lessees, because of their income, may not otherwise be in a position to afford to purchase, own, occupy, or lease other similar properties. The purpose of this deed restriction is to help establish and preserve a supply of affordably priced housing to help meet the needs of the locally employed residents of the County and to meet the guidelines required by County to meet the TDR exemption.

ARTICLE 2 DEFINITIONS

1. "Area Median Income" or "AMI" means the median annual income for Summit County (or such next larger statistical area calculated by HUD that includes Summit County, if HUD does not calculate the area median income for Summit County on a distinct basis from other areas), as adjusted for household size, that is calculated and published annually by HUD; or any successor index thereto acceptable to the County, in its reasonable discretion, including the Consumer Price Index. If AMI data pertaining to the date of sale of a Unit is not yet available as of the date the sale price is calculated, then the most recent data published by HUD shall be used in its place.

2. "Authorized Lessee" means any tenant approved by the County, who shall meet the definitions of both Qualified Occupant and Eligible Household, and who shall lease a Unit at such rental rates as are specified in this covenant.
3. "County or Summit County" as that term is used herein shall mean Summit County Government or its designee, which may include an employee or other agency; if another agency, Summit County Government shall designate in writing any such certain defined responsibilities of said agency.
4. "Dependent" shall mean a person, including a spouse, child, step-child, child in the permanent legal custody, or a parent of a Qualified Occupant, in each case whose principal place of residence is in the same household as such Qualified Occupant, and who is financially dependent upon the support of the Qualified Occupant. Dependent shall also include any person included within the definition of "Familial Status" as defined in 42 U.S.C. § 3602(k), as that act shall from time to time be amended.
5. "Eligible Household" means a Household approved by the County and whose income meets the parameters set for each Unit identified in Article 4 of this Covenant.
6. "First Mortgage" means a deed of trust or mortgage which is recorded senior to any other deeds of trust or liens against the Unit to secure a loan used to purchase the Unit made by a Mortgagee.
7. "Household" means one or more persons who intend to live together in a Unit as a single housekeeping unit.
8. "HUD" means the U.S. Department of Housing and Urban Development.
9. "Local Employer" means an individual or business that has a physical location within and serves Summit County and that employs a Qualified Occupant.
10. "Maximum Resale Price" means the maximum purchase price that may be paid by any purchaser of a Unit, other than the initial purchaser who acquires the Unit from Declarant, that is determined in accordance with the provisions of Article 6 of this Covenant. The Maximum Resale Price is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of the Unit.
11. "Mortgagee" means any bank, savings and loan association, or any other institutional lender which is licensed to engage in the business of providing mortgage financing for residential real property and which is the beneficiary of a deed of trust or mortgage encumbering any Unit.
12. "Non-Qualified Owner" or "Non-Qualified Transferee" means an Owner that is not a Qualified Owner.
13. "Owner" means the record owner at any time taking and holding fee simple title to a Unit.

14. “Primary Residence” means an individual or Household occupies the deed-restricted property as their principal place of residence at least 9 months of the year. Final determination as to whether the occupancy of an individual or Household meets the intent of this definition shall be made by the County in its sole discretion and in accordance with all other provisions of this Covenant.
15. “Qualified Capital Improvements” means those improvements to a Property performed by the Owner which qualify for inclusion within the calculation of Maximum Resale Price, which requirements and specifications are set forth in the Qualified Capital Improvement (“QCI”) schedule contained in Exhibit A hereto, which exhibit is incorporated herein by this reference.
16. “Qualified Occupant” means a person aged 18 or older, along with his or her Dependents, if any, who at all times during ownership or occupancy of the Unit, resides and is employed within the County year-round, an average of at least 30 hours per week on an annual basis. “Employed within the County,” also referred to as “Local Employment”, shall mean that the person earns his or her living from a business or organization operating in and serving the County, which requires his or her physical presence within the boundaries of Summit County in order to complete the task or furnish the service, by working in the County at such business or organization an average of at least 30 hours per week on an annual basis.
 - A. Local Employment Exemptions: The following exemptions to the local employment requirement may be authorized by the County in writing.
 - i. Self-Employment and residents that work from home. For individuals claiming self-employment or work from home status, the employment must be for an average of at least 30 hours per week on an annual basis for a business that is located within and serves Summit County and requires their physical presence within the boundaries of Summit County in order to complete the task or furnish the service, and such individuals must demonstrate they are earning at least minimum wage from this employment.
 - ii. Retirement. Qualified Occupants may be authorized to retire and remain in deed-restricted units, if the person is at or above the full benefit age for Federal Social Security, has worked in Summit County an average of at least 30 hours per week on an annual basis for at least 10 continuous years prior to retirement, and has owned and occupied that particular deed-restricted housing for at least 7 continuous years prior to retirement. Provisions may be included to authorize an alternate retirement age for public safety field staff based on their years of service and applicable retirement / pension plan.
 - a. Partial Retirement. Qualified occupants may be authorized to reduce local employment to a minimum of 15 hours per week on annual basis, if the occupant has worked in Summit County an average of at least 30 hours per week on an annual basis for at least 15 continuous years prior to partial

retirement and has owned and occupied that particular deed-restricted housing unit for at least 5 continuous years prior to retirement.

- b. Housing Mobility for Retirees. When determined to be appropriate, the County may authorize a qualified retiree who meets the minimum length of employment and age requirements described above to move into a new or different deed-restricted unit, rather than requiring such individual to continue occupying the same deed-restricted unit he/she has been occupying prior to retirement. This provision is intended to allow mobility within the County's deed-restricted housing inventory by allowing retirees to downsize into smaller housing units, if desired, thus making larger units available to larger household sizes in need of deed-restricted housing.
 - iii. Disability. For an individual who becomes disabled after commencing ownership or occupancy of a Unit such that he or she cannot work the required number of hours each week required by this restriction may remain a Qualified Occupant; provided that such person receives authorization by the County to remain in the unit for a specified period of time.
- B. The County or its designee shall have the discretion to determine any person's eligibility as a Qualified Occupant under this section and may request such evidence as is necessary to make said determination.
- 17. "Qualified Owner(s)" means a natural person(s) meeting the income, residency, and all other qualifications set forth in this Covenant.
 - 18. "Summit County" means and includes the entirety of the jurisdictional area of Summit County, Colorado.
 - 19. "Summit County Housing Director" or "Director" is the Director of the Summit County Housing Department, or, if there is no such Director or the Director may be unavailable for an extended period of time, such other position in a governmental or quasi-governmental organization within Summit County as the County may designate to exercise the duties assigned to the Director in this Covenant.
 - 20. "Transfer" or "Transferred" means any sale, assignment or transfer that is voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in a Unit, including, but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or any interest evidenced by a land contract by which possession of a Unit is transferred and the Owner obtains title.
 - 21. "Unit" means a physical portion of the Property that is to be or has been constructed for purposes of residential use only and to be created as a separate transferable real property interest by the filing of subdivision or similar plat(s) or map(s) for some or all of the Property.

ARTICLE 3
USE AND OCCUPANCY

The use and occupancy of each Unit shall be limited exclusively to housing for individuals meeting the definition of Qualified Occupant and other requirements as set forth in this Covenant, together with the Qualified Occupant's Dependents and Household, if any. The unit must be occupied as the Qualified Occupant's primary full-time residence.

