

If members of the public wish to attend the meeting digitally the link is below in yellow. The meeting will go on in person regardless of technical difficulties with Zoom.

## WINTER PARK TOWN COUNCIL MEETING

Winter Park Town Hall – 50 Vasquez Road

Tuesday, March 5, 2024 – 5:30 p.m.

*Dinner Provided*



### AGENDA

1. Meeting Call To Order
  - a. Pledge of Allegiance
  - b. Roll Call of Council Members
2. Town Hall Meeting (*Public Comment*)

*Public Comment is restricted to three minutes per person, and you must state your name and physical address for the record. Please be mindful of not reiterating other people's comments.*
3. Consent Agenda
  - a. Approval of February 20, 2024, Regular Meeting Minutes
4. Action Items
  - a. Public Hearing, Special Event Permit Application – Spring Bash & Splash
  - b. Resolution 2120, A Resolution Appointing Election Judges for the April 2, 2024, Municipal Election
  - c. Resolution 2121, A Resolution Authorizing Execution of Grand County Memorandum of Understanding, Grant Award & Snowcat Purchase
  - d. Resolution 2122, A Resolution Updating and Setting Fees Authorized by Titles 1 and 5 of the Town Code of Winter Park Related to Permits, Land Use Applications, and Certain Administrative Services
  - e. Ordinance 617, An Ordinance of the Winter Park Town Council Amending Title 3 of the Town Code to Implement the Voter-Approved Increase in Lodging Tax and to Clarify Allocation of the Tax Revenue Collected, Second Reading and Public Hearing
  - f. Resolution 2123, A Resolution of the Town Council of the Town of Winter Park Declaring Its Intent to Consider a Proposed Annexation Ordinance to Annex as an Enclave a 0.57 Acre Parcel of Land Located in Unincorporated Grand County Known as the Valley Hi Enclave

- g. Resolution 2124, A Resolution Authorizing the Purchase of One Electric Bus and Charging Infrastructure From Gillig, Through the Washington State Department of Enterprise Services and Appropriating Funds for the Purchase
  - h. Resolution 2125, A Resolution Approving an Agreement with Aponte Public Affairs, Inc. (DBA APONTE & BUSAM) to Provide Government Affairs Services
  - i. Resolution 2126, A Resolution Supporting Requests for Congressional Directed Spending for the Winter Park Multi-Modal Transit Project and Committing Funds for the Project
  - j. Resolution 2127, A Resolution Approving an Amendment to the Development Agreement with Winter Park Development Co, LLC
  - k. Resolution 2128, A Resolution Approving a Memorandum of Understanding Establishing the Steering Committee for the Mountain Rail Coalition
  - l. (Council Acting as Winter Park Housing Authority) Housing Authority Resolution 27, A Resolution Approving and Establishing the Hideaway Junction Homeowners Association Phase II, Inc., A Planned Community
- 5. Town Manager's Report
  - 6. Mayor's Report
  - 7. Town Council Items for Discussion

**You are invited to a Zoom webinar.**

**When: March 5, 2024 05:30 PM Mountain Time (US and Canada)**

**Topic: Town of Winter Park Meeting**

**Register in advance for this webinar:**

**[https://us02web.zoom.us/webinar/register/WN\\_DWzbonYxRzOczSD94EVv3w](https://us02web.zoom.us/webinar/register/WN_DWzbonYxRzOczSD94EVv3w)**

## MINUTES

**DATE:** Tuesday, February 20, 2024

**MEETING:** Winter Park Town Council

**PLACE:** Town Hall Council Chambers and Zoom Meeting Call

**PRESENT:** Mayor Nick Kutrumbos, Mayor Pro Tem Jennifer Hughes, Councilors, Rebecca Kaufman, Art Ferrari, and Michael Periolat, and Town Manager Keith Riesberg, and Assistant Town Manager Alisha Janes

**OTHERS**  
**PRESENT:** Chief of Police Glen Trainor, Community Development Director James Shockey, Finance Director Craig Rutherford, Public Works Director Jamie Wolter, and Transit Manager Charles McCarthy

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Mayor Nick Kutrumbos called the meeting to order at 5:30 p.m.

Mayor Nick Kutrumbos led those present in reciting the Pledge of Allegiance.

2. **Town Hall Meeting**  
*No comments were given.*

3. **Consent Agenda**  
3.a. **Approval of February 6, 2024, Regular Meeting Minutes**

Councilor Art Ferrari moved and Councilor Rebecca Kaufman seconded the motion approving the Consent Agenda. Motion carried: 5-0.

4. **Action Items**

4.a. **Public Hearing, Special Event Permit Application – Alpenglow Bounce**

Assistant Town Manager Alisha Janes stated Chamber of Commerce and KFFR are hosting a fundraiser which is an over the snow fun dash starting at the A-Frame Club and ending at the Rendezvous Event Center at Hideaway Park on March 9 from 6-9 p.m. Ms. Janes stated there will be DJs along the race route and one at the finish. Mayor Kutrumbos opened the public hearing, hearing no comments. Mayor Kutrumbos closed the public hearing.

Councilor Rebecca Kaufman moved and Mayor Pro Tem Jennifer Hughes seconded the motion approving Special Event Permit Application – Alpenglow Bounce. Motion carried: 5-0.

4.b. **Resolution 2117, A Resolution Approving a Contract with the Winter Park & Fraser Chamber of Commerce**

Town Manager Keith Riesberg stated he is presenting the annual agreement for the Winter Park & Fraser Chamber of Commerce this agreement is for marketing, promotion, and operation of special events. Mr. Riesberg stated the agreement continues the expected operations of the visitor center

and support for the annual Blues from the Top festival. Mr. Riesberg stated this year the agreement also includes funding for community marketing through KFFR community radio and spells out expected deliverables for that additional funding. Mr. Riesberg stated we have also included \$150,000 dollars which will enable the Chamber to secure key acts to perform in our signature events for 2025, the process for accessing those funds is spelled out in agreement. Mr. Riesberg stated the total amount of funding for this agreement is \$1,432,000 dollars and Staff recommends approval.

Councilor Michael Periolat moved and Councilor Art Ferrari seconded the motion approving Resolution 2117, A Resolution Approving a Contract with the Winter Park & Fraser Chamber of Commerce. Motion carried: 5-0.

**4.c. Resolution 2118, A Resolution Approving the Professional Services Funding Agreement Among JAC Colorado II, LLC, Intrawest/Winter Park Operations Corporation and the Town of Winter Park**

Town Manager Keith Riesberg stated resolution 2118 is an effort for the Town to advance our plans for the future gondola project that will serve as part of a regional transit system connecting our downtown to the Resort. Mr. Riesberg stated this project, the Town, Winter Park Resort, and the Johnson Group have been working on for some time now and by engaging WSP USA Incorporated it is intended to further advance those efforts through bringing on a project manager and an entity that will help advance the planning of the project. Mr. Riesberg stated a competitive procurement process was conducted last year and based on the process we are recommending the engagement of WSP to serve as the project manager. Mr. Riesberg stated with this resolution the Town would be approving a professional services funding agreement to share equally in the costs in the two tasks that have been identified to move the project forward. Mr. Riesberg stated the total is \$210,000 dollars maximum for the agreement, so the Town's cost shouldn't exceed \$70,000 dollars. Mr. Riesberg stated if WSP is engaged for additional tasks the cost and cost sharing would be negotiated at that time and additional Council action would be required for future approvals. Mr. Riesberg stated Staff recommends approval. JAC Colorado II, LLC Representative Charlie Johnson stated this is just a continued effort on this collaborative project that we have been working on for several years. Mr. Johnson stated WSP seems like a great group to help structure the public private partnership and to go after grant funds.

Mayor Pro Tem Jennifer Hughes moved and Councilor Art Ferrari seconded the motion approving Resolution 2118, A Resolution Approving the Professional Services Funding Agreement Among JAC Colorado II, LLC, Intrawest/Winter Park Operations Corporation and the Town of Winter Park. Motion carried: 5-0.

**4.d. Ordinance 617, An Ordinance of the Winter Park Town Council Amending Title 3 of the Town Code to Implement the Voter-Approved Increase in Lodging Tax and to Clarify Allocation of the Tax Revenue Collected, First Reading**

Town Manager Keith Riesberg stated last November the Winter Park voters approved increasing the Town's lodging tax from 1% to 3%. Mr. Riesberg stated ordinance 617 will first codify the existing 1% lodging tax in accordance with the ballot language that originally established the tax, that is the first edit to the section of the Town Code you see. Mr. Riesberg stated the second component of this ordinance will implement the 2% increase in the Town's lodging tax that was approved this past November. Mr. Riesberg stated the ordinance will be effective July 1, 2024, and the expectation is that it will be collected on all revenues received after the effective date. Mr. Riesberg stated Staff will work with the Chamber and others in the community to provide the message to our guests and businesses regarding the increase in taxes. Mr. Riesberg stated Staff

does recommend approval of ordinance 617. Mayor Kutrumbos stated we are not taking public comment at this reading however he asked Al Furlone to come speak to clarify his perspective on how to implement the tax collection. Winter Park Lodging Company's Al Furlone stated the reason he is here is because the Chamber board did not take a position on this tax which means the Lodging Association couldn't take a position. Mr. Furlone stated the tax should be applied only to reservations that were created after July 1, 2024, and asks Council to consider that. Council asked questions about bookings, etc. to Mr. Furlone, and Finance Director Craig Rutherford weighed in on his interpretation of the ordinance. Mr. Rutherford stated essentially there are two dates once ordinance is approved, the date the ordinance is passed and then the effective date. Mr. Rutherford stated once ordinance is passed collection should begin for the July 1, 2024, effective date. Town Manager Keith Riesberg stated this is the first reading, the second reading and public hearing will be held on March 5, 2024. Mr. Riesberg stated he would like to work with Mr. Furlone on how to get the listings from lodging properties pointing out the stays that are being asked to be excluded from the application of the tax due to them being booked prior to adoption of ordinance. Mr. Riesberg stated Staff will make sure to work on getting clear messaging for everyone that the lodging increase will be effective July 1, 2024.

Councilor Art Ferrari moved and Councilor Rebecca Kaufman seconded the motion approving Ordinance 617, An Ordinance of the Winter Park Town Council Amending Title 3 of the Town Code to Implement the Voter-Approved Increase in Lodging Tax and to Clarify Allocation of the Tax Revenue Collected, First Reading. Motion carried by following roll call vote:

Rebecca Kaufman	"Aye"	Mike Periolat	"Aye"
Jennifer Hughes	"Aye"	Art Ferrari	"Aye"
Nick Kutrumbos	"Aye"		

**4.e. Resolution 2119, A Resolution Approving a Professional Services Agreement with WGI for the Downtown Parking Study**

Community Development Director James Shockey stated we did this RFP (Request for Proposal) back in January for the downtown parking study. Mr. Shockey stated we received four proposals and had a selection committee that held interviews with two of the firms. Mr. Shockey stated the selection committee recommended WGI to do the work, totaling costs of \$76,415 dollars which includes five days of traffic study/parking counts that would be done in the downtown throughout the day. Mr. Shockey stated Staff is recommending taking 12 days to get a more accurate read which totals \$94,685 dollars, this amount is within the budgeted amount. Mr. Shockey stated Staff recommends approval of resolution 2119.

Councilor Michael Periolat moved and Mayor Pro Tem Jennifer Hughes seconded the motion approving Resolution 2119, A Resolution Approving a Professional Services Agreement with WGI for the Downtown Parking Study. Motion carried: 5-0.

**5. Town Manager's Report**

Town Manager Keith Riesberg stated pertaining to today's Comcast outage, he has made contact with our government liaison representative to talk, and to also let them know they will need to attend an upcoming Council workshop to discuss the reasons for the outages and their plans for improvements moving forward. Mayor Kutrumbos stated Councilor Jeremy Henn would like this on the record that Comcast should issue refunds to their customers for the past two months due to their outages. Mr. Riesberg stated we will also be reaching out to CDOT (Colorado Department of Transportation) to meet on a variety of topics, communication, closures, and future projects. Mr. Riesberg stated for instance today's closure, the first notice we saw was on social media post, we did not get direct communication from CDOT.

6. **Mayor's Report**  
*Nothing to Report.*

7. **Town Council Items for Discussion**  
*Nothing to Report.*

There being no further business to discuss, upon a motion regularly adopted, the meeting was adjourned at 5:57 p.m.

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The next scheduled meeting of the Town Council will be Tuesday, March 5, 2024, at 5:30 p.m.

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Danielle Jardee, Town Clerk



**TOWN OF WINTER PARK  
TOWN COUNCIL  
March 5, 2024**

**SPECIAL EVENT PERMIT –PUBLIC HEARING**

**Applicant:** Winter Park Resort/Max Bekes

**Staff Contact:** Dani Jardee, Town Clerk

**Event Description:** This is a Special Event Permit for the Spring Bash & Splash weekends held at Winter Park Resort starting March 30. There are four different themed Saturdays planned 3/30, 4/6, 4/13, & 4/20 all from 8 a.m. to 5 p.m.

**Staff Comments:** The Special Event Permit application was received, reviewed, and approved by Town staff. Notification of the Public Hearing on the permit was published in the Sky Hi News on January 24, 2024, and in the Middle Park Times on January 25, 2024. No comments have been received.

**Attachments:** Application, Operations Plan, and Map.

**Staff Recommendation**

Staff recommends the Town Council grant the Special Event Permit.



## Special Event Permit Application

Please complete each section; additional sheets may be used if necessary. If your group will be serving alcohol, please complete Form DR 8439 also. Alcohol served in bottles or cans are never permitted at events.



Name of Applicant: Winter Park Resort

Mailing Address of Applicant: 85 Parsenn Rd. Winter Park, CO 80482

Contact Name: Max Bekes

Contact Number: /

Contact Email:

Type of Special Event (i.e. fundraiser, concert): Spring Bash and Splash

Address of Special Event: 85 Parsenn Rd. Winter Park, CO 80482

Do you have written permission to use the premises?



