

RESOLUTION NO. 2020 – 02

**BEFORE THE
SUMMIT COUNTY HOUSING AUTHORITY
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION AUTHORIZING THE ACQUISITION OF A CONSERVATION EASEMENT INTEREST AND EXTINGUISHMENT OF SUCH CONSERVATION EASEMENT ON A 6.125 ACRE PORTION OF PARCEL 1, COUNTY COMMONS PUD FOR HOUSING DEVELOPMENT PURPOSES

FINDINGS

1. The Summit County Housing Authority (“SHA” or “Authority”) has the statutory authority and duty to promote the development and growth of affordable housing as well as senior housing to provide housing for persons who by virtue of age or disability have special housing needs or requirements that cannot be met by existing housing available in the County.

2. Summit County’s continuing growth and increase in short-term rental housing stock has exacerbated the ongoing housing crisis and created a critical need for affordable housing as well as senior housing.

3. The SHA and Summit County have reviewed options to provide quality senior housing and workforce housing.

4. The study and report dated January 21, 2020 of the property generally located between SCR 1000 and Bobwhite Way and more particularly described as a 6.125 acre portion of Parcel 1 of the County Commons PUD as described on Exhibit A (the “Property”) presents a reasonable and complete study of the Property and its desirability for senior and affordable housing.

5. The use of the Property for senior living and affordable housing is consistent with the County’s applicable master plans. The goals of the Authority are in the public interest and serve a public purpose consistent with Summit County’s housing, human services, and land use policies.

6. The development of the Property with affordable and senior housing is consistent with the statutory authority and duties of the Authority.

7. The Property is subject to a conservation easement recorded at Reception Number 558051 in the Office of the Summit County Clerk and Recorder. The conservation easement is a servitude originally owned and benefitting Continental Divide Land Trust (CDLT), and is now currently owned by Colorado Open Lands (COL) subsequent to a merger between the two (Reception Number 1212287), and is an interest in the Property that prohibits certain activities and imposes certain obligations as described in the conservation easement (hereinafter

collectively referred to as the “Easement Interests”).

8. The County and the Authority have approved the execution of an intergovernmental agreement to collaborate and cooperate in all aspects of the Project inclusive of the planning, financing, appraisal, acquisition, construction, maintenance management and operation of the Project together with the acquisition or termination of all property interests necessary therefore including but not limited to the Easement Interests, in accordance with the terms and conditions set forth therein.

9. The acquisition, removal and extinguishment of the Easement Interests is necessary for the development of the Property and Project as contemplated by the Authority and County; the purposes of the easement and servitudes imposed by the Easement Interests are inconsistent with the desired public, governmental use of the Property for the Project.

10. The County is the underlying fee owner of the Property and desires that the Property be developed for senior and affordable housing as described above.

11. The County has attempted in good faith to negotiate a voluntary purchase or amendment of the easement but those efforts have been unsuccessful. Furthermore, Colorado Open Land and its representatives have indicated that there will be no voluntary transaction to extinguish or amend the Easement Interests because a) as a matter of COL policy, and b) because Section 38-30.5-107, C.R.S., as amended in 2019, prohibits the release, termination, extinguishment or abandonment of a conservation easement without a judicial proceeding, and therefore good faith efforts to arrive at a negotiated resolution of this matter is not possible.

12. It is necessary and in the public interest that the Summit County Housing Authority acquire the existing Easement Interests in the Property to remove the restrictions that prohibit the development of the senior living and affordable workforce housing Project on the Property.

13. It is necessary that the Authority exercise its statutory authority to acquire the Easement Interests.

14. Notwithstanding the above findings, the Authority desires to attempt additional good faith negotiations with COL to acquire the Easement Interests. The Authority desires to authorize and direct the Authority staff and attorneys to engage in such good faith negotiations as provided herein.

15. In the event good faith negotiations to acquire the Easement Interests by voluntary agreement and purchase are not successful, the Authority desires to authorize the commencement of eminent domain proceedings to acquire and extinguish the Easement Interests.