ARTICLE 4
OWNERSHIP AND OCCUPANCY RESTRICTIONS AND REQUIREMENTS

1. Ownership. Ownership of a Unit is hereby limited exclusively to a Qualified Owner, which shall include the parties described and approved as set forth herein. In the event that a Unit is owned in violation of this Covenant, all of the remedies set forth by law or in equity, including, but not limited to, the rights set forth in this Covenant, shall be available to enforce the terms of this Covenant.
2. Income Categories. At the time of entering into any purchase contract for a Unit, individuals or households, as applicable, shall be subject to the following income categories for each Unit:

80% AMI Units shall be available for those making up to 100% AMI.
3. Income Testing. Income testing is required at the time of purchase (for the original sale and every subsequent sale of a deed-restricted unit) or initial rental, in order to ensure new owners or occupants qualify to purchase or rent a deed-restricted property matching the particular AMI cap.
4. Asset Testing. At the time of the purchase of any Unit below 120% AMI (for the original sale and every subsequent sale of a deed-restricted unit) a Qualified Owner shall not have more assets, exclusive of retirement, 401K, 529 or other equivalent tax-deferred accounts, than \$200,000 or the amount of the listing price, whichever is lower. Asset testing shall be done only at the time an individual purchases a Unit. Assets acquired by a Qualified Owner after purchasing the Unit shall not have any effect on the ability of the Qualified Owner to continue to own the Unit. The specific requirements for asset testing shall be determined by the County on a case-by-case basis.
5. Rental Procedures.
 - A. Rental of the Unit is allowed pursuant to the following terms and requirements:
 - i. Leases shall be approved in advance by the County Housing Director and shall be for a term of at least three (3) consecutive months in duration. Any such tenancy approved by the County Housing Director shall be to a person meeting the definition of a Qualified Occupant.
 - ii. Roommates. When an affordable workforce housing unit is rented to roommates not meeting the definition of a Household, all prospective tenants must be qualified by the County Housing Director as a Qualified Occupant prior to occupancy in accordance with the requirements set forth herein, and must be included as tenants on

the lease.

- iii. **Maximum Rental Rate.** The maximum monthly rental rate chargeable for the Unit shall be 120% of HUD Fair Market Rent, or other methodology approved by the County. The rental rate shall include the cost of utilities, homeowners' association dues, management costs and taxes. The Maximum Rental Rate for a room shall be the Maximum Rental Rate for the total unit size divided by the number of rooms in the unit. Under no circumstances will an Owner be required to charge a monthly rental rate for the Unit that is less than the amount the Owner must pay each month on Owner's First Mortgage.
- B. Use as a Short-term Vacation Rental is Expressly Prohibited. Under no circumstances shall the Unit or any portion of the unit be utilized as a short-term vacation rental.
- C. In the event that any unit, or any portion thereof, is leased or rented without compliance with this Restriction, all of the remedies set forth by law or in equity, including but not limited to the rights set forth in this Covenant, shall be available to enforce the terms of this Covenant.
6. Exceptions to Occupancy Requirements. The Qualified Owner of a Unit may request an exception to the occupancy restrictions of this Covenant through the following process:
 - A. The Qualified Owner requesting an exception must provide a narrative explaining the need for the exception as well as written evidence confirming the reason for the request, including, but not limited to, such items as: a former employer's documentation of involuntary unemployment; confirmation of employment requiring a relocation, etc.
 - B. The decision regarding the request for an exception to the occupancy requirements of this Covenant shall be made by the Summit County Housing Director within thirty (30) days of the completed application submittal with supporting information.
 - C. The Summit County Housing Director may grant an exception to an occupancy requirement of this Covenant for any qualifying circumstance(s) upon finding that:
 - i. The circumstance(s) justifying the grant of an exception to an occupancy requirement of this Covenant is a circumstance that has transpired subsequent to occupancy of the Unit and/or is outside the control of the applicant to correct; and
 - ii. Strict application of the terms of this Covenant would result in a significant hardship on the Qualified Owner; and
 - iii. The grant of the requested exception is limited to the scope necessary to grant reasonable relief to the applicant, consistent with the intent and purpose of this Covenant, and will not have an adverse effect on the community or surrounding neighborhood.
 - D. If the exception is granted, the Director may impose specific conditions of approval, and shall fix the duration of the term of such exception.
7. Refinance Restriction. An Owner shall not encumber a unit with debt, exclusive of

interest, in any form which exceeds, at any time, 97% of the Maximum Resale Price as determined in accordance with this Covenant.

8. Maintenance Responsibilities. Owner is responsible for maintaining the Unit in good working order throughout the length of Owner's ownership of the Unit, and adhering to all homeowner's association requirements for maintenance, upkeep and appearance during such tenure of ownership as well.
9. Ownership Interest in Other Residential Property. If at any time an Owner also owns any interest alone, or in conjunction with others, in any other developed residential property within the State of Colorado, the Owner shall immediately disclose such ownership to the County, and may be required to promptly offer such other property interest for sale. This prohibition concerning additional ownership is deemed to include entities, partnerships, trusts and the like in which the Owner is either a party to the entity or a trustee and or beneficiary of a trust. In the event said other property has not been sold by the Owner within one hundred twenty (120) days of its listing required hereunder, then the Owner shall immediately list his or her Unit for sale pursuant to Article 6 of this Covenant. It is understood and agreed by the County that, in the case of an Owner whose business is the construction and sale of residential properties or the purchase and resale of such properties, the properties which constitute inventory in such Owner's business shall not constitute "other developed residential property" as that term is used in this Section.
10. Exceptions to Restriction on Ownership of Other Real Estate. The following exceptions to the restriction on owning other developed residential real estate within the State of Colorado may be authorized by the County, with such approval documented in writing by the County.
 - i. Timeshare Units. Qualified Owners may be authorized to purchase or own a timeshare unit as a vacation opportunity and/or to utilize on-site amenities such as pools and recreation areas.
 - ii. Affordable Long Term Rental Housing in Summit County. Qualified Owners may be authorized to own an additional property in Summit County, if the Owner agrees to add a deed-restriction to the property to convert it from a market rate unit to a deed-restricted property, whereby the added deed restriction: 1) Is converting an existing market rate unit to a deed-restricted unit, thus increasing the supply of deed-restricted housing in the County; 2) limits use of the property to long term occupancy (minimum 3 months) to persons employed within the County an average of at least 30 hours per week on an annual basis; and 3) limits the maximum rental rate to comply with the Maximum Affordable Rental Rate provisions set forth in this Covenant.
11. Ownership by Entity. At initial sale, after a 30-day priority period for individuals looking to purchase a Unit. Local Employers may purchase up to two deed-restricted units.
 - A. No Local Employer may own more than two Units at a time.
 - B. The Unit shall be rented to an Employee of the Local Employer or a Qualified Occupant who meets the definition of Qualified Occupant as set forth in this Covenant, and is qualified as such in writing by the County.

- C. Leases shall be reviewed and approved in advance by the County and shall not be for a term of less than 3 months.
- D. The Maximum Rental Rate for Local Employer-owned Units shall be 120% of HUD Fair Market Rent or other methodology approved by the County.
- E. Occupancy of Local Employer-owned Units shall not exceed two people per bedroom or one person per 300 square feet, whichever is less.
- F. At all times, Local Employer shall comply with all applicable local, state, and federal laws, statutes, rules, and regulations regarding the landlord-tenant relationship and attendant obligations.
- G. Local Employer shall maintain the Unit in good condition and at the time of entering into a lease agreement with a Qualified Occupant shall meet the requirements of Article 5, Section 5, below.