Yes



No

Exact dates and times of the event:

March 30th, 2024 8am-5pm

April 6th, 2024 8am-5pm

April 13th, 2024 8am-5pm

April 20th, 2024 8am-5pm

Explain the nature of your organization, its function, and who/what benefits from its operations:

Winter Park Resort is hosting it's annual Spring Bash and Splash event throughout March and April. This will consist of four themed weekends with live music, giveaways, and fun activations at the base. We hope to drive skier visitation from the Front Range through these events.

1) The Big Wonderful Beefsteak and Bluegrass: beer and craft vendors, live music

Who or what organization will be the recipient of the funds derived from this event?

Winter Park Resort

Number of expected attendees: 5,000-10,000

Describe the premises where the event will take place:

The event will take place at Winter Park Resort's main base area and on-mountain.

What type of security will be provided? Winter Park Resort Security

Number of security personnel: 5

How will they be identified?

Winter Park Resort Security Staff Uniform

If the event is being held outdoors, how will the exterior boundaries of the premises be marked?

Signage throughout the event area. There will be perimeter fencing in areas as well. 'No alcohol beyond this point' signs will be displayed as needed.

What type of entertainment will be provided at the event?

Themed weekends with activations, activities, and entertainment.



How will attendees be checked for proper age (i.e. at the door, at the bar)?  
How will underage attendees be identified so they are not served alcohol (i.e. wristbands)?

Anyone that is served alcohol will have their ID checked prior to being given an alcoholic beverage. Guest will only be able to purchase alcoholic beverages at Winter Park Resort food and beverage locations. Specific alcohol boundaries will be established.

How will the conduct of attendees be monitored and by whom?

Resort personnel and security.

What type of beverages and food or snacks will be available?

Food and beverage will be available at different restaurants throughout the base and Village.

Organization State Sales Tax Number:

Organization Town Sales Tax Number:

Explain how the event will be marketed; what kinds of advertising material will be distributed and who are the targeted recipients?

This event will be marketed through the resort's digital platforms and public relations related media. There will also be print signage around the resort promoting the event. Targeted recipients are guests that have an interest in visiting the resort.

**Thereby certify, under penalty of perjury, that the information provided to the Town of Winter Park contained in this application is true and accurate to the best of my knowledge.**

Applicant's Signature

Date

Applicant's Email Address

85 Parsenn Rd. Winter Park, CO 80482

Applicant's Mailing Address

Same as above

Applicant's Physical Address

n/a

Applicant's Main Phone Number

Applicant's Alternate Phone Number

STATE OF COLORADO  
COUNTY OF GRAND  
TOWN OF WINTER PARK

Subscribed and sworn to me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

Witness my hand and official seal:

Notary Public

My commission expires



## **Spring Bash + Splash | 3/30/24 - 4/21/24 | 8am – 6pm**

**EVENT:** Winter Park Resort is hosting four weekends of fun, Spring Bash + Splash, in the months of March and April with the objective to drive late spring visitation. The event dates are 3/30, 4/6, 4/13, 4/20, and 4/21. Each event will be a themed event with different free activities and live music, full day of free activities, outdoor adventure, and live music at the main base of the resort. Details for each weekend are as follows.

### **-3/30: The Big Wonderful Beer Fest & Bluegrass**

There will be unlimited sampling from Colorado breweries, cideries, and distilleries throughout the day featuring a craft vendor village and beer fest. Guests will be able to enjoy their beverages while listening to live music throughout the day. The event will be staffed with two police officers.

### **-4/6: 90s Retro Bash + High Fives Foundation Retro Shred-A-Thon**

The 90s Retro Bash will feature a 90s Mall at the base and consist of 90s themed activations for guests to enjoy. There will also be live music throughout the day featuring a band and DJ. The Shred-A-Thon will be the same as years past and serve as a fundraising event for High Fives Foundation. Approximately 75 participants will be signed up for the Shred-A-Thon.

### **-4/13: Recess in the Rockies + Bucket Banked Slalom**

The Recess in the Rockies will be making its debut this year and include recess style games and activations for guests to take part in. There will also be a band and DJ this weekend. The Bucket Banked Slalom will be the same as previous years and take place on a slalom course as a fundraiser for the H.O.P.E. Foundation.

### **-4/20: Beach Bash**

Beach Bash will feature beach themed activities and activations for guests to enjoy throughout the likely warm day. All entertainment will be available to guests as live music will be played by the band and DJ.

### **-4/21: Spring Splash**

100 participants will partake in the annual pond skim while wearing fun outfits.

### **Event Coordination**

Max Bekes and Sammy Nagel will manage all event setup and production with third-party event management and production companies.

### **Event Production Timeline**

#### **Thursday**

-3pm-8pm: Set-up in advance as needed

#### **Friday**

-9am-8pm: Set-up in advance as needed

#### **Saturday**

-6am-8am: Vendor load-in

- 9am-12pm: Set up for stage
- 9am-6pm: Event is live
- 6pm: Event breakdown and vendor load out

### **Liquor License**

3/30: TheBigWonderful will be obtaining a liquor license for this weekend

4/6, 4/13, 4/20, 4/21: The resort will be offering its regular F&B menu items

### **Weather Forecast**

Forecast TBD – Indoor areas will be available in case of inclement weather (Village businesses, Zephyr Mountain Lodge, West Portal, Balcony House)

### **Traffic Control Plan**

Parking will be available for attendees at all available resort parking lots. We do not anticipate this event will impact traffic in the Town of Winter Park or around Winter Park Resort.

### **Scheduled Personnel**

Max Bekes + Sammy Nagel

### **MAP:**

**3/30:**



**4/6, 4/13, 4/20, 4/21:**



## Application for a Special Events Permit

Departmental Use Only

In order to qualify for a Special Events Permit, You **Must Be a Qualifying Organization Per 44-5-102 C.R.S. and One of the Following (See back for details.)**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Social | <input type="checkbox"/> Athletic                           | <input type="checkbox"/> Philanthropic Institution          |
| <input type="checkbox"/> Fraternal         | <input type="checkbox"/> Chartered Branch, Lodge or Chapter | <input type="checkbox"/> Political Candidate                |
| <input type="checkbox"/> Patriotic         | <input type="checkbox"/> National Organization or Society   | <input type="checkbox"/> Municipality Owned Arts Facilities |
| <input type="checkbox"/> Political         | <input type="checkbox"/> Religious Institution              |   |

EIN: 74-2550358

<b>LIAB Type of Special Event Applicant is Applying for:</b>		<b>DO NOT WRITE IN THIS SPACE</b>	
2110 <input checked="" type="checkbox"/> Malt, Vinous And Spirituous Liquor	\$25.00 Per Day	Liquor Permit Number	
2170 <input type="checkbox"/> Fermented Malt Beverage	\$10.00 Per Day		
1. Name of Applicant Organization or Political Candidate <b>Everyheart Foundation</b>		State Sales Tax Number (Required)	
2. Mailing Address of Organization or Political Candidate (include street, city/town and ZIP) <b>7355 E Orchard #100 Greenwood Village, CO 80111</b>		3. Address of Place to Have Special Event (include street, city/town and ZIP) <b>85 Parsenn Rd Winter Park, CO 80482</b>	
4. Authorized Representative of Qualifying Organization or Political Candidate <b>Tyler Boone</b>		Date of Birth	Phone Number
Authorized Representative's Mailing Address (if different than address provided in Question 2.)			
5. Event Manager <b>Brad Lewis</b>		Date of Birth	Phone Number
Event Manager Home Address (Street, City, State, ZIP) <b>PO Box 3128, Greenwood Village CO 80155</b>		Email Address of Event Manager	
6. Has Applicant Organization or Political Candidate been Issued a Special Event Permit this Calendar Year? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes How many days? <u>4</u>		7. Is the premises for which your event is to be held currently licensed under the Colorado Liquor or Beer codes? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes License Number _____	
8. Does the Applicant Have Possession or Written Permission for the Use of The Premises to be Licensed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
List Below the Exact Date(s) for Which Application is Being Made for Permit			
Date 3/30/24 Hours From 8 a.m. To 6 p.m.	Date Hours From .m. To .m.	Date Hours From .m. To .m.	Date Hours From .m. To .m.
Date Hours From .m. To .m.	Date Hours From .m. To .m.	Date Hours From .m. To .m.	Date Hours From .m. To .m.
Date Hours From .m. To .m.	Date Hours From .m. To .m.	Date Hours From .m. To .m.	Date Hours From .m. To .m.
<b>Oath of Applicant</b>			
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.			
Signature <i>Tyler Boone</i>		Title <b>President</b>	Date <b>2/28/24</b>
<b>Report and Approval of Local Licensing Authority (City or County)</b>			
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 44, Article 5, C.R.S., as amended.			
<b>THEREFORE, THIS APPLICATION IS APPROVED.</b>			
Local Licensing Authority (City or County)		<input type="checkbox"/> City <input type="checkbox"/> County	Telephone Number of City/County Clerk
Signature		Title	Date
<b>DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY</b>			
Liability Information			
License Account Number	Liability Date	State	Total
		<b>-750 (999)</b>	<b>\$ .</b>

(Instructions on Reverse Side)

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

EveryHeart Foundation

is a

Nonprofit Corporation

formed or registered on 06/27/2011 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20111364905 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 02/26/2024 that have been posted, and by documents delivered to this office electronically through 02/29/2024 @ 09:46:25 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 02/29/2024 @ 09:46:25 in accordance with applicable law. This certificate is assigned Confirmation Number 15798430 .



*Jena Griswold*

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*

## MEMO

**TO** Town Council  
**FROM** Dani Jardee, Town Clerk  
**CC** Town Manager Keith Riesberg  
**DATE** March 05, 2024  
**RE** Municipal Election Judges

The Town of Winter Park will hold its regular municipal election on Tuesday, April 2, 2024. Colorado Revised Statutes 31-10-401 require a minimum of three (3) judges and additional judges as deemed necessary including one (1) alternate judge. The Town Charter allows Council to give the Town Clerk the authority and responsibility to appoint persons to serve as election judges at the April 2, 2024, Municipal Election. These judges will receive \$200.00 compensation for the day and all meals will be provided by the Town. In the event any of the judges cannot assume their position as judge, the alternate judge will be notified to fill the vacant position.

### **Recommended Motions**

Staff recommends the Town Council give the Town Clerk the authority and responsibility to appoint persons to serve as election judges in the April 2, 2024, Municipal Election as provided by adopting the following motion:

I move to allow the Town Clerk to have the authority and responsibility to appoint persons to serve as election judges in the April 2, 2024.

TOWN OF WINTER PARK  
RESOLUTION NO. 2120  
SERIES OF 2024

A RESOLUTION APPOINTING ELECTION JUDGES FOR THE APRIL 2, 2024,  
MUNICIPAL ELECTION

WHEREAS, the Town of Winter Park, Colorado will hold its regular municipal election on Tuesday, April 2, 2024;

WHEREAS, the Colorado Revised Statutes, § 31-10-401 allow the governing body by resolution to delegate to the Town Clerk the authority and responsibility to appoint judges of election; and

WHEREAS, the Colorado Revised Statutes, §§ 31-10-408 and 1-6-115 allow election judges to be compensated for their training and service, as determined by the governing body of the municipality.

NOW THEREFORE, BE IT RESOLVED by the Town Council of Winter Park, Colorado as follows:

Section 1. The Town Council delegates to the Town Clerk the authority and responsibility to appoint the number of persons needed to serve as regular and alternate election judges at the April 2, 2024 election, with the following compensation:

- \$200.00 for judges serving on election date with all meals provided by the Town;
- \$25.00 for judges, including alternate judges, to attend training prior to election day.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2024.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk





## MEMO

**TO** Town Council  
**FROM** Jamie Wolter, Public Works Director  
**CC** Town Manager Keith Riesberg  
**DATE** March 5, 2024  
**RE** OLRT MOU – GRANT AWARD – SNOWCAT PURCHASE

The Town was awarded an Open Lands Rivers and Trails (OLRT) Grant in the amount of \$91,774 on February 27, 2024, by the Grand County Board of County Commissioners. This grant award is for the purchase of the Favero Lorenzo Snowcat that is being leased for winter trail grooming. The grant award requires signature on an MOU, this is required prior to funds being distributed to the town. This MOU and the Letter of award are included in the Council Packet.

The winter lease of the snowcat which was paid upon delivery was \$52,500. 80% (\$42,000) of that payment has been applied to offset the full purchase price of the snowcat which was \$174,383.91.

The purchase price of the snowcat after the credit from the lease is \$132,383.91. Less the grant amount of \$91,774 the town owes \$40,606.91. The Invoice and sales agreements are also included in the Council packet.

The signed MOU is due to OLRT as soon as possible. Full payment for the snowcat to Mountain States Snowcats is due March 30<sup>th</sup>, 2024.

TOWN OF WINTER PARK

RESOLUTION NO. 2121  
SERIES OF 2024

A RESOLUTION AUTHORIZING EXECUTION OF GRAND COUNTY MEMORANDUM  
OF UNDERSTANDING, GRANT AWARD & SNOWCAT PURCHASE

WHEREAS the TOWP was awarded a Grand County Open Lands, Rivers and Trails (OLRT) Grant in the amount of \$91,774 by the Grand County Board of County Commissioners for the purchase of a snowcat for winter trail grooming; and,

WHEREAS the acceptance of the grant funds requires the Town enter into a Memorandum of Understanding with Grand County; and,

WHEREAS the purchase price of the snowcat that is currently leased is \$174,383.91, Mountain States Snowcats will provide a credit from the lease of \$42,000, reducing the purchase price to \$132,383.91; and,

WHEREAS the Town will receive \$91,774 in grant funds to purchase the snowcat, the Town needs to approve \$40,606.91 of Town funds for this purchase; and,

NOW THEREFORE, BE IT RESOLVED that the Town Council of Winter Park, Colorado hereby authorizes the Mayor to execute the MOU and receive said grant funds and move forward with the purchase of the snowcat.