16. Part 2 and 5, Article 4, Title 29, C.R.S. and C.R.S. Article I of Title 38, all as amended, provide the statutory powers for the Summit County Housing Authority to develop, own and operate housing projects as defined therein and to acquire through its powers of eminent

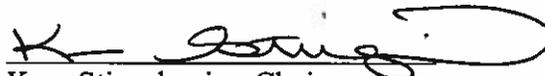
domain any property, real or personal, which it deems necessary to carry out the provisions of the above-referenced statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE SUMMIT COUNTY HOUSING AUTHORITY OF THE COUNTY OF SUMMIT, STATE OF COLORADO, THAT:

1. It is necessary and in the public interest to acquire the Easement Interests in the Property for a senior living and workforce housing project, as described above and in cooperation with Summit County pursuant to the Intergovernmental Agreement for Senior Living and Affordable Housing, which acquisition will promote the public health, safety and welfare.
2. The Easement Interests in the Property will be acquired for a public use.
3. There is a public need and necessity for obtaining possession and acquiring the Easement Interests.
4. The staff and attorneys of the Authority are hereby directed to enter into a good faith negotiation with COL and to make an additional offer to COL as generally described in the meeting materials as directed by the Authority to acquire the Easement Interests by agreement, thereby attempting to avoid the need for a court proceeding to the extent authorized by law and in a manner consistent with the desires of the Authority.
5. In the event such negotiations fail, the Authority shall take possession of and acquire the Easements Interests as soon as permitted by law.
6. The agents, representatives and staff of the Authority are directed to take all steps necessary pursuant to Colorado law, in cooperation with Summit County staff, to acquire the Easement Interests Property by using the Summit County Housing Authority's power of eminent domain.
7. The Authority directs its staff to coordinate with Summit County to obtain such services, information and personnel necessary to complete the acquisition of the Easement Interests including an appraisal, legal counsel and any other professional services necessary for the acquisition and that they be instructed to proceed forthwith to acquire the conservation easement.

ADOPTED THIS 28th DAY OF JANUARY 2020.