ARTICLE 5
SALE OF A UNIT

1. Initial Purchase Price. At time of initial sale by Declarant, a Unit shall be sold to a Qualified Owner at a Purchase Price to be determined according to the attached 2020 HUD guidelines for Summit County (**Exhibit B**) and not to exceed the purchase price affordable to a person making the percentage of AMI applicable to the unit as set forth in Article 4. Said initial price may be adjusted upwards in years subsequent to 2020 based on the applicable AMI rates for such years but shall not decrease below the 2020 AMI rates contemplated herein.
2. Notice. In the event that an Owner desires to sell the Unit, or in the event that the Owner shall be required to sell the Unit pursuant to the terms of this Agreement, Owner shall notify County, or such other person or entity as may be designated by the County, in writing of the Owner’s intention to sell the Unit.
3. Priority. At the time of the initial sale and any subsequent resale of any Unit, individuals who have been employed within the County for more than one year will receive priority in the purchase of the Units in accordance with the County’s rules, regulations, policies and codes for the initial 30 day period commencing with the offering of each Unit for sale in a manner accessible to the general public, followed by a period of broader availability extended to Local Employers in Summit County until such time as each Unit is sold. If a lottery is not used, the first individual meeting the priority criteria to submit a good faith offer would satisfy the priority requirement and the seller may accept said offer, etc.
4. Lotteries. County reserves the right to require that a Unit be sold via a lottery process, with such process to be determined by the County at the time of sale, in general conformance with the Guidelines and Purpose and Intent of this Covenant.
5. Maximum Resale Price. In no event shall a Unit be sold for an amount (“Maximum Resale Price”) in excess of the Initial Purchase Price plus an increase of 2% per year to the date of an Owner’s listing or advertising a Unit to sell (Pro-rated at the rate of .167

percent for each whole month of ownership for any part of a year), which percentage shall be calculated annually without compounding.¹ **NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTEE BY THE COUNTY OR THE DECLARANT THAT UPON RESALE THE OWNER SHALL OBTAIN THE MAXIMUM RESALE PRICE.**

6. Condition of Unit at Resale. Each Owner shall be responsible for ensuring that the Unit is in good condition at the time of resale, with reasonable wear and tear acceptable. This obligation includes all matters which are in the control and responsibility of an Owner, and includes, but is not limited to:
 - i. Cleaning the Unit and making necessary improvements to repair and maintain plumbing and mechanical fixtures, appliances, carpet or other flooring, roofs, painting and other similar items in good working order and condition.
 - ii. The Unit must contain all of the appliances that originally came with the Unit, of similar standard.
 - iii. There must be no outstanding County code violations.

If the Unit is not in good condition, the County has the right to bring the Unit into good condition and collect the costs of taking such efforts, by means of a lien upon the Unit, and the right to collect upon such lien through appropriate means, including the right to be paid the cost of any expenses incurred from the Owner's proceeds at closing of the sale of the Unit.

7. Allowance for Qualified Capital Improvements. Subject to the limitations of this Section, for the purpose of determining the Maximum Resale Price in accordance with this Covenant, the Owner may add to the amount specified in paragraph 4 of this Article 6, the cost of approved and qualified capital improvements ("QCI"), as set forth in the Summit County Qualified Capital Improvements Schedule maintained by the County, as such Schedule is amended from time to time, in total amount not to exceed 10% of the Initial Purchase Price over every consecutive ten (10) year period.
8. Listing a Unit for Sale and Sales Commission. For the purpose of determining the Maximum Resale Price, the Owner may add the amount paid in sales commission, up to 1.75%, to the Maximum Resale Price. The ability to increase the Maximum Resale Price by the allowable sales commission amount does not apply to Units for sale by owner unless owner is a real estate broker licensed according to the laws of the State of Colorado. A seller can pay more sales commission, but only 1.75% can be added onto the Maximum Resale Price.
9. No Additional Consideration. Owner shall not accept any other consideration which would cause an increase in the purchase price above the bid price so as to induce the Owner to sell to such prospective buyer. As described in Article 6, below, an

¹ For example, if the original purchase price of a Unit is \$100,000, at the end of Year 1 the Unit could be sold for a maximum of \$102,000. At the end of Year 2, the Unit could be sold for a maximum of \$104,000, and at the end of Year 5, the Unit could be sold for a maximum of \$110,000.

Appreciation Limiting Promissory Note and Deed of Trust is required for every property sale, through which the seller affirms that the sale was not contingent upon the sale of any other personal property and that no other compensation has been required of the buyer, in excess of the contracted unit sale price.

ARTICLE 6

COMPLIANCE AND ENFORCEMENT

1. Owner agrees to provide, upon request of the County or its designee, all documents and information necessary for the County to establish continued compliance with this Covenant and with the Guidelines as amended from time to time. Documents may include, but are not limited to: Federal and State Income Tax Returns, W2's, 1099's, bank statements, vehicle and license information, and invoices for utility payments. The County shall maintain the confidentiality of financial information as provided by law.
2. Appreciation Limiting Promissory Note and Deed of Trust. Along with the recorded instrument of conveyance evidencing a Transfer of a Unit, any such Transfer of a Unit shall include a completed Appreciation Limiting Promissory Note and Deed of Trust, the forms of which are attached hereto as **Exhibit C**, which Note and Deed of Trust are to be executed by the buyer of each Unit at the closing of the sale to such buyer and recorded immediately following the deed to a buyer and the First Mortgage, if any.
3. Memorandum of Acceptance and Notice of Lien. Each sales contract or lease, as the case may be, for a Unit shall also (a) recite that the proposed purchaser or lessee, as applicable, has read, understands and agrees to be bound by the terms of this Covenant.
4. Vacancy. In the event that a Qualified Owner ceases to occupy a Unit as his or her principal place of residence for a period of more than ninety (90) consecutive days (as reasonably determined by the County), the County may, in its sole discretion and in addition to any other remedies the County may have hereunder, determine that the Unit shall be offered for sale pursuant to the provisions of Articles 4 and 5 and require the Qualified Owner or non-qualified Owner to rent the Unit for a predetermined period of up to one (1) year to a Qualified Occupant while the Unit is listed for sale.
5. Non-Qualified Transferees. In the event that title to a Unit vests in any individual or entity that is not a Qualified Owner ("Non-Qualified Transferee") by descent, by foreclosure and/or redemption by any lien or mortgage holder (except any holder of a HUD-insured First Mortgage), or by operation of law or any other event, the County may elect to notify the Non-Qualified Transferee that it must sell the Unit in accordance with Articles 4 and 5. A Non-Qualified Transferee shall not: (i) occupy a Unit; (ii) rent all or any part of a Unit, except in strict compliance with this Covenant and as approved in writing by the County; (iii) engage in any business activity on or in a Unit; (iv) sell or otherwise transfer a Unit except in accordance with this Covenant; or (v) sell or otherwise transfer a Unit for use in trade or business.
6. Failure to Comply with Restrictions. In the event an owner fails to comply with any of the restrictions contained in this covenant, the County may, but is not required to, provide

notice to the owner of the unit in violation and provide an opportunity for the owner to cease and desist or cure. In addition, the County may, in its discretion, promulgate a notice and penalty schedule for covenant violations. In the event such a schedule is adopted by the County, the County shall provide written notice to all owners of the notice and penalty schedule. Any such notice and penalty schedule shall be in addition to those remedies available pursuant to this covenant. This may include an appreciation pause for any units that are determined to be in violation of their covenant, where the allowable annual rate of appreciation is suspended during a period when a violation notice has been issued, until such violation has been resolved to the satisfaction of the County.