APPROVED AND PASSED this 5<sup>th</sup> day of March, 2024 by a vote of \_\_\_\_\_to \_\_\_\_.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk



# Grand County MANAGER'S OFFICE

Colorado

308 Byers Ave., P.O. Box 264 | Hot Sulphur Springs, CO 80451 | 970-725-3347

February 27, 2024

Town of Winter Park  
Attn.: Jamie Wolter, Public Works Director  
P.O. Box 3327  
Winter Park, CO 80482

Delivered via electronic mail to: [aldrexler@gmail.com](mailto:aldrexler@gmail.com)

Re: Support of OLRT Grant Application for Snow Cat Purchase for Winter Trail Grooming

Dear Mr. Wolter,

The Grand County Board of County Commissioners met and considered the recommendations from the Open Lands, Rivers, and Trails Advisory Committee for your off-cycle 2024 grant application.

We are pleased to award your grant application in the amount of \$91,774 — to be used for the “Snow Cat Purchase for Winter Trail Grooming” project as you describe in the grant application.

The Open Lands, Rivers, and Trails Advisory Committee Administrator will reach out to you to supply you with the Memorandum of Understanding and talk with you about your funding requirements and when you need to receive your awarded grant monies. It is typical to expect a 30-day turnaround for funding to be received. Before funds can be distributed, the Memorandum of Understanding will need to be signed and returned to Grand County at [olrtac@co.grand.co.us](mailto:olrtac@co.grand.co.us).

A final grant report or request for an extension letter will need to be submitted to the Open Lands, Rivers, and Trails Advisory Committee at [olrtac@co.grand.co.us](mailto:olrtac@co.grand.co.us) no later than 30 days after the completion of your project or by March 1, 2025. This grant report or update letter must be received before a Spring 2025 grant application can be submitted.

We look forward to hearing about the impacts of this awarded grant. Acknowledgement of funding from Grand County's Open Lands, Rivers, and Trails Fund must be given in your marketing and publications of this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Moyer", written over a horizontal line.

Edward Moyer  
Grand County Manager

**2024**  
**MEMORANDUM OF UNDERSTANDING BETWEEN**  
**COUNTY OF GRAND, STATE OF COLORADO, BY AND THROUGH ITS BOARD OF**  
**COUNTY COMMISSIONERS, AND**  
**TOWN OF WINTER PARK**

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**This Grant Agreement (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the Board of County Commissioners of the County of Grand, State of Colorado (“Grand County”), and Town of Winter Park (the "Grantee") (each a "Party" and together, the "Parties").**

WHEREAS, pursuant to Grand County Resolution 2016-8-18, as amended by Resolution 2016-9-4, and approved by a vote of registered voters of Grand County, Colorado on November 10, 2016, Grand County is authorized to collect, create and hold in the Open, Rivers, and Trails Fund (Open Lands Fund), approve the use of, and distribute funds collected through a countywide voter approved tax to be used for the following purposes: keeping water in the Colorado and other rivers: conserving agricultural lands, natural areas, scenic open lands, wildlife habitat, wetlands and river access, and; maintaining hiking and biking trails (OLRT Program); and

WHEREAS, pursuant to the above referenced resolutions and voter approved ballot issue, the Board of County Commissioners of the County of Grand, Colorado (Board) appointed members to the Grand County Open Lands, Rivers, and Trails Advisory Committee (Advisory Committee) to receive, consider, and make recommendations on applications and requests for grant funds from the Open Lands Fund; and

WHEREAS, the Advisory Committee has recommended for approval by the Board an application and request from Grantee for a grant from the Open Lands Fund in an amount and for the purposes more fully described in Exhibit A hereto, which is incorporated herein by reference as if fully set forth herein; and

WHEREAS, Grand County held a public hearing regarding Grantee’s application, considered the application and Advisory Committee’s recommendations, and determined the application and funding request complied with the intent, terms, and conditions of the voter approved resolutions governing distribution and use of Open Lands Fund funds, and accordingly, approved Grantee’s application for funding; and

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions of granting the funds (Grant Funds) to Grantee as well as set forth the parties respective rights and responsibilities.

**NOW THEREFORE, IT IS AGREED AS FOLLOWS:**

The Parties agree to be bound by the following terms and conditions:

### **1) Scope of Work and Purposes For Which Grant Funds are Approved**

Grantee shall exercise the due diligence necessary to undertake and complete the acquisition of interests and/or trail maintenance work, and related duties, to achieve the purposes and objectives of the Grant Funds as approved by the Board and consistent with Exhibit A. Grantee shall perform the work in a skillful, professional, and competent manner. Grantee shall provide qualified staff persons to administer and oversee this grant.

Grand County is responsible for awarding and distributing the Grant Funds. The Advisory Committee will collect and maintain grant reports. All correspondence should be directed to the Administrator for the Advisory Committee.

### **2) Payment of Grant Funds**

The total amount of Grant Funds to be paid to the Grantee is **\$91,774.00** for the completion of the acquisitions, work, or objectives described in paragraph 1 of this Agreement and Exhibit A. The Advisory Committee Administrator shall be the point of contact to discuss funding needs and schedule issues.

If Grant Funds are to be paid out in a manner other than a lump sum, the parties shall attach a payment schedule approved by the Advisory Committee Administrator and Board as its own, separate exhibit to this Agreement, which exhibit shall be incorporated herein by reference as if fully set forth herein. Provided, however, the Board retains full discretion to alter any agreement on the timing and manner of disbursement of Grant Funds.

#### Acquisition of Property Interests with Grant Funds:

Where Grant Funds are to be utilized for the acquisition of interests in land or water, some or all of the approved Grant Funds may, at the discretion of the Board, be disbursed directly to a Title Company or other escrow agent.

Where Grant Funds are to be utilized for the acquisition of interests in land or water, Grantee shall, at least 14 days prior to any scheduled closing, provide copies of all final documentation for the transaction to the Advisory Committee Administrator for Advisory Committee Administrator and Board review and approval. Such documentation includes, but is not limited to, property, easement, or restrictive covenant descriptions, deeds, appraisals, title commitments, baseline documentation reports, land easement plans, and other legal documents required for completion of the property interest acquisition. Grant Funds shall not be disbursed for the cost of acquisition of property interests without prior review and approval of all relevant documentation by Board and Advisory Committee Administrator.

### **3) Certification and Maintenance of Exempt Status and Eligibility to Receive Funds**

If Grantee is approved to receive grant funding for less than fee interests in real property, fee simple interests, or water rights acquisition, as set forth in Section VII(C) of Grand County 2016-8-18, as amended, Grantee certifies that it is either: Grand County, Colorado; an incorporated municipality located within Grand County, Colorado, or; a qualified nonprofit land conservation

organization as defined at 26 U.S.C. 170(h)(3) or as accredited to hold conservation easements by the Land Trust Alliance Commission. If Grantee is approved to receive grant funding for maintenance of hiking and biking trails, Grantee certifies that it is either: Grand County, Colorado; an incorporated municipality located within Grand County, Colorado, or; a nonprofit organization.

#### **4) Final Report**

Grantee agrees to submit a full and complete final report to Grand County on the use of Grant Funds, compliance with the terms of the grant.

For Trails Projects: The complete final report must be submitted no later than 30 days after the completion of your project or by **March 1, 2025**. If the project will not be completed by **March 1, 2025**, Grantee must submit an update on the project and request for an extension. This letter must include current accomplishments, the nature of the delay in completing the project, and a request for an extension with a stated date of completion. Final Reports or project updates are mandatory to ensure eligibility to receive future funding.

If Grantee has unused Grant Funds after completion of the project, Grantee shall notify Advisory Committee Administrator and return all remaining funds promptly to the Open Lands Fund by remitting them to the Grand County Treasurer at Grand County, Colorado, PO Box 264, Hot Sulphur Springs, CO 80451. Failure to submit final reports or return unused funds is a material breach of this Agreement and makes the Grantee ineligible for future grants.

### **FINAL REPORTS ARE MANDATORY.**

#### **5) Records**

Grantee agrees to maintain its financial books and records in such a manner that the receipts and expenditures of the Grant Funds will be shown separately in such books and records in an easily identified and verifiable form. Grantee agrees to keep records of receipts and expenditures of Grant Funds and supporting documentation for at least seven (7) years after the completion of the use of the Grant Funds, and to make such books, records, and supporting documentation available for inspection at reasonable times from the time of its acceptance of this grant through such period. Grantee agrees to provide all books and records, including receipts and expenditures, within 24 hours of request by Grand County.

#### **6) Acknowledgement of Support**

All collateral materials related to the project shall acknowledge Grand County's and Advisory Committee's support including press releases, articles, newsletters, website postings, social media, magazine and/or radio advertisements, or other means of communication.

#### **7) Insurance - Grantee**

a. During the term of this Agreement, and any extension(s) hereof, Grantee agrees that it will keep in force an insurance policy or policies, issued by a company authorized to do business in Colorado, in the kinds and minimum amounts specified below unless specifically waived herein. In the event of cancellation of any such coverage, Grantee shall immediately notify Grand County of such cancellation,

- (1) Standard Worker's Compensation and Employer's Liability as required by State Statute, including occupational disease; covering all employees on or off the work site, acting within the course and scope of their employment.
- (2) General, Personal Injury, Professional, Automobile Liability (including bodily injury, personal injury and property damage) with minimum coverage of:
  - a. Occurrence basis policy: combined single limit of \$1,200,000 or Claims-Made policy: combined single limit of \$1,200,000; plus an endorsement, certificate, or other evidence that extends coverage two years beyond the performance period of this Agreement.
  - b. Annual Aggregate Limit policy: Not less than \$1,200,000 plus agreement that the Grantee will purchase additional insurance to replenish the limit to \$1,200,000 if claims reduce the annual aggregate below \$1,200,000.
  - c. Grand County shall be named as an additional insured on all liability policies.
  - d. The insurance shall include provisions preventing cancellation without thirty (30) calendar days prior to written notice to Grand County by certified mail.
  - e. Upon execution of this Agreement, the Grantee shall provide to Grand County additional insured endorsements and certificates of the required insurance coverage.
  - f. The Grantee shall provide such other insurance as may be required by law, or in a specific solicitation.
  - g. If the Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, 24-10-101, et sec., C.R.S. as amended ("Act"); the Grantee shall maintain such insurance, by commercial policy or self-insurance, as is necessary to meet then Grantee's liabilities under the Act. Proof of such insurance shall be provided upon request by Grand County.

**8) Grantee Representations - Licenses/Approvals/Insurance:**

Grantee certifies that, at the time of entering into this Agreement, it has currently in effect all necessary licenses, certifications, approvals, and insurance required to properly provide the services and/or supplies covered by this Agreement. Additionally, all employees of Grantee performing services under this Agreement shall hold the required license or certification, if any, to perform their responsibilities. Any revocation, withdrawal, or nonrenewal of necessary



license, certification, approval, or insurance required for the Grantee to properly perform this Agreement shall be grounds for termination of this Agreement by Grand County.

The Grantee further certifies that, if it is a corporation, it currently has a Certificate of Good Standing or Certificate of Existence to do business in Colorado. Proof of such certification shall be provided upon request by Grand County.

#### **9) Records Maintenance**

The Grantee shall maintain a complete file of all records, documents, communications, and other materials which pertain to the operation of the program/project or the delivery of services under this Agreement. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a Grant Funds payment was made. These records shall be maintained according to generally accepted accounting principles and shall be easily separable from other Grantee records.

#### **10) Performance Monitoring**

Grantee shall permit Grand County and any other governmental agency authorized by law, or their authorized designee, to monitor all activities conducted by the Grantee pursuant to the terms of this Agreement. The monitoring agency may, in its sole discretion as it may deem necessary or appropriate, determine such monitoring may consist of internal evaluation procedures, reexamination of program data, special analysis, on-site verification, formal audit examinations, or any other reasonable procedures. All such monitoring shall be performed in a manner that will not unduly interfere with contract work.

#### **11) Audits**

a. General: Grantee authorizes Grand County or its representatives to perform audits and/or inspections of Grantee's records at any reasonable time during the term of this Agreement and for a period of seven (7) years, (unless Grand County determines a longer timeframe is required) following the date of final payment under this Agreement, to assure compliance with its terms and/or to evaluate Grantee's performance.

Any Grant Funds that have been improperly received or paid out by Grantee shall be immediately returned to Grand County, and/or further payments to grantee will be suspended pending resolution of the matter.

b. Single Audit Clause: All state and local governments and non-profit organizations receiving more than \$750,000 from all funding sources, that are defined as federal financial assistance for audit purposes, shall comply with the audit requirements of 2 CFR Part 200 (Uniform Guidance).

#### **12) Conflict of Interest**

During the term of this Agreement, Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with Grantee fully performing its obligations under this Agreement.

Additionally, Grantee acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of Grand County. Thus, Grantee agrees to refrain from any practices, activities, or relationships which could reasonably be considered to be in conflict with Grantee fully performing its obligations to Grand County under the terms of this Agreement, without the prior written approval of Grand County.

In the event that Grantee is uncertain whether the appearance of a conflict of interest may reasonably exist, Grantee shall submit to Grand County a full disclosure statement setting forth the relevant details for Grand County's consideration and direction. Failure to promptly submit a disclosure statement or to follow Grand County's direction in regard to the apparent conflict shall be grounds for termination of this Agreement.

Neither Grantee nor any of its employees, volunteers or agents shall, at any time during the term of this Agreement, do work for, nor shall they have any financial interest or other relationship with, any entity or project which would constitute a conflict of interest or influence or otherwise jeopardize the professional judgment of Grantee in connection with the Project.

### **13) Conformance with Law**

Grantee shall at all times during the term of this Agreement strictly adhere to all applicable federal and state laws and implementing regulations as they currently exist and may hereafter be amended. Grantee shall also require compliance with these statutes and regulations in subcontract agreements, if any, permitted under this Agreement.

Grantee also shall comply with any and all laws and regulations prohibiting discrimination in the specific programs(s) which is/are the subject of this Agreement. In consideration of and for the purpose of obtaining any and all federal and/or state financial assistance, Grantee makes the following assurances and certification, upon which Grand County relies.