**SUMMIT COUNTY HOUSING AUTHORITY
BY AND THROUGH ITS
BOARD OF DIRECTORS**

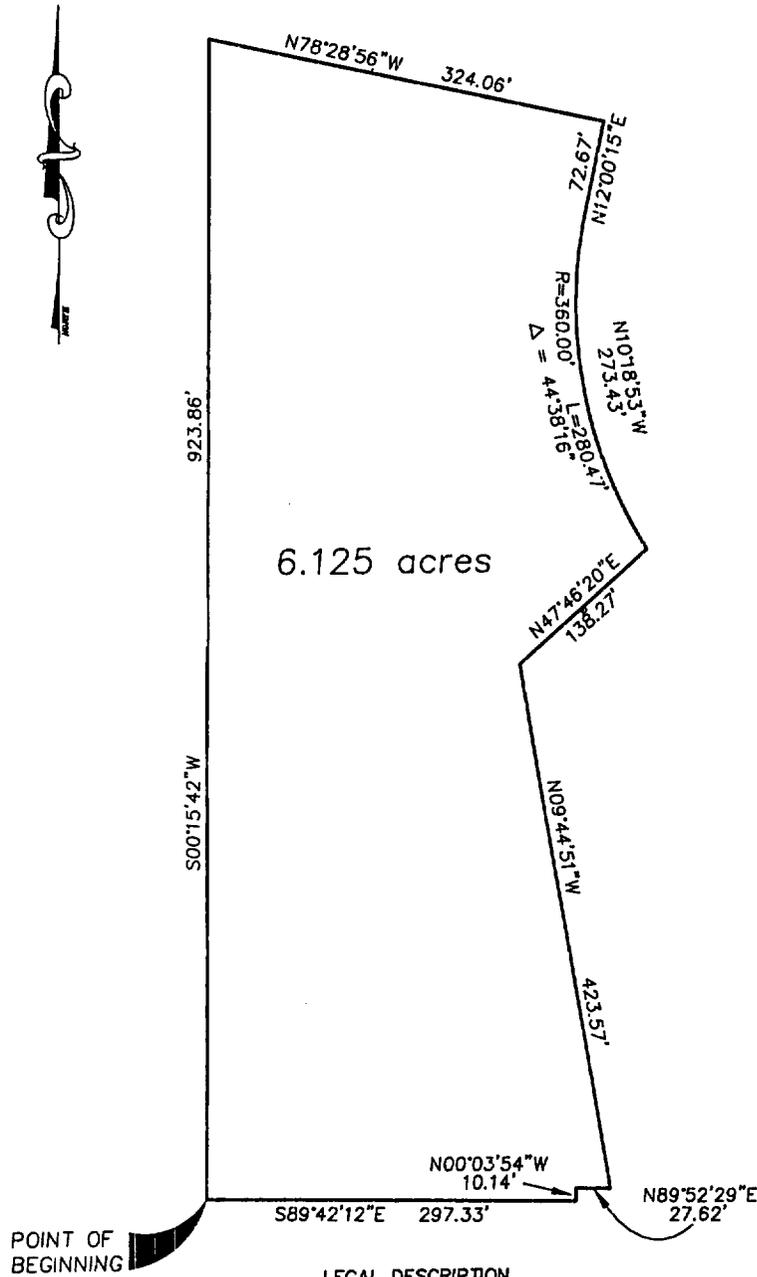

Kam Stiegelmeier, Chair

ATTEST:



Scott Vargo, Secretary

EXHIBIT A



LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN SECTION 35, TOWNSHIP 5 SOUTH, RANGE 78 WEST, 6th P.M., SUMMIT COUNTY, COLORADO, BEING A PORTION OF GOVERNMENT LOT 22 OF SAID SECTION 35 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 22, MONUMENTED WITH A 3-1/4" BRASS CAP (SURFACE MARKINGS OBLITERATED);

THENCE S 0°15'42" W, 1004.85 FEET ALONG THE WESTERLY BOUNDARY OF LOT 22 TO A 3-1/4" BRASS CAP MARKING AN ANGLE POINT IN THE WESTERLY LINE OF LOT 22 AND BEING COMMON WITH THE SOUTHEAST CORNER OF GOVERNMENT LOT 8 AND ALSO BEING COMMON WITH THE NORTHEAST CORNER OF GOVERNMENT LOT 14 AND ALSO BEING COMMON WITH THE NORTHWEST CORNER OF GOVERNMENT LOT 13, SAID POINT BEING THE POINT OF BEGINNING;

THENCE S 89°42'12" E, 297.33 FEET ALONG THE SOUTHERLY BOUNDARY LINE OF LOT 22, WHICH IS COMMON WITH THE NORTH LINE OF GOVERNMENT LOT 13, TO THE NORTHEAST CORNER OF GOVERNMENT LOT 13;

THENCE N 0°03'54" W, 10.14 FEET;

THENCE N 89°52'29" E, 27.62 FEET;

THENCE N 09°44'51" W, 423.57 FEET;

THENCE N 47°46'20" W, 138.27 FEET;

THENCE N 47°46'20" W, 138.27 FEET TO A POINT ON THE SOUTHERLY LINE OF AN EIGHTY (80) FOOT ROAD RIGHT OF WAY;

THENCE ALONG THE SOUTHERLY LINE OF SAID 80 FOOT RIGHT OF WAY 280.47 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE BEING CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 360.00 FEET, A CENTRAL ANGLE OF 44°38'16" AND A CHORD BEARING N 10°18'53" W, 273.43 FEET;

THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY N 12°00'15" E, 72.67 FEET;

THENCE N 78°28'56" E, 138.27 FEET TO A POINT ON THE WESTERLY BOUNDARY OF GOVERNMENT LOT 22 FROM WHICH POINT THE NORTHWEST CORNER OF LOT 22 BEARS N 08°01'54" E, 80.99 FEET;

THENCE S 0°15'42" W, 923.86 FEET ALONG THE WESTERLY BOUNDARY OF LOT 22 TO THE POINT OF BEGINNING.

CONTAINING 266,824 sq. ft or 6.125 acres

NOTE: THIS LEGAL DESCRIPTION AND DRAWING DO NOT REPRESENT A MONUMENTED LAND SURVEY.

NOTICE: UNDER COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION ATTACHED HEREON.



ROB ANDREWS LAND SURVEYING
P. O. BOX 1351, BRECKENRIDGE, CO 80424
(970) 453-1850

LEGAL DESCRIPTION
SUMMIT COUNTY, COLORADO

DRAWN BY REA DATE 4-14-07

SCALE 1"=100'