7. Sales to Preserve Unit as Affordable Housing.

- A. In the event a Unit is occupied, Transferred or leased in violation of this Covenant, the County may, at its sole discretion, notify an Owner that it must immediately list the Unit for sale. The highest bid by a Qualified Owner for not less than ninety-five percent (95%) of the Maximum Sale Price shall be accepted by the Owner; provided, however, if the Unit is listed for a period of at least ninety (90) days and all bids are below ninety-five percent (95%) of the Maximum Sale Price, the Unit shall be sold to a Qualified Owner that has made the highest offer for at least the appraised market value of the Unit, as determined by the County in its reasonable good faith judgment, after such ninety (90) day period.
- B. In the case of such an uncured violation, if required by the County, the Owner shall: (i) consent to any sale, conveyance or transfer of such Unit to a Qualified Owner; (ii) execute any and all documents necessary to do so; and (iii) otherwise reasonably cooperate with the County to take actions needed to accomplish such sale, conveyance or transfer of such Unit. For this purpose, Owner constitutes and appoints the County as the Owner's true and lawful attorney-in-fact with full power of substitution to complete or undertake any and all actions required under this Article 5 or as set forth elsewhere in this Covenant. It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. Owner specifically agrees that all power granted to the County under this Covenant may be assigned by it to its successors or assigns.
- C. In order to preserve the affordability of the Units for persons of low to moderate income, the County shall also have and is hereby granted the right and option to purchase a Unit, exercisable within a period of fifteen (15) calendar days after notice is sent by the County to the Owner that requires the Owner to sell the Unit due to a violation pursuant to this Section. The County shall complete the purchase of such Unit within thirty (30) calendar days after exercising its option hereunder for a price equal to the lesser of the appraised market value of the Unit, as determined by the County in its reasonable good faith judgment, or the Maximum Sale Price. The County may assign its option to purchase hereunder to an eligible purchaser which, for the purpose of this Section 7.C., shall be a Qualified Owner.
- D. In all situations in which the provisions of this Article 5 apply, the County may alternatively require the Owner to promptly rent a Unit to a lessee that is deemed a Qualified Occupant in accordance with the requirements of this Covenant and subject to the one (1) year limit while the Unit is listed for sale.

ARTICLE 7
FORECLOSURE

1. Release. Notwithstanding anything herein to the contrary, this Covenant shall be deemed released as to a Unit in the event of the issuance of a public trustee's deed, sheriff's deed or similar conveyance of the Unit in connection with a foreclosure by the holder of a HUD- insured First Mortgage.
2. Lien and Promissory Note.
 - A. County shall have, and is hereby granted, a lien against a Unit ("County's Lien") to secure payment of any amounts due and owing County pursuant to this Covenant, including, but not limited to, all sales proceeds over and above the Maximum Sales Price. The County's Lien on the respective Unit shall be superior to all other liens and encumbrances except the following:
 - i. liens and encumbrances recorded prior to the recording of this Covenant;
 - ii. real property ad valorem taxes and special assessment liens duly imposed by Colorado governmental or political subdivision or special taxing districts;
 - iii. liens given superior priority by operation of law; and
 - iv. the lien of any First Mortgage against a Unit.
 - B. Recording of this Covenant constitutes record notice and perfection of the County's Lien. No further recordation of any claim of lien is required. By virtue of the County's Lien, County shall have all of the rights that a mortgage holder may have against a Unit, including, but not limited to, the right to judicially foreclose upon a Unit. The County shall be entitled to file such notices and other information necessary to preserve its rights, as a lienor, to cure and redeem in foreclosure of a Unit, as provided by C.R.S. 38-38-101 et seq. In addition, unless otherwise instructed by the County in writing, the Owner shall sign, acknowledge, and cooperate in the County's recording in the County Clerk and Recorder's Office immediately subsequent to the recording of the First Mortgage, a Promissory Note and Deed of Trust substantially in the form attached hereto as Exhibit C, in order to assure that the County receives notice and the opportunity to cure in the event of the foreclosure of the First Mortgage pursuant to this Article. The Promissory Note and Deed of Trust shall not alter the priority date of the County Lien as established herein.
 - C. The sale or other Transfer of a Unit shall not affect the County Lien. No sale or deed in lieu of foreclosure shall relieve the Owner from continuing personal liability for payment of his or her obligations hereunder. The County Lien does not prohibit actions or suits to recover sums due pursuant to this Covenant, or to enforce the terms of this Covenant, or to prohibit the County from taking a deed in lieu of foreclosure.
 - D. Upon request, the County shall agree to subordinate the County Lien and Promissory Note to a First Mortgage or deed of trust provided that the total principal indebtedness secured by those mortgages or deed of trust with priority over the County Lien shall not exceed ninety-seven percent (97%) of the current allowed Maximum Resale Price under

this Covenant as of the date of subordination. To the extent that Exhibit C is inconsistent with this provision, the provisions of this Section 6.2.D. shall control.

3. **County Option to Redeem.**
 - A. **Notice of Default to the County.** Within ten (10) days after Owner's receipt of any notice of default from a Mortgagee or the home owner's association governing the Unit, the Owner shall give written notice of such default to the County.
 - B. **Foreclosure/County Option to Redeem.** In the event of a foreclosure of a First Mortgage or the assessment lien of the home owner's association, the County or its authorized agent shall be entitled to receive notice of the foreclosure proceedings as is required by law to be given by the public trustee or the sheriff, as applicable, to lienors of a Unit that are junior to the First Mortgage (as provided in C.R.S. §38-38-101 et seq., or any succeeding statute). The County shall have a right of redemption, purchase, and such other rights as a lienor and holder of a deed of trust in foreclosure, as its interest appears, in accordance with Colorado law governing foreclosure.
 - C. **Upon Exercising Option.** In the event that the County obtains title to a Unit pursuant to this Article 6, the County or its designee, may sell such Unit to a Qualified Owner, or rent such Unit to a Qualified Occupant.
4. **Perpetuities Savings Clause.** If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Covenant shall be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision; (ii) the rule restricting restraints on alienation; or (iii) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the shorter of (x) the term of this Covenant, or (y) the period of the lives of the current duly elected and seated Commissioners of the County, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.
5. **Notices.** In the event of a foreclosure of a Unit, those parties noted below are to be given written notice of any foreclosure proceedings as part of any and all formal notification requirements pursuant to the foreclosure. Those parties are to include the County and the Summit Combined Housing Authority (SCHA) as provided for in Section 9.13 below.
6. **Enforcement of This Restriction.** Each Owner hereby grants and assigns to the County or its designee the right to review and enforce compliance with this Covenant. Compliance may be enforced by the County by any lawful means, including without limitation, seeking any equitable relief (including, without limitation, specific performance), as well as a suit for damages; provided, however, in the event a Unit is financed by a HUD-insured First Mortgage and is sold in violation of this Covenant, such enforcement shall not include:
 - i. acceleration of a mortgage;
 - ii. voiding a conveyance by an Owner;
 - iii. terminating an Owner's interest in a Unit; or
 - iv. subjecting an Owner to contractual liability.

Notwithstanding the foregoing, in no event shall the County have any equitable remedies (including, but not limited to, the right to sue for specific performance or seek other equitable relief) or the right to sue for damages if the Owner of a Unit that was financed with a HUD-insured First Mortgage breaches or violates the terms, covenants and other provisions of Article 6 hereof and if to do so would violate any existing or future requirement of HUD; it being understood, however, that in such event, the County shall retain all other rights and remedies hereunder for enforcement of any other terms and provisions hereof, including, without limitation: (i) the right to sue for damages to reimburse the County, or its agents, for its enforcement costs and to require an Owner to repay with reasonable interest (not to exceed ten percent (10%) per annum) any assistance received in connection with the purchase of a Unit; (ii) the right to prohibit an Owner from retaining sales or rental proceeds collected or received in violation of this Covenant; and (iii) the option to purchase granted to the County in Article 6 hereof. Venue for a suit enforcing compliance shall be proper in the County and service may be made or notice given by posting such service or notice in a conspicuous place on the applicable Unit. As part of any enforcement action on the part of the County, the applicable Owner shall pay all court costs and reasonable legal fees incurred by the County or its agents, in connection with these claims, actions, liabilities or judgments, including an amount to pay for the time, if any, of the County's, or its agents' attorney fees spent on such claims at the rates generally charged for similar services by private practitioners within the County.