- a. Grantee will not discriminate against any person on the basis of race, color, national origin, age, sex, religion and handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions, in performance of work under this Agreement.
- b. At all times during the performance of this Agreement, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by Grantee, or be subjected to any discrimination by Grantee.
- c. Grantee shall take all necessary affirmative steps, as required by 45 CFR 92.36(e), Colorado Executive Orders D0055 87 and D0005 94 and State Procurement Rules, to assure that small and minority businesses and women's business enterprises are used, when possible, as sources of supplies, equipment, construction, and services purchased under this Agreement.

### **14) Assignment/Delegations/Subcontracting**

Except as herein specifically provided otherwise, the duties and obligations of Grantee arising hereunder cannot be assigned, delegated nor subcontracted except with the express prior written consent of Grand County.

### **15) Remedies**

The Grand County Manager or designee may exercise the following remedial actions, in addition to all other remedial actions authorized by law, should s/he find that Grantee substantially failed to satisfy the work, activities, acquisitions, and agreements set forth in this Agreement and the exhibits hereto. Substantial failure to satisfy the work, activities, acquisitions, and agreements set forth in this Agreement and the exhibits hereto shall be defined to mean incorrect or improper activities or inaction by Grantee, any of which is a material breach of this Agreement. Remedial actions available to Grand County include, but are not limited to:

- a. Deny or Withhold payment to the Grantee until the necessary services or corrections in performance are satisfactorily completed;
- b. Deny payment or recover reimbursement for those funds, services, or deliverables which have not been performed and which due to circumstances caused by the Grantee cannot be performed or if performed would be of no value to Grand County and recover funds for failure to comply with the agreements, obligations, and duties set forth herein.
- c. Incorrect payments to Grantee due to omission, error, fraud, and/or defalcation shall be recovered from Grantee by deduction from subsequent payments under this Agreement between Grand County and Grantee, or by Grand County as a debt due to Grand County or otherwise as provided by law.

### **16. Termination**

- a. Termination for Default: Grand County may terminate this Agreement for cause without compensation for termination costs. If Grand County terminates this Agreement for cause, it will first give ten (10) days prior written notice to Grantee, stating the reasons for cancellation, procedures to correct problems, if any, and the date this Agreement will be terminated in the event problems have not been corrected.
  - (1) In the event this Agreement is terminated for cause, Grand County will only reimburse Grantee for acceptable work or deliverables received up to the date of termination.
  - (2) In the event this Agreement is terminated for cause, final payment to Grantee may be withheld at the discretion of Grand County until completion of final audit.
- b. Termination for Convenience: Grand County shall have the right to terminate this Agreement by giving Grantee at least thirty (30) days prior written notice. If notice is so given, this Agreement shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this Agreement shall thereupon

cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.

c. **Immediate Termination:** This Agreement is subject to immediate termination by Grand County in the event that Grand County determines that the health, safety, or welfare of people or property within Grand County may be in jeopardy. Additionally, Grand County may immediately terminate this Agreement upon verifying that Grantee has engaged in or is about to participate in fraudulent or unethical acts.

#### **17. Severability**

To the extent that this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of this Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity of failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.

#### **18. Integration of Understandings**

This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous additions, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved by the Board.

#### **19. Exhibits - Interpretation**

a. Unless otherwise stated, all exhibits referenced herein are incorporated herein and made a part of this Agreement.

b. The terms of this Agreement shall control over any conflicting terms in any of its attached exhibits.

#### **20. Indemnification**

The Parties shall hold harmless each other and their respective officials, officers, and employees from all costs, claims, and expenses arising from claims made by any person in connection with the acts or omissions of, or representations by, the other Party. This Section shall not apply to claims by third parties against a Party to the extent that the Party is liable to such third party for such claim without regard to the involvement of the other Party.

#### **21. Notices**

Any notice required under this Agreement may be personally delivered or mailed in the United States mails, first class postage prepaid to the party to be served at the following addresses:

Grantee: Town of Winter Park  
c/o Public Works Director  
PO Box 3327  
Winter Park, CO 80482

County: Grand County Board of Commissioners  
P.O. Box 264  
Hot Sulphur Springs, CO 80451

OLRTC Administrator: Anna Drexler-Dreis  
PO Box 838  
Tabernash, CO 80478

Notices personally served shall be deemed served on the date of delivery. Notices mailed shall be deemed served the next business day following the date of mailing if mailed in the State of Colorado, otherwise on the date which is two business days following the date of mailing.

**22. Entire Agreement**

This Agreement constitutes the entire agreement between the parties and may not be amended except by a written document executed by all parties to this Agreement.

**23. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and which together shall constitute a single instrument.

**24. Choice of Laws and Venue**

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without reference to choice of law rules. The parties agree that venue in any action to enforce or interpret this Agreement shall be only in the 14<sup>th</sup> Judicial District Court in and for the County of Grand, State of Colorado.

**25. Governmental Immunity**

Nothing contained herein shall constitute a waiver of either Party's Governmental Immunity.

**26. Further Funding**

Grantee acknowledges that the Grand County Board of County Commissioners and representatives have made no actual or implied promise of funding except for the amounts specified by this Agreement. If any of the Grant Funds are returned or if the grant is rescinded, Grantee acknowledges that the Open Lands, Rivers, and Trails Advisory Committee will have no further obligation to Grantee in connection with this grant and/or Agreement as a result of such return or rescission.

However, the foregoing is not intended to prohibit the Board of County Commissioners from providing Grantee an additional grant at the termination of the Grant Funds award described in this Agreement, upon the submission of a new proposal, if the Advisory Committee and the Board, in their sole discretion, determine that an additional grant is appropriate. However, any

breach, or other violation of this Agreement may result in denial of future funding at the sole discretion of the Advisory Committee or Board.

The Parties agree to be bound by the terms and conditions set forth herein.

**GRANTEE:** \_\_\_\_\_.

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

**Print Name/Title:** \_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS, COUNTY OF GRAND, STATE OF COLORADO:**

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

**Richard Cimino, Chairman  
Board of County Commissioners**

**ATTEST**

\_\_\_\_\_  
**Jolene Linke                      Clerk**

Administrator  
[olrtac@co.grand.co.us](mailto:olrtac@co.grand.co.us)

Accepted by:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

(Please Print)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A

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**Applicant:** Town of Winter Park

**Project Name:** Snowcat Purchase for Winter Trail Grooming

**Brief Description:** *Town of Winter Park is requesting \$91,774, which is 47% of the total project cost.* They are requesting OLRT funds to offset the purchase price of a snowcat for winter trail grooming. Town of Winter Park plans to groom the Fraser River Trail Winter route, Leland Creek, Alpine Trail, Confluence Park, and Hideaway Park sledding hill totaling approximately 8 miles. These areas are open to the public for recreational purposes at no cost to the public. Town of Winter Park believes it is necessary to perform the grooming with town staff to assure a positive and consistent experience for public trail users.

**Reasoning for off-cycle grant request:** Mountain States Snowcats has agreed to allow 80% of the winter lease price of \$52,500 to go towards purchase of the snowcat, if purchased prior to April 1, 2024. Town of Winter Park, in conjunction with Town of Fraser and Headwaters Trails Alliance, believes by performing the grooming work in house they can guarantee scheduled grooming two times per week and after snowfalls greater than 4”.

**Funding:** With an average score of 74.9/100, OLRTAC recommends funding the grant application the full amount of \$91,774. Motion passes unanimously (8 yes, 0 no). BOCC approved the OLRTAC recommendation on February 27, 2024.



PO Box 1134  
TORRINGTON WY 82240  
970-447-6005

## SALES AGREEMENT

**Date:** 2-28-24

**PURCHASER NAME:** Town of Winter Park

**TELEPHONE:** 307-761-8017

**ADDRESS:** 50 Vasquez Road Winter Park CO 80482

**EMAIL:** jwolter@wpgov.com

EQUIPMENT AND ACCESSORIES DESCRIPTION:			
QTY	NEW/ USED	MODEL	TOTAL PRICE
1	NEW	2023 SR3X Favero Lorenzo SN#5051122	\$141,259.65
1	NEW	Large Tiller w/Hydraulic Roll	\$22,493.66
2	NEW	Track Setter with Independent Lifting System	\$10,630.60
<b>TOTAL PRICE:</b>			<b>\$174,383.91</b>

TOTAL PRICE:	\$174,383.31
SALES TAX: Tax Exempt	N/A
DELIVERY: N/A	N/A
LEASE PAYMENTS APPLIED AT 80%	-42,000.00
TOTAL AMOUNT DUE:	<b>\$132,383.91</b>

### ADDITIONAL INFORMATION:

Sold with **LIMITED ONE YEAR** Warranty.

TERMS: : Payment is due within 30 days.

### WIRING INSTRUCTIONS:

Mountain States Capital

Platte Valley Bank

2201 Main St Torrington WY 82240

Routing #102306699 Account #108011849

Mountain States Capital, LLC (Vendor) and Purchaser agree to the terms and conditions of this page and page 2 of this Sales Agreement. All of these conditions are binding terms of the contract between the parties for the sale of the equipment described above.

MOUNTAIN STATES CAPITAL

Town of Winter Park

Mindy Straley Owner

Date: \_\_\_\_\_

Date: \_\_\_\_\_



TERMS AND CONDITIONS

Description of Goods. Vendor shall transfer ownership and deliver possession to Purchaser, and Purchaser shall pay for and accept the equipment and accessories described above (Equipment).

Identification of Goods. Identification of the Equipment shall not be deemed to have been made until Vendor has set aside and appropriated the Equipment for the performance of this Sales Agreement.

Payment. Purchaser agrees to pay the total purchase price and the amounts due at the time of execution of this Sales Agreement and at the time of delivery of the Equipment in the amounts indicated above. All payments are to be made in United States Dollars by wire transfer, certified check or personal check as requested by Vendor. If any payment is not received as called for, all amounts due and owing will bear interest from that date at a rate of eighteen percent (18%) per annum compounded annually. If Purchaser makes some but not all of the payments required by this Sales Agreement, Vendor has no obligation to sell the Equipment to the Purchaser and all amounts previously paid to Vendor may be retained to Vendor as liquidated damages. Retention of such amounts, however, shall not be a limitation on any remedy Vendor may have due to Purchaser's breach of the provisions of this Sales Agreement.

Time of Delivery. Purchaser shall have the right to specify the date the Equipment is delivered, but in no event shall that date be before the delivery date indicated on the first page of this Sales Agreement. Vendor reserves the right to deliver the Equipment in a single lot or in multiple lots, but in any event Vendor shall deliver all of the Equipment on or before the indicated delivery date. The Equipment shall be shipped by a common carrier to the address indicated for delivery on the first page of this Sales Agreement from the indicated shipment address. The Equipment may make one or more stops, and may pass from the possession of one common carrier to another during transport from the shipment address to the delivery address.

Delivery Terms. Delivery shall be made by a common carrier designated by the Vendor and shall be arranged by Vendor at the Purchaser's expense. Risk of loss shall be on Vendor until the common carrier picks up the Equipment at the ship from address indicated.

Notification of Delivery. As soon as the Equipment has been provided to a common carrier for shipment to the delivery address, the Vendor will send a notification to Purchaser of that fact, including an indication of the dates and times at which Purchaser may take delivery of the equipment at the delivery address.

**DISCLAIMER OF WARRANTIES. VENDOR IS SELLING ONLY SUCH RIGHT OR TITLE TO THE EQUIPMENT AS VENDOR MAY HAVE ON THE DATE THIS AGREEMENT IS EXECUTED AND DISCLAIMS ANY FURTHER WARRANTY OF TITLE TO SUCH GOODS. VENDOR MAKES NO REPRESENTATIONS THAT THE EQUIPMENT BEING SOLD IS FREE FROM THE RIGHTFUL CLAIM OF ANY THIRD PARTY BY WAY OF INFRINGEMENT OR THE LIKE AND DISCLAIMS ANY WARRANTY AGAINST INFRINGEMENT WITH RESPECT TO THE GOODS. PURCHASER, IN FURNISHING SPECIFICATIONS TO VENDOR, AGREES TO HOLD VENDOR HARMLESS AGAINST ANY CLAIMS BY WAY OF INFRINGEMENT OR THE LIKE THAT ARISE OUT OF COMPLIANCE WITH THESE SPECIFICATIONS.**

**VENDOR MAKES NO WARRANTY OF MERCHANTABILITY FOR THE EQUIPMENT AND PURCHASER AGREES TO ACCEPT THE EQUIPMENT WITHOUT ANY WARRANTY OF MERCHANTABILITY. VENDOR FURTHER MAKES NO WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE EQUIPMENT. THERE ARE NO WARRANTIES EXPRESS OR IMPLIED WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS AGREEMENT.**

Exclusive Remedies of Purchaser. The exclusive remedies of Purchaser under this Agreement are, in the case of any breach by Vendor, to return the goods and receive repayment of the price from Vendor. Vendor shall not be responsible or liable to Purchaser for any loss or damage resulting from Vendor's delayed performance in delivering the Equipment for any reason, including Purchaser's loss of income or profits, and incidental, special or consequential damages to Purchaser.

Limitation of Consequential Damages. The parties agree that eliminating any award of consequential damages to any party aggrieved by breach of this Sales Agreement is consistent with the intent of the parties and the commercial circumstances giving rise to this Sales Agreement. Therefore, consequential damages, if any, under this Agreement may not be recovered by either party for any reason.

Force Majeure. Vendor's obligation to deliver the Equipment is subject to delays incident to labor difficulties, fires, casualties and accidents, acts of the elements, acts of God, transportation difficulties, delays by common carrier, inability to obtain equipment, materials or components or qualified labor sufficient to timely manufacture the Equipment, government regulations or other causes and acts of *force majeure* beyond the control of Vendor. In the event of such delays, the delivery of the Equipment shall be correspondingly extended and Vendor shall keep Purchaser informed of the effects of such events.

Termination on Contingency. This Agreement terminates automatically with respect to any Equipment not yet delivered on the occurrence of any of the following contingencies: (a) shutdown of Vendor's plant or of Purchaser's business; (b) any formal or informal, voluntary or involuntary action by either party privately or in court resulting in the appointment of a receiver or trustee or surrender of any substantial degree of business management for the benefit of creditors.