7. Injunctive and other Equitable Relief. Each Owner agrees that in the event of Owner's default under or non-compliance with the terms of this Covenant, the County shall have the right to seek such equitable relief as it may deem necessary or proper, including, without limitation, the right to: (a) seek specific performance of this Covenant; (b) obtain a judgment from any court of competent jurisdiction granting a temporary restraining order, preliminary injunction and/or permanent injunction; and (c) set aside or rescind any sale of a Unit made in violation of this Covenant. Any equitable relief provided for in this Covenant may be sought singly or in combination with such legal remedies as the County may be entitled to, either pursuant to this Covenant, under the laws of the State of Colorado, or otherwise.

ARTICLE 8

INSURANCE

1. Owner Insurance Requirements. Each Owner, shall, in conjunction with the purchase or acquisition of a Unit, keep the Unit and its improvements now existing or hereafter erected, insured against loss or casualty by fire or hazards included within the term "extended coverage" in an amount equal to the replacement costs of returning the Unit to its condition prior to loss ("Property Insurance"). The insurance carrier providing the insurance shall be qualified to write Property Insurance in Colorado and shall be chosen by Owner subject to the County's right to reject the chosen carrier for objectively reasonable cause. All insurance policies and renewals thereof shall provide that the insurance carrier shall notify the County at least ten (10) days before cancellation, termination or any material change of coverage. Insurance policies shall be furnished to the County by Owner at or before closing. The County shall have the right, but not the obligation, to request proof of insurance and/or continued coverage limits from the Owner by written request, at any such time(s) as the County deems appropriate. In the

event of loss, Owner shall give prompt notice to the insurance carrier and the County. Insurance proceeds shall be applied to restoration or repair of the Unit damaged, provided such restoration or repair is economically feasible and the security of any existing deed of trust or mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of an existing deed of trust would be impaired, the insurance proceeds shall be applied to the sums secured by the deed of trust, with the excess, if any, paid to Owner.

ARTICLE 9

GENERAL PROVISIONS

1. Equal Housing Opportunity. Pursuant to the Fair Housing Act and the County's public policy, the County shall not discriminate on the basis of race, religion, creed, color, sex, national origin/ancestry, familial status (children under the age of 18 in the household), marital status, disability or sexual orientation (including transgender status) in the lease, sale, use or occupancy of a Unit.
2. Rules, Regulations, and Standards. The County shall have the authority to promulgate and adopt such rules, regulations and standards as it may deem appropriate, from time to time, for the purpose of carrying out its obligations and responsibilities described herein.
3. Waiver of Exemptions. Every Owner, by taking title to a Unit, shall be deemed to have subordinated to this Covenant any and all right of homestead and any other exemption in, or with respect to, such Unit under state or federal law presently existing or hereafter enacted.
4. Severability. Invalidation of any one of the covenants or restrictions contained herein by judgment or Court order shall in no way affect any other provisions, it being the intent of the County that such invalidated provision be severable.
5. Term. Subject to the termination and/or release provisions contained herein, the restrictions contained herein shall run with the land and bind the land in perpetuity.
6. Amendment. This Covenant may be amended only by an instrument recorded in the records of the County executed by the County and the then-Owner of a Unit; provided, however, the County reserves the right to unilaterally amend this Covenant without the approval or consent of any Owner, Mortgagee, or any other person or entity for the purpose of (a) making non-material changes (such as for correction of technical, typographical, or clerical errors), or for clarification of a statement; or (b) without regard to (a), if such amendment lessens the ownership, use, sales and lease restrictions placed upon the Owners as provided herein. The County may unilaterally execute and record such amendments at any time.
7. No Third Party Beneficiaries. This Covenant is made and entered into for the protection and benefit of the County and the Owner. Except as otherwise specifically provided for herein, no other person, persons, entity or entities, including without limitation prospective buyers of a Unit, shall have any right of action with respect to this Covenant or right to claim any right or benefit from the terms provided in this Covenant or be deemed a third party beneficiary of this Covenant.

and constructed in accordance with the laws of the State of Colorado.

15. Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.
16. Headings. Article and Section headings within this Covenant are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.
17. Signatures. Signatures to this Covenant may be in counterparts and by facsimile or scanned emailed document.

[Separate signature and Approval and Acceptance pages follow]

APPROVAL AND ACCEPTANCE

Summit County Board of County Commissioners

By: _____
Scott Vargo, County Manager

STATE OF COLORADO)
) ss
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me as of the _____ day of _____, 20__, by Scott Vargo as County Manager, on behalf of the Summit County Board of County Commissioners, a body corporate and politic.

Witness my hand and official seal.

My Commission Expires: _____

Notary Public

EXHIBIT A

QUALIFIED CAPITAL IMPROVEMENT SCHEDULE

EXHIBIT B

HUD GUIDELINES FOR SUMMIT COUNTY

EXHIBIT C

Appreciation Limiting Promissory Note (C-1) and Deed of Trust (C-2)

EXHIBIT A

Permitted Capital Improvements

The Owner of a deed restricted unit may add to the resale amount outlined in restrictive covenant the cost of certain permitted qualified capital improvements and maintenance items (“QCI’s”). The specific QCI’s that are permitted by the County are outlined in Section 1 below. These QCI’s are allowed in a total amount not to exceed 10% of the initial purchase price over every consecutive ten (10) year period with a few exceptions. Section 2 provides the process for submitting QCI’s to county for approval and Section 3 provides the Depreciation Table.

Section 1-QCI’s Permitted by the County

QCI’s with No Depreciation:

- Structural addition or additions of livable space including bathrooms, bedrooms, exterior door, interior doors, baseboard, window casing, insulation and plumbing (excluding fixtures) garages (detached or attached) and a storage shed requiring a building permit.
- Modifications or improvements to accommodate a person with a disability as defined in the Americans with Disabilities Act of 1990 (adding or removing).

QCI’s depreciated on a 20-year schedule:

- Renewable energy systems*
- Energy efficiency home improvements* (i.e. high efficiency boilers, energy efficient windows)

* Items that are excluded from the 10% maximum allowed QCI

QCI’s depreciated on 10-year schedule:

- Countertops of similar spec level
- Cabinets including vanities
- Windows
- Hard flooring
- Hot water heater

QCI’s depreciated on 5-year schedule:

- Replaced kitchen appliances
- Washer and dryer (including stackable)
- Carpet including pad
- Permanent fitted window blinds
- Plumbing fixtures including sinks and toilets
- Light fixtures

Items which are NOT Qualifying Capital Improvements:

- All work performed without the issuance of a required building permit.
- Maintenance and replacement items handled by the HOA and paid for by HOA dues or assessments.
- Jacuzzis, saunas, steam showers, hot tubs, etc.
- Maintenance or improvements to existing fixtures, appliances, plumbing, and mechanical systems.
- Painting, cleaning, etc.
- Decorative items including window coverings, lamps and lighting not affixed to walls or ceilings, bath towel bars and hooks, etc.
- Interior paint
- Light bulbs, LED or other
- Cost of tools
- Equipment Rental
- Removable items not attached to the unit.

Section 2-Process for Submitting QCI's

The process for submitting QCI's is outlined below.

- a. QCI's shall be approved by the Summit County Housing Department and calculated in accordance with this Amended and Restated Deed Restriction Agreement for the Occupancy and Resale of Units at Ophir Mountain Village.
- b. The cost of certain QCI's may be included in a unit's Maximum Resale Price. QCI depreciate under various schedules including a 20-year depreciation schedule, a 10-year depreciation schedule, and a 5-year depreciation schedule. There are other items that have been identified that are not be considered QCI.

For an owner to request that QCI be added to the Maximum Resale Price, he or she must comply with the following:

- a. Obtain any required building permits or property owners' association approval. Any fees associated with a building permit or property association approval will not be included as a QCI.
- b. Upon completion of the work, the Housing Department requests the following:
 - i. Legible copies of receipts and invoices including proof of payment to a third party.
 - ii. Owners must retain original receipts and invoices.
- c. In calculating the costs allowed as QCI, only the owner's actual out of pocket costs and expenses will be eligible for inclusion. Such amount shall not include an amount attributable to owner's labor, unless the work performed is conducted by owner's bona fide business or within owner's professional area of expertise, in which case such work shall be appropriately invoiced at the time the work is completed at no more than the

average going rate for services of that kind. The value of the QCI will be added to the appreciated value of the unit at the time of sale. No appreciation is allowed on QCI.

- d. If an owner pays cash for improvements, the owner must provide third party documentation of payment. An owner must have an invoice for improvements, but if no such documentation of proof of cash payment can be produced, the Housing Department can inspect the improvement completed in the unit. Up to 75% of the documented invoice value may be included after an inspection, subject to depreciation, at the Housing Department's sole discretion.
- e. Other improvements to the Affordable Housing unit are allowed subject to all applicable rules, regulations, and permitting requirements, but adjustments to the Maximum Resale Price will only be given for QCI.
- f. The Housing Department may accelerate depreciation or exclude items if damaged beyond ordinary depreciation.

If a QCI included in the base price of the unit is removed or is no longer operational, the actual cost of the improvement shall be deducted from the base price. No other categories or types of expenditures may qualify as QCI unless pre-approved in writing by the Housing Department.

Section 3-Depreciation Table

Schedule % of Cost	20 Year Depreciation QCI	10 Year Depreciation QCI	5 Year Depreciation QCI
100%	From completion to <24 months	From completion to <12 Months	From completion to <6 Months
90%	24 to <48 months	12 to <24 Months	6 to <12 Months
80%	48 to <72 months	24 to <36 Months	12 to <18 Months
70%	72 to <96 months	36 to <48 Months	18 to <24 Months
60%	96 to <120 months	48 to <60 Months	24 to <30 Months
50%	120 to <144 months	60 to <72 Months	30 to <36 Months
40%	144 to <168 months	72 to <84 Months	36 to <42 Months
30%	168 to <192 months	84 to <96 Months	42 to <48 Months
20%	192 to <216 months	96 to <108 Months	48 to <54 Months
10%	216 to <240 months	108 to <120 Months	54 to <60 Months
0%	From 240 months and beyond	From 120 Months and beyond	From 60 Months and beyond

Exhibit B

SCHA

2020 SUMMIT COUNTY AREA MEDIAN INCOME (AMI)

Figures in RED are directly from HUD 4/1/2020; other numbers have been extrapolated

AMIs

Household size	HUD EXTREMELY LOW			HUD LOW		TRUE											
	INCOME	50%	60%	INCOME	80%	85%	90%	95%	100%	105%	110%	115%	120%	125%	130%	140%	160%
1 person	\$20,150	\$33,600	\$40,320	\$53,700	\$53,760	\$57,120	\$60,480	\$63,840	\$67,200	\$70,560	\$73,920	\$77,280	\$80,640	\$84,000	\$87,360	\$94,080	\$107,520
1.5 person	\$21,575	\$36,000	\$43,200	\$57,550	\$57,600	\$61,200	\$64,800	\$68,400	\$72,000	\$75,600	\$79,200	\$82,800	\$86,400	\$90,000	\$93,600	\$100,800	\$115,200
2 person	\$23,000	\$38,400	\$46,080	\$61,400	\$61,440	\$65,280	\$69,120	\$72,960	\$76,800	\$80,640	\$84,480	\$88,320	\$92,160	\$96,000	\$99,840	\$107,520	\$122,880
3 person	\$25,900	\$43,200	\$51,840	\$69,050	\$69,120	\$73,440	\$77,760	\$82,080	\$86,400	\$90,720	\$95,040	\$99,360	\$103,680	\$108,000	\$112,320	\$120,960	\$138,240
4 person	\$28,750	\$47,950	\$57,540	\$76,700	\$76,720	\$81,515	\$86,310	\$91,105	\$95,900	\$100,695	\$105,490	\$110,285	\$115,080	\$119,875	\$124,670	\$134,260	\$153,440
4.5 person	\$29,900	\$49,875	\$59,850	\$79,775	\$79,800	\$84,788	\$89,775	\$94,763	\$99,750	\$104,738	\$109,725	\$114,713	\$119,700	\$124,688	\$129,675	\$139,650	\$159,600
5 person	\$31,050	\$51,800	\$62,160	\$82,850	\$82,880	\$88,060	\$93,240	\$98,420	\$103,600	\$108,780	\$113,960	\$119,140	\$124,320	\$129,500	\$134,680	\$145,040	\$165,760
6 person	\$35,160	\$55,650	\$66,780	\$89,000	\$89,040	\$94,605	\$100,170	\$105,735	\$111,300	\$116,865	\$122,430	\$127,995	\$133,560	\$139,125	\$144,690	\$155,820	\$178,080
7 person	\$39,640	\$59,500	\$71,400	\$95,150	\$95,200	\$101,150	\$107,100	\$113,050	\$119,000	\$124,950	\$130,900	\$136,850	\$142,800	\$148,750	\$154,700	\$166,600	\$190,400
8 person	\$44,120	\$63,300	\$75,960	\$101,250	\$101,280	\$107,610	\$113,940	\$120,270	\$126,600	\$132,930	\$139,260	\$145,590	\$151,920	\$158,250	\$164,580	\$177,240	\$202,560

Rentals

Maximum affordable monthly rent

Assumes affordability = 30% of monthly household income

Maximum affordable monthly rent amounts should also include the following utilities: electric, gas, water, sewer, trash, & snow removal

Unit Size	HUD EXTREMELY LOW			HUD LOW		TRUE											
	INCOME	50%	60%	INCOME	80%	85%	90%	95%	100%	105%	110%	115%	120%	125%	130%	140%	160%
Studio (1 person)	\$503.75	\$840.00	\$1,008.00	\$1,342.50	\$1,344.00	\$1,428.00	\$1,512.00	\$1,596.00	\$1,680.00	\$1,764.00	\$1,848.00	\$1,932.00	\$2,016.00	\$2,100.00	\$2,184.00	\$2,352.00	\$2,688.00
1 bed (1.5 person)	\$539.38	\$900.00	\$1,080.00	\$1,438.75	\$1,440.00	\$1,530.00	\$1,620.00	\$1,710.00	\$1,800.00	\$1,890.00	\$1,980.00	\$2,070.00	\$2,160.00	\$2,250.00	\$2,340.00	\$2,520.00	\$2,880.00
2 bed (3 person)	\$647.50	\$1,080.00	\$1,296.00	\$1,726.25	\$1,728.00	\$1,836.00	\$1,944.00	\$2,052.00	\$2,160.00	\$2,268.00	\$2,376.00	\$2,484.00	\$2,592.00	\$2,700.00	\$2,808.00	\$3,024.00	\$3,456.00
3 bed (4.5 person)	\$747.50	\$1,246.88	\$1,496.25	\$1,994.38	\$1,995.00	\$2,119.69	\$2,244.38	\$2,369.06	\$2,493.75	\$2,618.44	\$2,743.13	\$2,867.81	\$2,992.50	\$3,117.19	\$3,241.88	\$3,491.25	\$3,990.00
4 bed (6 person)	\$879.00	\$1,391.25	\$1,669.50	\$2,225.00	\$2,226.00	\$2,365.13	\$2,504.25	\$2,643.38	\$2,782.50	\$2,921.63	\$3,060.75	\$3,199.88	\$3,339.00	\$3,478.13	\$3,617.25	\$3,895.50	\$4,452.00

For Sale

Maximum Monthly Principal & Interest Payment

Based on the affordable monthly rent amounts above, less a \$350 allowance to cover taxes, insurance, and HOA dues