Mediation and Arbitration. All claims arising out of or related to this Agreement shall be submitted first to mediation and them to final binding arbitration. Before submitting the matter to arbitration, the parties will engage in non-binding mediation, to be held in Goshen County, Wyoming, using a mediator selected by mutual agreement of the parties. If mediation fails to resolve the issue, arbitration shall be conducted in accordance with the Wyoming Uniform Arbitration Act, W.S. § 1-36-101 *et seq.* The arbitrators shall be required to follow Wyoming law in making an order. The arbitration shall be conducted in Goshen County, Wyoming. Unless the parties mutually agree to a different number of arbitrators, the panel of arbitrators shall consist of three (3). One arbitrator shall be appointed by Purchaser, one arbitrator shall be appointed by Vendor, and one arbitrator shall be appointed by the two arbitrators chosen by Purchaser and Vendor. The arbitrators shall agree in advance to render a written decision within seven (7) business days of completion of arbitration. Each party shall pay the costs and fees of any attorney the party engages to assist the party in the arbitration and the arbitrator the party chooses. Purchaser and Vendor shall each pay half of the costs and fees of the third arbitrator. The prevailing party in arbitration shall be entitled to recover costs and attorneys' fees from the other party or parties.

Governing Law, Venue and Jurisdiction. This Agreement shall be governed by and construed in accordance with Article 2 of the Uniform Commercial Code as adopted in the State of Wyoming as effective on the date of this Agreement and by other pertinent Wyoming law. Jurisdiction for any mediation, arbitration or other proceeding relating to or arising out of this Sales Agreement, the transaction which it defines or the Equipment shall only be proper in the state and federal courts of the State of Wyoming. The parties consent to venue in Goshen County, Wyoming. The parties waive the right to a jury trial in any lawsuit relating to or arising out of this Sales Agreement, the transaction which it defines or the Equipment.

Integrated Agreement. The terms of this Sales Agreement are intended by the parties as a final expression of their agreement and as a complete and exclusive statement of its terms.

Modification and Rescission. This Sales Agreement may be modified or rescinded only in writing signed by both parties.

Waiver. No claim or right arising out of a breach of this Sales Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration, is in writing and is signed by the aggrieved party.

Notices. All notices required or permitted by this Sales Agreement shall be in writing and personally delivered or mailed by certified mail, return receipt requested, and addressed to the parties at their addresses indicated on page one of this Sales Agreement.

Binding Effect. This Sales Agreement shall be binding on and inure to the benefit of its parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

Severability. In case any one or more of the provisions contained in this Sales Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision of this Sales Agreement and this Sales Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained in it.

No Presumption. The parties waive any statutory or common law presumption which would serve to have this Sales Agreement or any provisions of this Sales Agreement construed in favor of or against Vendor or Purchaser in the event any dispute arises concerning the interpretation of this Sales Agreement.

Captions. The captions in this Sales Agreement are for convenience only and in no way define, limit or describe the scope or intent of this Sales Agreement nor in any way affect the interpretation of this Sales Agreement.

Attorneys' Fees. In the event that Purchaser fails to pay the amounts owed to Vendor under this Sales Agreement, Vendor shall be entitled to recover from Purchaser reasonable attorneys' fees and costs Vendor incurs in enforcing the provisions of this Sales Agreement.

Counterparts. This Sales Agreement may be signed in one or more identical counterparts and all such counterparts when taken together shall be deemed to constitute the original of this Sales Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

PURCHASER

\_\_\_\_\_  
(print name) (title)

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

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



## Mountain States Capital

PO Box 1134  
Torrington, WY 82240  
(970) 447-6005  
admin@mountainstatesnowcats.com

## INVOICE

BILL TO  
Town of Winter Park  
50 Vasquez Rd  
PO Box 3327  
Winter Park, Colorado 80482

INVOICE 2143  
DATE 02/29/2024  
TERMS Net 30  
DUE DATE 03/30/2024

DESCRIPTION	QTY	RATE	AMOUNT
2023 SR3X Favero Lorenzo SN#5051122	1	141,259.65	141,259.65T
Large Tiller with Hydraulic Roll	1	22,493.66	22,493.66T
Track Setter with Independent Lifting System	2	5,315.30	10,630.60T
80% of Lease applied to purchase	1	-42,000.00	-42,000.00T

Thank you for choosing Mountain States Capital. Please remit to  
above address within 30 days. Below are the wiring instructions:  
Mountain States Capital  
Platte Valley Bank  
2201 Main St Torrington WY 82240  
Routing #102306699 Account #108011849

SUBTOTAL	132,383.91
TAX (11.2%)	0.00
TOTAL	132,383.91
BALANCE DUE	<b>\$132,383.91</b>

## MEMO

**TO** Mayor and Town Council  
**FROM** Danielle Jardee, Town Clerk  
**CC** Keith Riesberg, Town Manager  
**DATE** March 5, 2024  
**RE** Updated Fee schedules for Titles 1 & 5 of the Town Code

### **Background**

The Town of Winter Park Town Council adopted Ordinance 593, December 6, 2022. Title 1 and Title 5 have various fees and fee schedules located within them. Ordinance 593 was adopted in order for Staff to be able to update these fees moving forward via resolution when needed. Resolution 2023 was also adopted on December 6, 2022, which set the fees in the fee schedules found in Titles 1 & 5. Resolution 2122 presented is asking to update and add some fees to Exhibit 2 and Exhibit 7.

### **Analysis**

In Exhibit 2 the fee names in the current fee schedule did not align with the application names established in the UDC (Unified Development Code). The fee names have been updated, there are no changes to the application fee.

Exhibit 7 adds a vehicle storage fee to the Fraser Winter Park Police Department Fee Schedule. If a vehicle, snowmobile, ATV, or trailer are left anywhere on public property for longer than 72 hours, the police can charge a \$30.00 dollar a day fee for every day after the first 72 hours that it is left. The purpose of vehicle storage fees are two-fold: 1. Motivate vehicle owners to retrieve vehicles stored as a courtesy in a timely manner. Recover storage costs for vehicles that have been abandoned on public property (i.e. public parking lots and garages).

### **Recommendation**

Staff recommends approval of Resolution 2122 presented tonight should the Town Council wish to approve this, the following motion should be made:



I move to approve Resolution 2122, A Resolution Updating and Setting Fees Authorized by Titles 1 and 5 of the Town Code of Winter Park Related to Permits, Land Use Applications, Records Requests, and Certain Administrative Services.

Should the Town Council wish to deny Resolution 2122 presented tonight, the following motion should be made:

I move to deny Resolution 2122, A Resolution Updating and Setting Fees Authorized by Titles 1 and 5 of the Town Code of Winter Park Related to Permits, Land Use Applications, Records Requests, and Certain Administrative Services.

Should you have any questions or need additional information regarding this matter, please contact me.

TOWN OF WINTER PARK

RESOLUTION NO. 2122  
SERIES OF 2024

A RESOLUTION UPDATING AND SETTING FEES AUTHORIZED BY  
TITLES 1 AND 5 OF THE TOWN CODE OF WINTER PARK RELATED TO  
PERMITS, LAND USE APPLICATIONS, AND CERTAIN ADMINISTRATIVE  
SERVICES

WHEREAS, Ordinance No. 593, Series of 2022, amended portions of Title 1 and Title 5 within the Town Code of Winter Park (the "Code") to specify that certain fees would be set by resolution of Town Council;

WHEREAS, Code, Section 1-7-3(C) provides that cost of transcription of municipal court proceedings shall be borne by the party requesting the record or transcript, and delegates the authority to establish a schedule of fees and charges for the location, preparation and transcription of such records to the municipal court clerk, which shall be forwarded to the town council for adoption; and

WHEREAS, Town Council is prepared to update and set such fees in Exhibit 2 & 7 for 2024.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Winter Park, Colorado as follows:

Section 1. The fees set forth in **Exhibits 1 – 8**, attached hereto and incorporated herein, are adopted.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2024.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk

**Exhibit 1**  
**Resolution No. 2023, Series of 2022**  
Fees pursuant to Code, Section 1-8-1

**Permit Fees**

Banners	\$30.00
Signs	\$30.00



**Exhibit 2**  
**Resolution No. #, Series of 2024**  
Fees pursuant to Code, Section 1-8-2; Unified Development Code

**Processing Fees**

<b>Subdivision Fees:</b>		
Pre-Application	\$250.00	At filing of application
Preliminary Plat	\$500.00	Plus \$10.00 per unit or lot
Final Plat	\$750.00	Plus \$10.00 per unit or lot
Resubdivision	\$375.00	Plus \$10.00 per unit or lot
<b>Condominium Fees:</b>		
Condominium Plat	\$250.00	
<b>Planned Developments:</b>		
Preliminary Development Plan	\$1,000.00	Plus \$2.00 per lot or unit
Final Development Plan	\$1,000.00	Plus \$2.00 per lot or unit
Amended Final Development Plan	\$500.00	Plus \$2.00 per lot or unit
Minor Plat	\$400.00	Plus \$10.00 per lot or unit
Amended Minor Plat	\$200.00	
Exemption Plat	\$300.00	
Amended Exemption Plat	\$150.00	
Annexation	\$500.00	Plus \$2.00 per lot or unit
Public Improvement Cost-Recovery Agreement	\$500.00	Due at Final Plat approval



Variance/Waiver	\$250.00	
Special Use Permit	\$150.00	
Rezoning	\$350.00	
Vacation of Plat, Street, Right-of-Way, and Utility Easement	\$250.00	
Special Event Permit	\$150.00	
Joint Special Event/Special Use Permit	\$200.00	
Major Site Plan	.05 per sqft	Gross square footage of building(s)
Minor/Administrative Site Plan	\$100.00	



**Exhibit 3**  
**Resolution No. 2023, Series of 2022**  
Fees pursuant to Code, Section 1-8-3

**Records Fees**

Copies Per Page: 8 1/2" x 11" 11" x 14" 11" x 17" 24" x 36"	\$0.25 per page + any Postage Actual cost (currently \$0.35 per page) + any Postage Actual cost (currently \$0.75 per page) + any Postage Actual cost (currently \$5.00 per page) + any Postage
Zoning Maps (set of 2 pages): 11" x 17" (Black and White) 11" x 17" (Color) 24" x 36"	Actual cost (currently \$1.50) + any Postage Actual cost (currently \$4) + any Postage Actual cost (currently \$10) + any Postage
<b>Research and retrieval fee (subject to adjustment per C.R.S. § 24-72-205(6)(a)):</b>  <b>\$33.58 per hour after the first hour, which is free.</b>	There is no fee for delivery of electronic documents, but the research and retrieval fee will apply.



**Exhibit 4**  
**Resolution No. 2023, Series of 2022**  
Fees pursuant to Code, Section 1-11-2(A)

## Building Valuation Schedule

### Construction Values

[illegible]

H-5 hazardous production materials	153.33	147.81	143.08	136.34	124.01	119.35	131.00	108.67	104.20
I-1 institutional, supervised environment	153.80	148.53	144.55	138.69	129.50	125.96	139.98	117.23	112.64
I-2 institutional, hospital	155.30	129.96	155.30	119.82	129.96	120.99	235.73	117.22	N.P.
I-2 institutional, nursing homes	155.30	129.96	155.30	119.82	129.96	120.99	158.11	117.22	N.P.
I-3 institutional, restrained	155.30	129.96	155.30	119.82	129.96	120.99	153.89	117.22	113.07
I-4 institutional, daycare facilities	155.30	129.96	155.30	119.82	129.96	120.99	139.98	117.22	113.07
M mercantile	107.09	65.50	107.09	64.07	79.67	74.73	94.09	67.06	61.99
R-1 residential, hotels	131.26	123.48	131.26	118.50	113.72	108.39	141.71	99.03	97.08
R-2 residential, multiple-family	141.92	141.59	135.89	130.41	125.15	120.11	125.15	115.27	106.57
R-3 residential, one- and two-family	161.18	154.68	148.45	142.47	136.73	131.22	136.73	125.93	120.08
R-4 residential, care/assisted living facilities	153.80	148.53	144.55	138.69	129.50	125.96	139.98	117.23	112.64
S-1 storage, moderate hazard	86.15	81.89	76.78	74.05	65.75	62.57	70.80	52.97	49.76
S-2 storage, low hazard	85.15	80.89	76.78	73.05	65.75	61.57	69.80	52.97	48.76
U utility, miscellaneous	65.81	62.22	58.51	55.59	50.20	46.80	52.46	35.61	31.58
Decks									26.80

Notes:

1. Private garages use utility, miscellaneous.
2. Unfinished basements (group R ) = \$60.04.
3. For shell only buildings deduct 20 percent.
4. N.P. = not permitted



**Exhibit 5**  
**Resolution No. 2023, Series of 2022**  
Fees pursuant to Code, Section 1-11-2(B)

**Building Permit Fees**

<b>Total Valuation</b>	<b>Fee</b>
\$1.00 to \$2,000.00	\$54.00
\$2,001.00 to \$25,000.00	\$54.00 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$376.00 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$628.50 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$978.50 for the first \$100,000.00 plus \$5.10 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,018.50 for the first \$500,000.00 plus \$4.25 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,343.50 for the first \$1,000,001.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof





**Exhibit 6**  
**Resolution No. 2023, Series of 2022**  
Fees pursuant to Code, Section 1-11-2(C)

**Other Inspections And Fees**

Plan review fee <sup>1</sup>	65 percent of building permit fee as shown in table 1-11-2B of this section
Additional plan review required by changes, additions or revisions to plans	\$47.00 per hour
Inspections outside of normal business hours	\$47.00 per hour <sup>2</sup>
Reinspection fee	\$47.00 per hour <sup>2</sup>
Inspections for which no valuation is specifically indicated in table 1-11-2A of this section	\$47.00 per hour <sup>2</sup>
For use of outside consultants for plan checking and inspections, or both	Actual costs <sup>3</sup>

Notes:

1. When submittal documents are required to be reviewed, a plan review fee shall be assessed at 65 percent of the building permit fee as shown in table 1-11-2B of this section. The plan review fee is a separate fee and is in addition to the building permit fee.
2. Minimum 1 hour.
3. Cost of consultants plus 20 percent administrative and overhead cost.



**EXHIBIT 7**  
**Resolution No. #, Series of 2024**  
Fees pursuant to Code, Sections 1-7-3(C) and 1-15-1

**Fraser Winter Park Police Department Fee Schedule**

	<b>Criminal Justice Records</b>	
Police Reports or other Records	First Ten Pages	\$8.00
	Additional Pages (Per Page)	\$0.25
Extensive Reports will be determined on a case-by-case basis		
Redaction of Information		\$30 per hour
Inspection of Documents or Reports (View Only)	Upon Appointment Only	\$30 per hour
Report Certification		\$5.00 per document
Official Clearance Letter	Fraser Winter Park Police Dept. Only	\$15.00
Research		\$30 per hour
	<b>Digital Media</b>	
Body Worn Camera Footage	Research, Redaction & Publication	\$30 per hour, flash drive included
Other Video Footage		\$30 per hour, flash drive included
Photographs	Printed Digital Images	\$30 per hour billed in ¼-hour increments plus \$.25 per page.
Flash or USB Drive		\$5
Electronic Delivery of Documents		No charge
	<b>Contract Labor Fees</b>	
Police Contract Labor	3 hours minimum	\$100.00 per hour
Police Contract Labor	Less than two-week notice	\$125.00 per hour
Vehicle Use Charge	Traffic Control, Directed Patrol	\$50 per day
	<b>Municipal Court Fees</b>	
Discovery		See Above
Transcription of Court Proceedings		“Actual Cost”
	<b>Vehicle Storage Fees</b>	

Vehicle Storage (Including motor vehicles, snowmobiles, ATV's, and trailers)		\$30.00 per day, after the first 72 hours
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**EXHIBIT 8**  
**Resolution No. 2023, Series of 2022**  
Fees pursuant to Code, Section 5-2-1

Right of Way Permit Fee	\$250.00
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## MEMO

**TO** Mayor and City Council  
**FROM** Keith Riesberg, Town Manager  
**CC**  
**DATE** February 13, 2024  
**RE** Ordinance amending Town code re: lodging tax

### **Background**

In November, 2023 the Winter Park voters approved increasing the existing lodging tax rate within the Town boundaries from one percent (1%) to a new rate of three percent (3%). The proposed ordinance is to amend Section 3-2-3(C) of the Town code to: 1) codify the use of the existing 1% lodging tax in accordance with the 2016 ballot language directing the use of these funds; and 2) to implement the two-percent increase of the lodging tax that was approved by the voters in November. The effective date of the lodging tax increase will be July 1, 2024 in accordance with the Department of Local Affairs (DOLA) requirements for the imposition of new taxes. All lodging sales occurring after July 1, 2024 will be required to pay a lodging tax rate of 3%.

### **Analysis**

In August, 2023 the Town Council directed staff to place a ballot question on the November, 2023 general election asking the voters of Winter Park if they wished to increase the Town's lodging tax from 1% to 3%. The purpose of the increase in the lodging tax was to receive additional funds that would be used to meet community needs such as community housing, childcare and other needs determined by the Town Council. The funds were to be received in the General Fund and appropriated by the Town Council as part of the annual budgeting process. The voters of Winter Park approved the increase of the lodging tax as proposed.

The ordinance presented for the Town Council's consideration will amend Section 3-2-3(C) of Town Code to formalize two actions:

1. The ordinance codifies the use of the funds generated by the 1% lodging tax, with  $\frac{1}{2}\%$  dedicated to marketing the Winter Park region and  $\frac{1}{2}\%$  dedicated to the Town's capital improvement program. The dedication of these funds was outlined in a previous ballot language.

2. Establish the additional two-percent lodging tax to be collected for the use of community housing, childcare and other community needs as determined by the Town Council.

Although not specified in the ordinance, the ballot language noted the additional two-percent lodging tax would be received in the General Fund, which grants the Town Council the maximum flexibility for the allocation and use of these funds. Preliminary estimates anticipated the additional lodging tax would generate approximately \$1.2M per year. It is anticipated these funds will be used predominantly for the Town's community housing efforts.

A question has been raised in the community about only applying the increased lodging tax rate to reservations made after the adoption of this ordinance (exempting reservations made prior to this ordinance adoption but occurring after July 1 from paying the additional tax). While we understand the concern of the businesses that may have previously provided estimates for reservations occurring after July 1, staff recommends applying the lodging tax equally to all after the July 1 effective date. It would be extremely difficult for staff to audit and verify which reservations for lodging were made prior to the effective date of this ordinance and will result in discrepancies in the collection of the taxes. Staff will work with the lodging community to message and explain the additional taxes that will now be due on all stays occurring after July 1.

### **Recommendation**

The adoption of the ordinance amending the Town Code to implement the increase in the lodging tax rate from 1% to 3% will be effective July 1, 2024. Staff recommends adoption of the ordinance as presented with the expectation that the increased tax rate will be applied to all lodging effective July 1 regardless of when the reservation was made.

Should the Town Council wish to approve the ordinance amending the Town Code to implement the increase in the lodging tax, the following motion should be made:

I move to approve Ordinance 617 amending Section 3-2-3(C) of the Town Code to implement the voter-approved increase in the lodging tax as presented.

Should the Town Council wish to deny the proposed ordinance, the following motion should be made:

I move to deny Ordinance 617 amending Section 3-2-3(C) of the Town Code to implement the voter-approved increase in the lodging tax the as presented.





If the ordinance is not adopted, the Council should provide direction to staff regarding the expectations for the implementation of the voter-approved increase in the lodging tax.

Should you have any questions or need additional information regarding this matter, please contact me.

**TOWN OF WINTER PARK  
ORDINANCE NO. 617  
SERIES OF 2024**

**AN ORDINANCE OF THE WINTER PARK TOWN COUNCIL  
AMENDING TITLE 3 OF THE TOWN CODE TO IMPLEMENT THE  
VOTER-APPROVED INCREASE IN LODGING TAX AND TO CLARIFY  
ALLOCATION OF THE TAX REVENUE COLLECTED**

WHEREAS, at the special municipal election held on November 7, 2023, the Town Council submitted a ballot issue to the registered electors of the Town;

WHEREAS, the voters approved the ballot issue, increasing the existing lodging tax rate in Town from one percent (1%) to a new rate of three percent (3%);

WHEREAS, as part of the 2023 ballot language and prior voter approval in 2016, portions of lodging tax revenue are earmarked for specified purposes; and

WHEREAS, for clarity and for proper allocation of the tax revenue, while updating the Town Code of Winter Park (the "Code") to reflect the new lodging tax rate, Town Council wishes to add to the Code a recitation of the prior voter approved earmarked purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF WINTER PARK, COLORADO, THAT:

Section 1. Section 3-2-3(C) of the Town Code of Winter Park is amended to read as follows:

3-2-3: IMPOSITION OF TAXES AND TAXATION RATES:

...

C. Lodging Tax: There is hereby imposed a lodging tax in the amount of ~~one percent (1%)~~ **three percent (3%)** on the purchase price paid or charged to persons for rooms or accommodations. Leasing or rental of any hotel room, motel room, or other public accommodation in any hotel, apartment-hotel, motel or trailer court or park or any similar place to any person, who, for a consideration, uses, possesses or has the right to use or possess such room or other accommodation for a total continuous duration of less than thirty (30) days. **The revenue generated by the lodging tax shall be allocated and used as follows:**

**1. One half of one percent (0.5%) for marketing the Winter Park region;**

**2. One half of one percent (0.5%) for capital improvement projects; and**

3. Two percent (2%) for community housing, childcare and other community needs.

...

Section 2. Effective Date. Imposition and collection of the voter-approved three percent (3%) lodging tax rate shall begin on July 1, 2024.

INTRODUCED, APPROVED ON FIRST READING, AND ORDERED PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2024. A public hearing shall be held at the regular meeting of the Winter Park Town Council on the \_\_\_\_ day of \_\_\_\_\_, 2024 at 5:30 p.m., or as soon thereafter as possible, at the Winter Park Town Hall.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of \_\_\_\_\_ to \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2024.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk

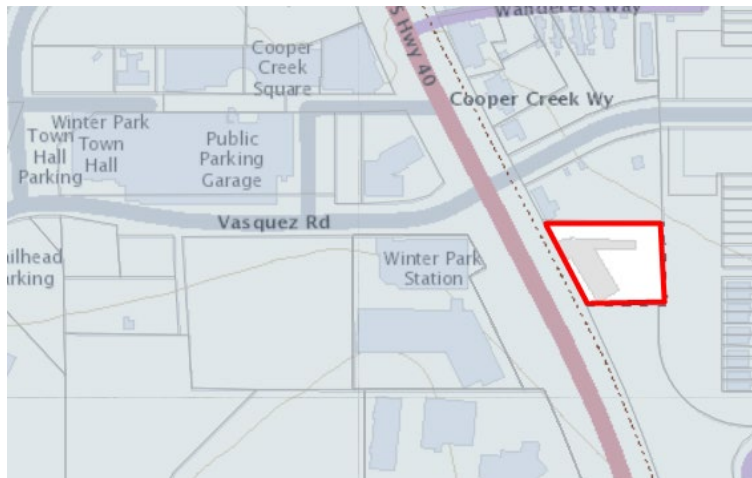
## MEMO

**TO** Mayor and Town Council  
**FROM** James Shockey, Community Development Director  
**CC** Keith Riesberg, Town Manager  
**DATE** March 5, 2024  
**RE** Annexation Resolution for Valley-Hi Motel Property

### Background

The property commonly referred to as Valley Hi is a half-acre enclave within the Town of Winter Park. There are currently two businesses located on the property, the Valley Hi Motel and Serene Wellness, a marijuana shop that recently closed. When Roam was annexed in 2017, this property became an enclave similar to Beaver Village Condominiums, Cooper Creek Village and the Rogers Property. The property has been identified as eligible for annexation in the Town's Three Mile Plan.

The Town has successfully annexed most of the enclaves in Town and is now proposing to annex this property as it has been eligible for annexation since 2021. C.R.S. § 31-12-106 allows a municipality to annex property that is entirely contained within the boundaries of a municipality if such property has been



contained for more than three years. The first action required by this process is the adoption of Resolution 2123 declaring the Town's intent to annex the 0.57 acres into the Town of Winter Park. If the resolution is adopted, the first reading of the proposed annexation ordinance will be considered by the Town Council on April 16, 2024 with second reading on May 4, 2024. Prior to that meeting, the Town will be responsible for publishing the required legal notice (attached).

Should the Town Council adopt Resolution 2123, staff will begin the required publications and prepare the annexation ordinance for the April 16 meeting. In addition to this, staff will start the required process to assign zoning to the property as required by state statute. At the April 16 meeting, the Town Council will consider the adoption of the following items: the annexation ordinance and the ordinance zoning the property.

**Recommendation**

Staff recommends approval of the resolution declaring the Town's intent to annex the Valley Hi Enclave. Should the Town Council wish to approve this resolution, the following motion should be made:

I move to approve Resolution 2123 declaring the Town's intent to consider a proposed annexation ordinance to annex as an enclave a 0.57-acre parcel of land located in unincorporated Grand County known as Valley Hi Enclave as presented.

Should the Town Council wish to deny the resolution, the following motion should be made:

I move to deny Resolution 2123 declaring the Town's intent to consider a proposed annexation ordinance to annex as an enclave a 0.57-acre parcel of land located in unincorporated Grand County known as Valley Hi Enclave as presented.

In the event Resolution 2123 is not approved, staff should be provided direction on actions to be taken regarding the enclave development.

Should you have any questions or need additional information regarding this matter, please contact me.

TOWN OF WINTER PARK  
RESOLUTION NO. 2123  
SERIES OF 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINTER PARK DECLARING ITS INTENT TO CONSIDER A PROPOSED ANNEXATION ORDINANCE TO ANNEX AS AN ENCLAVE A 0.57 ACRE PARCEL OF LAND LOCATED IN UNINCORPORATED GRAND COUNTY KNOWN AS THE VALLEY HI ENCLAVE

WHEREAS, pursuant to C.R.S. § 31-12-106, when any unincorporated area is entirely contained within the boundaries of a municipality, the governing body may by ordinance annex such territory to the municipality in accordance with Section 30 (1)(c) of Article II of the State Constitution if said area has been so surrounded for a period of not less than three (3) years;

WHEREAS, the territory described in the map attached hereto (the "Valley Hi Enclave") is such an enclave, and the Town wishes to annex it; and

WHEREAS, the Town Council, at its regular meeting on Tuesday, April 16, 2024, intends to consider on first reading a proposed ordinance to complete annexation of the Valley Hi Enclave.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Winter Park, Colorado, as follows:

Section 1. The Town Council hereby finds and determines:

a. The Valley Hi Enclave, as depicted by the map attached hereto and incorporated herein, is an enclave as defined by C.R.S. § 31-12-106 of the Municipal Annexation Act of 1965, C.R.S. § 31-12-101, *et seq.* (the "Act"), in that the Valley Hi Enclave has been entirely surrounded by the Town for a period of more than three (3) years; and

b. No part of the Town boundary or Town territory surrounding the Valley Hi Enclave consists of public rights-of-way, including streets and alleys, that are not immediately adjacent to the Town on the side of the right-of-way opposite to the Valley Hi Enclave.

Section 2. The Town Council intends to consider on first reading a proposed annexation ordinance to annex the Valley Hi Enclave at the Town Council meeting to be held on Tuesday, April 16, 2024, at 5:30 p.m., at the Winter Park Town Hall Council Chambers, 50 Vasquez Road, Winter Park, Colorado.

Section 3. Notice of this Resolution and the Town's proposed annexation ordinance shall be published in compliance with the Act.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of March 2024.

TOWN OF WINTER PARK

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Nick Kutrumbos, Mayor

ATTEST:

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Danielle Jardee, Town Clerk





Map of Valley Hi Enclave



# Valley Hi



This property is commonly referred to as the Valley Hi parcel. It is located along Main Street near the intersection of Vasquez Road.