Unit Size	HUD EXTREMELY LOW			HUD LOW		TRUE											
	INCOME	50%	60%	INCOME	80%	85%	90%	95%	100%	105%	110%	115%	120%	125%	130%	140%	160%
Studio (1 person)	\$153.75	\$490.00	\$658.00	\$992.50	\$994.00	\$1,078.00	\$1,162.00	\$1,246.00	\$1,330.00	\$1,414.00	\$1,498.00	\$1,582.00	\$1,666.00	\$1,750.00	\$1,834.00	\$2,002.00	\$2,338.00
1 bed (1.5 person)	\$189.38	\$550.00	\$730.00	\$1,088.75	\$1,090.00	\$1,180.00	\$1,270.00	\$1,360.00	\$1,450.00	\$1,540.00	\$1,630.00	\$1,720.00	\$1,810.00	\$1,900.00	\$1,990.00	\$2,170.00	\$2,530.00
2 bed (3 person)	\$297.50	\$730.00	\$946.00	\$1,376.25	\$1,378.00	\$1,486.00	\$1,594.00	\$1,702.00	\$1,810.00	\$1,918.00	\$2,026.00	\$2,134.00	\$2,242.00	\$2,350.00	\$2,458.00	\$2,674.00	\$3,106.00
3 bed (4.5 person)	\$397.50	\$896.88	\$1,146.25	\$1,644.38	\$1,645.00	\$1,769.69	\$1,894.38	\$2,019.06	\$2,143.75	\$2,268.44	\$2,393.13	\$2,517.81	\$2,642.50	\$2,767.19	\$2,891.88	\$3,141.25	\$3,640.00
4 bed (6 person)	\$529.00	\$1,041.25	\$1,319.50	\$1,875.00	\$1,876.00	\$2,015.13	\$2,154.25	\$2,293.38	\$2,432.50	\$2,571.63	\$2,710.75	\$2,849.88	\$2,989.00	\$3,128.13	\$3,267.25	\$3,545.50	\$4,102.00

Maximum Sales Prices

Assumes interest rate of 5.59%, 30 year loan term, and 90% loan-to-value (Interest rate is the Freddie Mac 10-year trailing average for 2010-2019)

Unit Size	HUD EXTREMELY LOW			HUD LOW		TRUE											
	INCOME	50%	60%	INCOME	80%	85%	90%	95%	100%	105%	110%	115%	120%	125%	130%	140%	160%
Studio (1 person)	\$29,791	\$94,942	\$127,494	\$192,306	\$192,597	\$208,873	\$225,149	\$241,424	\$257,700	\$273,976	\$290,252	\$306,528	\$322,803	\$339,079	\$355,355	\$387,907	\$453,010
1 bed (1.5 person)	\$36,693	\$106,568	\$141,444	\$210,956	\$211,198	\$228,636	\$246,075	\$263,513	\$280,951	\$298,390	\$315,828	\$333,266	\$350,705	\$368,143	\$385,581	\$420,458	\$490,212
2 bed (3 person)	\$57,643	\$141,444	\$183,296	\$266,662	\$267,001	\$287,927	\$308,853	\$329,779	\$350,705	\$371,631	\$392,557	\$413,483	\$434,409	\$455,335	\$476,261	\$518,113	\$601,817
3 bed (4.5 person)	\$77,019	\$173,778	\$222,097	\$318,613	\$318,734	\$342,894	\$367,053	\$391,213	\$415,372	\$439,531	\$463,691	\$487,850	\$512,009	\$536,169	\$560,328	\$608,647	\$705,285
4 bed (6 person)	\$102,499	\$201,752	\$255,666	\$363,299	\$363,493	\$390,450	\$417,406	\$444,363	\$471,320	\$498,277	\$525,234	\$552,190	\$579,147	\$606,104	\$633,061	\$686,974	\$794,802

Effective 4/1/2020

THESE FIGURES ARE SUBJECT TO CHANGE WITHOUT NOTICE

EXHIBIT C-1

APPRECIATION LIMITING PROMISSORY NOTE

(Melody Lodge Cabin # __)

(the "Note")

Date

FOR VALUE RECEIVED, _____ (the "Maker"), jointly and severally if more than one, promises to pay to the order of SUMMIT COUNTY, P.O. Box 68, Breckenridge, CO 80424 ("County"), fifteen (15) days after written demand for payment ("Due Date"), all sums that become due to County from Maker after the date of this Note under the "Restrictive Housing Covenant And Notice Of Lien For Cabin #1 And Cabin #2 Of Melody Lodge Cabins PUD", Summit County, Colorado," dated _____ and recorded _____ under Reception No. _____ of the records of the Clerk and Recorder of Summit County, Colorado.

This Note shall not bear interest until the Due Date. If this Note is not paid on or before the Due Date, it shall thereafter bear interest at the rate of eighteen percent (18%) per annum from the Due Date until fully paid.

The Maker and any surety, guarantor, and endorser of this Note, jointly and severally, hereby waive notice of, and consent to any and all extensions of this Note or any part thereof without notice and each hereby waives demand, presentment for payment, notice of nonpayment and protest, and any and all notice of whatever kind or nature.

No waiver by the County of any one or more of the terms and conditions herein contained shall be deemed a waiver of the other terms and conditions herein contained; nor shall any such waiver be considered for any reason as continuing or perpetual in nature.

This Note is secured by a deed of trust on the following real property located in Summit County, Colorado:

MELODY LODGE CABIN # __

According to the plat of Melody Lodge Cabins P.U.D. recorded on March 12, 2007 at Rec. No. 849370., and according to the Restrictive Housing Covenant And Notice Of Lien For Cabin #1 And Cabin #2 Of Melody Lodge Cabins PUD recorded at _____ on _____ and any and all Amendments and/or Supplements thereto,

The undersigned hereby acknowledges receipt of a true copy of this Note.

Maker

Maker

EXHIBIT C-2

Deed of Trust

IF THIS FORM IS USED IN A CONSUMER CREDIT TRANSACTION, CONSULT LEGAL
COUNSEL

THIS IS A LEGAL INSTRUMENT IF NOT UNDERSTOOD, LEGAL, TAX, OR OTHER COUNSEL
SHOULD BE CONSULTED BEFORE SIGNING

DEED OF TRUST

(Melody Lodge Cabins)

THIS DEED OF TRUST is made this ___ day of _____, between
_____(Borrower), whose address is _____ and
the Public Trustee of the County in which the Property (see paragraph 1) is situated (Trustee); for the
benefit of the SUMMIT COUNTY (Lender), whose address is P.O. Box 68, Breckenridge, CO 80424.

Borrower and Lender covenant and agree as follows:

Property is Trust. Borrower, in consideration of the indebtedness herein recited and the trust herein
created, hereby grants and conveys to Trustee in trust, with power of sale, the following described property
located in the County of Summit, State of Colorado:

Melody Lodge Cabin #__, according to the plat of Melody Lodge Cabins P.U.D. recorded on March
12, 2007 at Rec. No. 849370.

Note; Other Obligations Secured. This Deed of Trust is given to secure to Lender Borrower's obligations
as set forth in the Appreciation Limiting Promissory Note of even date herewith. Without limiting the
generality of the preceding sentence, this Deed of Trust secures Borrower's obligations to Lender as set
forth in the Amended And Restated Deed Restriction Agreement For The Occupancy And Resale Of Units
At Ophir Mountain Village, Summit County, Colorado, dated _____, and recorded
_____, under Reception No. _____ of the records of the Clerk and
Recorder of Summit County, Colorado.

Title. Borrower covenants that Borrower owns and has the right to grant and convey the Property, and warrants title to the same, subject to general real estate taxes for the current year, easements of record or in existence, and recorded declarations, restrictions, reservations and covenants, if any, as of this date.

Payment of Principal and Interest. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and late charges as provided in the Note and shall perform all of Borrower's other covenants contained in the Note.