## Land Use:

The property is currently zoned Tourist District by Grand County and is located within the Growth Area for the Town of Winter Park as identified in the 2011 Grand County Master Plan. It is an enclave within the Town of Winter Park. The 0.371 acre parcel is developed with the Valley Hi Motel and Serene Wellness, a retail marijuana business.

## Transportation:

The property is accessed from Main Street near the intersection of Vasquez Road.

## Utility Provisions:

The property is already served with water, sewer, electric and gas services.

## Community Services:

This section lies within the East Grand Fire District and the East Grand School District. Police protection is currently provided by the Grand County Sheriff's Department with mutual aid from the Fraser Winter Park Police Department. Fire protection and the school district boundaries would remain the same in the event of any annexation. Police protection, however, would be provided exclusively by the Fraser Winter Park Police Department upon annexation.

## Open Space, Parks & Recreation:

There is no open space associated with this commercial lot.

## Water Availability:

This property is located within the Grand County Water and Sanitation District No. 1 district boundaries. Water service is provided to the existing motel and retail shop.

### Annexation Considerations:

If it were to be annexed into the Town, appropriate zoning for this parcel would be DC – Destination Center District due to its proximity to the downtown.



**TOWN OF WINTER PARK  
NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Winter Park Town Council will consider a proposed annexation by ordinance of the enclave described in Resolution No. 2123, Series of 2024, pursuant to Colorado Constitution, Article II, Sec. 30 (1)(c), with first reading of the proposed annexation ordinance set to occur on Tuesday, April 16, 2024, at 5:30 p.m., or as soon thereafter as time permits, at the Winter Park Town Hall, 50 Vasquez Road, Winter Park, Colorado 80468.

A copy of the resolution of intent titled A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINTER PARK DECLARING ITS INTENT TO CONSIDER A PROPOSED ANNEXATION ORDINANCE TO ANNEX AS AN ENCLAVE A 0.57 ACRE PARCEL OF LAND LOCATED IN UNINCORPORATED GRAND COUNTY KNOWN AS THE VALLEY HI ENCLAVE is included with this Notice.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2024.

ATTEST:

\_\_\_\_\_  
Dani Jardee, Town Clerk

To be published on: March 14<sup>th</sup>, 2024; March 21<sup>st</sup>, 2024; March 28<sup>th</sup>, 2024; April 4<sup>th</sup>, 2024; April 11<sup>th</sup>, 2024.

## MEMO

<b>TO</b>	Winter Park Town Council
<b>FROM</b>	Charles McCarthy, Transit Manager
<b>CC</b>	Keith Riesberg, Town Manager
<b>DATE</b>	March 5 <sup>th</sup> , 2024
<b>RE</b>	Electric Vehicle and Charging Infrastructure Purchase

### Background:

Town Council passed Resolution 1814, the Town of Winter Park's Zero-Emission Vehicle Transition Plan, which outlines the Town's plan to transition the Lift fleet to zero emission vehicles. The Town currently has an executed Federal Transit Administration (FTA) Section 5339(c) grant to purchase the system's second electric vehicle. This grant will also assist the system in covering expenses to install the accompanying infrastructure needed to charge the bus. The new maintenance facility was designed to support an electric fleet and charging infrastructure.

### Analysis:

Town Staff has already worked to secure an order through the Washington State Department of Enterprise Services bus purchasing contract. Utilizing this contract allows the Town to purchase electric vehicles at a premium price with a group of other transit agencies utilizing the same contract while providing maximum flexibility and customization for the Town's vehicles. Utilizing the purchasing contract also helps avoid a 'one unit order' scenario with the manufacturer, which can typically be more expensive and prone to delays. The Town has already utilized this contract for the purchase of the system's first electric vehicle.

Accompanying the purchase of this second electric vehicle will be the purchase of the charging infrastructure, which will provide the ability to charge four buses at once. This provides the ability for the Town to save costs over inflation by purchasing a larger charging capacity unit upfront, while still working with our electric vehicle partner, Gillig.

Town staff has worked with Gillig, through the Washington State Department of Enterprise Services to procure one 35-foot Gillig electric bus outfitted with new Hanover Automated Voice Announcement Systems and accompanying ABB charging infrastructure.

## MEMO

The estimated total to acquire the vehicle and charging infrastructure from the Washington State Department of Enterprise Services is as follows:

Item	Cost	Quantity	Total
<b>Electric Transit Bus (actual cost)</b>	<b>\$1,132,521</b>	<b>1</b>	<b>\$1,132,521</b>
<b>ABB Charger (four vehicle)</b>	<b>\$538,665</b>	<b>1</b>	<b>\$538,665</b>

Of the total vehicle cost (\$1,132,521), \$898,400 will be covered by the 2024 5339c Grant resulting in a net cost of \$234,121. Of the total cost for the charging infrastructure (\$538,665), \$141,454 will be covered by the 5339c grant resulting in a net cost of \$397,211. The total net cost of \$631,332 (summarized below) is included in the Town's 2024 Adopted Budget:

	<u>Purch Price</u>	<u>Grant</u>	<u>Net Cost</u>
Electric Bus	\$ 1,132,521	\$ 898,400	\$ 234,121
ABB Charger (for 4-vehicles)	538,665	141,454	397,211
	<b>\$ 1,671,186</b>	<b>\$ 1,039,854</b>	<b>\$ 631,332</b>

An estimate for vehicle wraps is not currently available due to the acquisition timeline for the purchase.

### Recommendation:

Staff recommends approval of this purchase to continue transitioning The Lift's fleet from diesel to electric vehicles.

Should Council move to approve this resolution the following motion should be made:

I move to approve Resolution 2124, authorizing the purchase of one electric bus and accompanying charging infrastructure from Gillig, through the Washington State Department of Enterprise Services and appropriating the funds for the purchase as presented.

Should Council move to deny this resolution, the following motion should be made:

I move to deny Resolution 2124, authorizing the purchase of one electric bus and accompanying charging infrastructure from Gillig, through the Washington State Department of Enterprise Services and appropriating funds for the purchase as presented.

Should you have any questions or need additional information regarding this matter, please contact me at CMcCarthy@WPGov.com.

TOWN OF WINTER PARK

RESOLUTION NO. 2124  
SERIES OF 2024

A RESOLUTION AUTHORIZING THE PURCHASE OF ONE ELECTRIC BUS AND CHARGING  
INFRASTRUCTURE FROM GILLIG, THROUGH THE WASHINGTON STATE DEPARTMENT OF  
ENTERPRISE SERVICES AND APPROPRIATING FUNDS FOR THE PURCHASE

WHEREAS, the Town manages its own transit system known as The Lift; and

WHEREAS, the Town collects tax dollars dedicated to the operation, management, and improvement of The Lift, including the maintenance and enhancement of its fleet; and

WHEREAS, the Town has a Zero-Emission Vehicle Transition Plan adopted by Town Council through Resolution 1814 at their October 6<sup>th</sup>, 2020 meeting, that outlines the replacement of the transit fleet from diesel fueled vehicles to electric vehicles; and

WHEREAS, Town staff has identified one electric bus and accompanying charging infrastructure, which will be equipped with new Hanover Automatic Voice Announcement Equipment, which can be purchased from Gillig, through the Washington State Department of Enterprise Services; and

WHEREAS, the adopted FY 24 budget appropriated funding for the purchase of two electric buses and accompanying charging infrastructure that will not be received in fiscal year 2024 due to supply chain disruptions delaying the delivery of the bus until fiscal year 2026; and

WHEREAS, the Town Council wishes to proceed with the purchase of one electric bus and accompanying charging infrastructure, in accordance with the Town's Zero-Emissions Vehicle Transition Plan;

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Winter Park, Colorado as follows:

Section 1. The Town Council hereby approves the purchase of one electric bus and accompanying charging infrastructure from Gillig, through the Washington State Department of Enterprise Services and authorizes the Town Manager to execute agreements and the use of capital funds to prepare the bus for operating as part of the Town's fleet.

APPROVED AND PASSED this 5<sup>th</sup> day of March, 2024 by a vote of \_\_\_\_\_ to \_\_\_\_\_.

TOWN OF WINTER PARK

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Nick Kutrumbos, Mayor

ATTEST:

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Danielle Jardee, Town Clerk

## MEMO

**TO** Mayor and City Council  
**FROM** Keith Riesberg, Town Manager  
**CC**  
**DATE** February 29, 2024  
**RE** Professional Services – government affairs services - State

### **Background**

The Town of Winter Park solicited proposals to provide the Town with government affairs services (lobbying) at the State level. The scope of services are for monitoring of legislation in coordination with the Colorado Association of Ski Towns (CAST) and Colorado Municipal League (CML) and advocating for amendments if needed. The lobbyist is to provide periodic updates to the Town on bills of interest and to advise on legislative process (hearings, proposed amendments, procedural issues). The Town received three proposals to provide lobbying services to the Town. After reviewing the proposals, I am recommending the Town engage Aponte Public Affairs, Inc. (DBA Aponte & Busam) to provide government affairs services for 2024 for a cost of \$20,000.

### **Analysis**

During the 2023 legislative session the Town staff and Council members spent a substantial amount of time participating in the legislative process due to HB23-213 and the impacts it would have on our community. Because of the continued concerns of proposed legislation impacts on Winter Park, the Town of Winter Park solicited proposals to provide the Town with government affairs (lobbying) services at the State level.

The scope of services for the lobbyist was established to be:

- 1) Provide legislative monitoring in addition to that provided by the Colorado Association of Ski Towns (CAST) and the Colorado Municipal League and advocating for needed amendments as directed by the Town.
- 2) Provide written summaries of identified bills of interest and potential impacts;
- 3) Provide information on hearing dates, committee assignments and potential amendments or procedural issues that influence the outcome of proposed legislation;



- 4) Provide guidance on altering or influencing legislation including the provision of testimony and/or letters of support or opposition.

In addition to providing the requested scope of services, the lobbyist is expected to provide executive branch and State organization relations, including work with regulatory agencies such as the Public Utilities Commission (PUC). The lobbyist will also monitor interim committee meetings and other critical State activities and issues throughout the year.

The fees for the engagement of Aponte & Busam are \$2,000 per month or \$20,000 for 2024.

### **Recommendation**

It is at the Council's discretion whether or not to engage a lobbyist at the State level to provide services to the Town during 2024. Should the Council wish to do so, staff recommends engaging Aponte Public Affairs, Inc. (DBA Aponte & Busam) for this professional service.

Should the Town Council wish to authorize this engagement, the following motion should be made:

I move to approve Resolution 2125 authorizing the Town Manager to engage Aponte Public Affairs, Inc. (DBA Aponte & Busam) for government affairs services as presented.

Should the Town Council wish to deny the engagement of Aponte & Busam for government affairs services, the following motion should be made:

I move to deny Resolution 2125 authorizing the Town Manager to engage Aponte Public Affairs, Inc. (DBA Aponte & Busam) for government affairs services as presented.

In the event the recommendation to engage Aponte & Busam is not approved, the Town staff will anticipate undertaking the interactions with the legislative process in the same manner as previous years.

Should you have any questions or need additional information regarding this matter, please contact me.

TOWN OF WINTER PARK

RESOLUTION NO. 2125  
SERIES OF 2024

A RESOLUTION APPROVING AN AGREEMENT WITH APONTE PUBLIC AFFAIRS, INC. (DBA APONTE & BUSAM) TO PROVIDE GOVERNMENT AFFAIRS SERVICES.

WHEREAS, following the 2023 legislative session, the Town of Winter Park has identified the need for additional representation during the State legislative process;

WHEREAS, the Town solicited proposals for providing the Town with Government Affairs Services;

WHEREAS, after review of the proposals the Town wishes to proceed with the engagement of Aponte & Busam to provide the desired services.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Winter Park, Colorado as follows:

Section 1. The Town Council hereby authorizes the Town Manager to execute the professional services agreement with Aponte Public Affairs, Inc. (DBA Aponte & Busam) following the review and approval of the Town Attorney.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of March, 2024.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk



February 4, 2024

Attn: Mr. Keith Riesberg  
Town Manager, Town of Winter Park  
50 Vasquez Rd. / P.O. Box 3327  
Winter Park, Colorado 80482  
[kriesberg@wpgov.com](mailto:kriesberg@wpgov.com)

On behalf of the entire team at Aponte & Busam, thank you for requesting a proposal for government affairs services to the Town of Winter Park. We are excited at the prospect of working together and feel our team would be an excellent fit.

The past several years has shown an unprecedented focus by state officials on issues that directly interface with local governments. It is wise to be well informed on those issues and to begin to engage in the broader debate on those issues.

The team at Aponte & Busam brings a passion to supporting local governments at the Colorado General Assembly and with the Polis Administration. We believe that local governments are best positioned to understand and respond to their community's needs, interests, and aspirations. And in turn, they have a unique and important voice to inform state level policy. We see our job as helping bring that voice forward.

Our team has been highly active at the state level on the numerous issues that impact Colorado's local governments. This includes tax policy, land use, transportation, affordable housing, and many others. Being immersed in these debates gives us direct insight into the key players and underlying political dynamics at play.

As outlined in the proposal, we offer a basic set of services that will keep Town leadership informed about the pressing issues and provide support for limited involvement. The lead on these services would be Ruth Aponte, our Founder and CEO, with support from the rest of the team.

Thank you for your consideration of our proposal. It would be our honor to support the Town of Winter Park in your efforts. We remain available to answer any questions or provide additional background information if helpful.

Best regards,

**Edie Busam**  
Executive Principal  
cell: 303-523-6236  
[ebusam@aponte-busam.com](mailto:ebusam@aponte-busam.com)

**Ruth Aponte**  
Founder & CEO  
cell: 303-907-1980  
[raponte@aponte-busam.com](mailto:raponte@aponte-busam.com)



APONTE & BUSAM  
PUBLIC AFFAIRS CONSULTANTS

*Proposal to:*

**Town of Winter Park**

*for*

***Government Affairs Services***

*February 3, 2024*



# PROPOSAL

On behalf of the team at Aponté & Busam, we would be honored and excited to partner with the Town of Winter Park for your government affairs needs in Colorado. This is a time of unprecedented focus by state policymakers on local governments. Our team is uniquely suited to support the Town of Winter Park in 2024 and beyond.