Prior Mortgages and Deeds of Trust; Charges; Liens. Borrower shall perform all of Borrower's obligations under any prior deed of trust and any other prior liens. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may have or attain a priority over this Deed of Trust by Borrower making payment when due, directly to the payee thereof. Despite the foregoing, Borrower shall not be required to make payments otherwise required by this paragraph if Borrower, after notice to Lender, shall in good faith contest such obligation by, or defend enforcement of such obligation in, legal proceedings which operate to prevent the enforcement of the obligation or forfeiture of the Property or any part thereof, only upon Borrower making all such contested payments and other payments as ordered by the court to the registry of the court in which such proceedings are filed.

Preservation and Maintenance of Property. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on Leasehold. Borrower shall perform all of Borrower's obligations under any declarations, covenants, by-laws, rules, or other documents governing the use, ownership, or occupancy of the Property.

Protection of Lender's Security. Except when Borrower has exercised Borrower's rights under paragraph 6 above, if the Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if a default occurs in prior lien, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, with notice to Borrower if required by law, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to:

any general or special taxes or ditch or water assessments levied or accruing against the Property; the premiums on any insurance necessary to protect any improvements comprising a part of the Property; sums due on any prior lien or encumbrance on the Property; if the Property is a leasehold or is subject to a lease, all sums due under such lease; the reasonable costs and expenses of defending, protecting, and maintaining the Property and Lender's interest in the Property, including repair and maintenance costs and expenses, costs and expenses of protecting and securing the Property, receiver's fees and expenses, inspection fees, appraisal fees, court costs, attorney fees and costs, and fees and costs of an attorney in the employment of the Lender or holder of the certificate of purchase; all other costs and expenses allowable by the evidence of debt or this Deed of Trust, and such other costs and expenses which may be authorized by the court of competent jurisdiction.

Borrower hereby assigns to Lender any right Borrower may have by reason of any prior encumbrance on the Property or by law or otherwise to cure any default under said prior encumbrance.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Deed of Trust. Such amounts shall be payable upon notice from the Lender to Borrower requesting payment thereof, and Lender may bring suit to collect any amounts so disbursed plus interest. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any actions hereunder.

Borrower Not Released. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower, nor Borrower's successors in interest, from the original terms of this Deed of Trust. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower nor Borrower's successors in interest.

Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by law, shall not be a waiver or preclude the exercise of any such right or remedy.

Remedies Cumulative. Each Remedy provided in the Note and this Deed of Trust is distinct from and cumulative to all other rights or remedies under the Note and this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively.

Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 18 Transfer of the Property; Assumption. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

Notice. Except for any notice required by law to be given in another manner: (a) any notice to Borrower provided for in this Deed of Trust shall be in writing and shall be given and be effective upon (1) delivery to Borrower or (2) mailing such notice by first-class mail, addressed to Borrower at Borrower's address stated herein or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be in writing and shall be given and be effective upon (1) delivery to Lender or (2) mailing such notice by first-class mail, addressed to Lender at Lender's address stated herein or at such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower and Lender when given in any manner designated herein.

Governing Law; Severability. The Note and this Deed of Trust shall be governed by the law of Colorado. In the event that any provision or clause of this Deed of Trust or the Note conflicts with the law, such conflict shall not affect other provisions of the Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and Note are declared to be severable.

Acceleration: Foreclosure: Other Remedies. Except as provided in paragraph 18 Transfer of Property; Assumption, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, or upon any default in a prior lien upon the Property, (unless Borrower has exercised Borrower's rights under paragraph 5 above), at Lender's option, all of the sums secured by this Deed of Trust shall be immediately due and payable (Acceleration). To exercise this option, Lender may invoke the power of sale and any other remedies permitted by law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Deed of Trust, including, but not limited to, reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of such election. Trustee shall give notice to Borrower of Borrower's rights as provided by law. Trustee shall record a copy of such notice as required by law. Trustee shall advertise the time and place of the sale of the Property, for not less than four weeks in a newspaper of general circulation in each county for which the Property is situated, and shall mail copies of such notice of sale to Borrower and other persons as prescribed by law. After the lapse of such time as may be required by law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place (which may be on the Property or any part thereof as permitted by law) in one or more parcel as Trustee may think best and in such order as Trustee may determine. Lender or Lender's designee may purchase the Property at any sale. It shall not be obligatory upon the Purchaser at any such sale to see to the application of the purchase money.

Trustee shall apply the proceeds of the sale in the following order; (a) to all reasonable costs and expenses of the sale, including but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

Borrower's Right to Cure Default. Whenever foreclosure is commenced for nonpayment of any sums due hereunder, the owners of the Property or parties liable hereon shall be entitled to cure said defaults by paying all delinquent principal and interest payment due as of the date of cure, costs, expenses, late charges, attorney's fees and other fees all in the manner provided by law. Upon such payment, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as though no Acceleration had occurred, and the foreclosure proceedings shall be discontinued.

Release. Upon payment of all sums secured by this Deed of Trust, Lender shall cause Trustee to release this Deed of Trust and shall produce for Trustee the Note. Borrower shall pay all costs of recordation and shall pay the statutory Trustee's fees. If Lender shall not produce the Note as aforesaid, the Lender, upon notice in accordance with paragraph 12 (Notice) from Borrower to Lender, shall obtain , at Lender's expense, and file any lost instrument bond required by Trustee or pay the cost thereof to effect the release of this Deed of Trust.

Waiver of Exemptions. Borrower hereby waives all right of homestead and any other exemptions in the Property under state or federal law presently existing or hereafter enacted.

Transfer of Property; Assumption. The following events shall be referred to herein as a "Transfer": (1) a transfer or conveyance of title (or any portion thereof, legal or equitable) of the Property (or any part thereof or interest therein), (ii) the execution of a contract or agreement creating a right to title (or any portion thereof, legal or equitable) in the Property (or any part thereof or interest therein), (iii) or an agreement granting a possessory right in the Property (or any portion thereof), in excess of three (3) years, (iv) a sale or transfer of, or the execution of a contract or agreement creating a right to acquire or receive, more than fifty percent (50%) of the controlling interest or more than fifty percent (50%) of the beneficial

interest in the Borrower, (v) the reorganization, liquidation or dissolution of the Borrower. Not to be included as a Transfer are (1) the creation of the lien or encumbrance subordinate to this Deed of Trust, (ii) the creation of a purchase money security interests for household appliances, or (iii) a transfer by devise, descent or by operation of the law upon the death of a joint tenant. At the election of Lender, in the event of each and every transfer:

All sums secured by this Deed of Trust shall become immediately due and payable (Acceleration). If a Transfer occurs and should Lender not exercise Lender's option pursuant to this paragraph 18 to Accelerate, Transferee shall be deemed to have assumed all of the obligations of Borrower under this Deed of Trust including all sums secured hereby whether or not the instrument evidencing such conveyance, contract or grant expressly so provides. This covenant shall run with the Property and remain in full force and effect until said sums are paid in full. The Lender may without notice to the Borrower deal with Transferee in the same manner as with the Borrower with reference to said sums including the payment or credit to Transferee of undisbursed reserve Funds on payment in full of said sums, without in any way altering or discharging the Borrower's liability hereunder for the obligations hereby secured. Should Lender not elect to Accelerate upon the occurrence of such Transfer then, subject to (b) above, the mere fact of a lapse of time or the acceptance of payment subsequent to any such events, whether or not Lender had actual or constructive notice of such Transfer, shall not be deemed a waiver of Lender's right to make such election nor shall Lender be stopped therefrom by virtue thereof. The issuance on behalf of the Lender of a routine statement showing the status of the loan, whether or not Lender had actual or constructive notice of such Transfer, shall not be a waiver or estoppel of Lender's said rights.

Borrower's Copy. Borrower acknowledges receipt of a copy of the Note and this Deed of Trust.

EXECUTED BY BORROWER:

STATE OF COLORADO)

)ss

COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before this _____ day of _____, 20__ by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public