## ABOUT THE FIRM

Aponté & Busam is a public affairs consulting firm providing high-caliber services to clients in the local government, health care, education, nonprofit and business arenas. Founded in 1994, Aponté & Busam has a proven track record of success including legislative victories, relationship building with elected officials, and advocacy training for clients. The firm represents a wide variety of clients, tailoring services to meet our clients' public policy objectives. The firm maintains an active partnership with the Polis Administration, State Departments, and legislative leadership to best serve client needs.

Together the principals at Aponté and Busam have over 70 years of combined lobbying experience in Colorado. We serve as the eyes and ears for our clients at the State Capitol and provide strategic political advice on issues impacting their public policy agenda.

## PROPOSED SCOPE OF SERVICES AND FEE

**Aponte & Busam** takes pride in tailoring services to the individual needs of each client. Based on our understanding of the Town of Winter Park's needs and goals, we suggest the following services to assist in engagement with legislative members and staff of the Colorado General Assembly, the Polis Administration, relevant state agencies and local government organizations.

**Initial proposed fee: \$20,000**

**10-month contract (March 1 to December 31, 2024)**

**Monitor Service Level**

### **Scope of Services:**

- **Legislative Monitoring:** Provide client leadership with up-to-date information on important developments with key legislation and the activities and discussion of key groups and committees including but not limited to: The Joint Budget Committee, relevant Senate & House Committees, relevant state agencies and interest groups relevant to client's issue focus.
  - Ongoing and timely communication **including written summary of developments** with key issues affecting or of interest to client.
  - Create a **customized 2024 bill tracker** for the Town of Winter Park. This can be bookmarked to provide real-time updates on the status, activity, and the current version of legislation.
  - Create and update **legislative overview information** on meeting dates, committee composition contact info, etc.
  - Follow, notify and report back on relevant **interim legislative committees** such as the Wildfire Matters Review Committee and Committee on Tax Policy.
- **Executive Branch and State Organization Relations:** Remain aware and inform client of action and opportunities within the Governor and Lt. Governor's offices and the relevant state agencies.
- **Committee Hearing Preparation:** Assist client to strategize on committee engagement and assist in preparing testimony and fielding questions.

- **Position Papers / Fact Sheets:** Review and edit client prepared position papers, letter of support/opposition that communicate client's policy goals and legislative position.
- **Local Government Association engagement:** remain aware and inform client of positions and activity with local government agencies in Colorado. This would include Colorado Municipal League, Colorado Counties Inc., Colorado Association of Ski Towns, I70 Coalition, Counties & Commissioners Acting Together and Colorado Communities for Climate Action.

**This scope of services assumes minimal engagement aimed in an informative manner.** Should more active engagement be needed the scope of services and fees will be discussed and adjusted per agreement of both parties.

## **RECORD OF SUCCESS REPRESENTING LOCAL GOVERNMENTS AT THE STATEHOUSE**

Through the work with our current local government clients, Aponte & Busam brings direct experience to the issues that impact the Town of Winter Park. We are knowledgeable in the numerous issues that impact Colorado's municipalities and counties and the broader debates overall. Our efforts in this space have provided insight into the key players and the political dynamics presented in various policy options. We also understand the concerns of fire districts as local governments – the challenges faced with funding and local election processes.

Examples of the firm's engagement in local government related legislative and budget issues:

### **1. Tax Policy**

- Lobbied for amendments to the Polis Administration and Democratic leadership's proposal on property taxes, to secure additional backfill for revenue lost by local governments and special districts due to the new property tax rate reductions.
- Providing staff support to local government representatives on the [Commission on Property Tax](#). This body is charged with providing recommendations to the legislature and Administration on future property tax policy.

### **2. Affordable Housing Funding and Policy**

- Lead lobbyist on [HB 23-1304](#), to adjust the parameters of Proposition 123, Affordable Housing Programs to accommodate the Area Median Income needed in Colorado mountain resort communities.
- Lead lobbyist on bills to secure significant state funds for local affordable housing efforts from the vendor fee and unclaimed property fund.
- Staffed local government representatives on the [2021 Affordable Housing interim committee](#) making recommendations on direction and use of federal ARPA funds.

### **3. Short Term Rental Policy**

- Lead lobbyist on [HB 23-1287](#) to allow County Authority over Short Term Rentals.
- Lead lobbyist in 2024 session on amendments to [SB 24-033](#) on Short Term Rental property tax.

### **4. Land Use**

- Highly involved in [SB 23-213](#), the Polis Administration's far reaching land use reform measures. Actively sought and secured needed amendments to the bill. Ultimately lobbied to oppose the measure.

- Involved in negotiations around the yet-to-be introduced 2024 land use bills. This includes those that focus on Strategic Growth requirements, Transit Oriented Communities and Accessory Dwelling Units.

## 5. **Wildfire Mitigation, Response and Recovery**

- Lobbied to **secure millions in new state funds** to both the Forest Restoration and Wildfire Risk Mitigation Grant Program (FRWRM) and the Colorado Strategic Wildfire Action Program (COSWAP).
- Partnered with the Polis Administration through the Colorado Division of Insurance to pass wildfire recovery insurance related measures. These measures support the many Coloradans affected by recent fires who were underinsured or who face an inability to secure adequate insurance coverage against future fires.

## **CURRENT CLIENTS**

Aponté & Busam represents an array of clients in a variety of industries. Our client base, while diverse, is complimentary to each other in many respects and we often find synergies in our clients' public policy goals.

### **Local Government**

- City and County of Broomfield
- Counties and Commissioners Acting Together
- Northwest Mayors and Commissioners Coalition

### **Non-Profit**

- Association of Colorado Centers for Independent Living (ACCIL)
- Colorado Nonprofit Association
- Dumb Friends League
- Early Childhood Council Leadership Alliance
- Great Outdoors Colorado
- The Independence Center
- Junior League of Denver
- Raise the Future

### **Health Care**

- American Academy of Pediatrics, Colorado Chapter
- Aveanna Health Care
- Children's Hospital Colorado
- Colorado Access
- Colorado Association of Medical Equipment Services
- Colorado Long-Term Assistance Service Providers
- Colorado Radiological Society
- Colorado Society of Anesthesiology
- Colorado Society of Oral and Maxillofacial Surgeons
- Developmental Disabilities Resource Center
- Dominion Diagnostics
- Donor Alliance
- Immunize Colorado
- National Jewish Health
- Peak Health Alliance
- Pediatrix Medical Group
- Rocky Mountain Orthotic & Prosthetic Coalition

### **Technology, Business & Trade Associations**

- Avaya
- Colorado Independent Automobile Dealers Association
- Vertex Pharmaceuticals



## CONFLICT OF INTEREST POLICY

Aponté & Busam is highly cognizant of the problems that conflicts of interest can cause at the Legislature. In our experience working in the Colorado political community, we have held true to a set of values that have helped us earn a sound reputation and close working relationship with legislators, staff members and colleagues. To maintain our own personal and professional integrity and to honestly represent our clients, we avoid conflicts of interest and ensure adequate time to handle each client's needs. The firm's policy on conflict of interest is as follows:

- If an issue arises during the legislative session that creates a conflict, Aponte & Busam will immediately disclose the conflict to both parties and proceed to determine if the conflict can be reconciled.
- In the event a conflict of interest between clients cannot be reconciled, Aponte & Busam shall disclose such to both clients and, in consultation with both clients and will take good faith effort to determine a course of action to remedy the conflict that is reasonably acceptable to all parties. This could include subcontracting with a third party on the issue in dispute or, in the worst-case scenario, withdrawing from representing either client on such matter(s), giving rise to the objectionable potential for conflicts of interest.
- Aponte & Busam will inform existing clients of our intention to contract with a new entity and ensure that we can adequately represent both parties.
- Given our current clients and their issues of interest we do not foresee any immediate conflicts for the Town of Winter Park.

## THE APONTÉ & BUSAM TEAM



### ***Ruth Aponté, Founding Partner & CEO***

The founding partner of the firm, Ruth has been lobbying in Colorado for nearly 30 years and is well regarded as one of the premier budget lobbyists in the state. Her work has resulted in millions of dollars annually being directed to client needs. Ruth has exceptional legislative communication skills and extensive coalition building experience. She has gained the trust and respect of members from both sides of the aisle and consistently secures bipartisan sponsorship and support for client legislation. She holds a BA in Political Science from the University of Northern Colorado and a Master of Political Science and Policy from the University of Colorado at Denver.



### ***Edie Busam, Executive Principal***

Edie has over 37 years in lobbying, health care administration including hospice administration, reimbursement contracting, auto industry regulations and medical device manufacturing. Edie was successful passing prosthetic parity legislation for the Colorado Coalition for Working Amputees, the first in the country. She has worked on difficult health insurance legislation, auto industry issues, reasonable licensure legislation and decreasing burdensome regulations. Edie specializes in the areas of health care, nonprofit organizations, and business. She holds degrees in Political Science from Bowling Green State University and Nursing from Miami University of Ohio.





***Emily Biniki, Senior Government Affairs Associate***

Emily has an extensive legislative and policy analysis background, having worked for several Colorado legislators as well as on Congressional campaigns. She leads the firm's client support services including policy analysis, legislative tracking, committee hearing preparation, educational events, legislative field relations and coalition coordination. Emily grew up in Southern California and has lived in the Denver area for 10 years. She holds degrees in Political Science as well as a Master of Public Policy from the University of Denver.



***Iris Hentze, Senior Government Affairs Associate***

Iris brings nearly a decade of diverse public policy experience to the Aponte & Busam team, including government, nonprofit and campaign experience. Prior to joining Aponte & Busam, she worked at the Colorado Department of Health Care Policy & Financing (HCPF), the state agency that administers Colorado's Medicaid Program. Iris also worked as a nonpartisan policy analyst at the National Conference of State Legislatures (NCSL) focusing on employment and labor policy. Iris has a bachelor's degree in political science and economics from Colorado State University and a master's degree in public administration from the University of Colorado, Denver.



***Austin Fearn, Government Affairs Associate***

Austin previously worked as a Senior Legislative Aide for Rep. David Ortiz and his campaign manager before that. He has a degree in mathematics and economics from CSU Fort Collins where he was very active in student government, managing their budget. He has strong budget and policy analysis skills and provides excellent support services to all team members, and clients at Aponte & Busam.



***Cindy Link, Administrative Director***

Cindy brings over 30 years of detail, organization, and management experience to the firm. Her roles to support the team include schedule coordination, customer billing and contracting, event planning and overall operations management. Throughout her career, Cindy has placed a strong emphasis on customer service and thorough communication. She currently serves as President for her homeowner's association, and volunteers at The Samaritan House. Cindy is a native Coloradan hailing from the San Luis Valley and is fluent in Spanish.

## MEMO

**TO** Mayor and City Council  
**FROM** Keith Riesberg, Town Manager  
**CC**  
**DATE** March 5, 2024  
**RE** Requesting Congressional Directed Spending – Multi-modal transit project  
& environmental review

### **Background**

The Town of Winter Park is pursuing a Congressional Directed Spending (CDS) request that will support a regional transportation study to document the benefits of connecting Winter Park Resort and the passenger train platform to downtown Winter Park and the Cooper Creek Transit Center. The CDS will also seek funding to identify and address any environmental concerns associated with this project. By approving this resolution, the Town Council is authorizing the submittal of the CDS applications and committing the matching funds required for these projects. Applications expressing interest in the CDS funding are due by March 15 and will be prepared and submitted on behalf of the Town by Compass Transit Consulting (Michael Koch).

### **Analysis**

Over the past year the State of Colorado initiated planning efforts through the Department of Transportation (CDOT) to expand passenger rail connectivity from Denver to Craig. This service would include a stop at the Winter Park train platform located at the Winter Park Resort and provide opportunities for increased inclusionary access to Colorado's public lands. Expanded passenger rail service would also increase employment and housing opportunities between Grand County and the Front Range communities located along this line, while reducing traffic congestion and greenhouse gas emissions along the I-70 and US-40 corridors.

The Town of Winter Park – in partnership with Winter Park Resort and JAC Colorado II, LLC – are formalizing a public private partnership to advance the potential construction of a gondola connecting the train platform located at Winter Park Resort to downtown Winter Park and the Town's transit system. Building this gondola connection would allow the Town to restructure the Lift's existing service and potentially expand transit service to additional areas of Grand County – including the western gateway to Rocky Mountain National Park.

Similar to last year, two separate CDS applications are being prepared. The first application is seeking CDS funding to conduct a Multi-modal Transportation Connectivity & Ridership study. This study will look at the project's connections to regional transportation systems (Bustang, the LIFT, Amtrak, Winter Park Express and expanded passenger rail service) to demonstrate the planned impacts to these systems and to estimate future ridership. The study will also evaluate how this project will create opportunities for inclusionary access to Colorado's public lands. This study will expand upon the Service Development Plan (SDP) being prepared by CDOT for the Northwest Passenger Rail corridor. The estimated cost of the Multi-modal Transportation Connectivity & Ridership Study is \$750,000. The Town is seeking \$500,000 of CDS funding for this study and will be responsible for contributing the remaining \$250,000.

The second application is seeking funding for the performance of an environmental review required to qualify the proposed multi-modal transportation system for additional federal funding. Since last year the Town has refined the estimated cost of the study, reducing it to a project cost of \$1M. The Town will be requesting \$750,000 of CDS funding, which will require a local match of \$250,000.

As the entity receiving the funding, the Town of Winter Park must commit to the match specified in the Town's applications. The Town does have the \$500,000 required matching funds available as part of the Town's unreserved fund balance. This match may also be recovered from contributions by the Town's partners on this project. Obtaining the CDS funding and performing the required studies will enable the Town to submit applications for capital grant funding for the construction of the project. If CDS funding is not received, the Town is not obligated to spend the matching funds.

If the Town is successful in receiving CDS funding, the Town will be required to enter into an agreement to receive the funding. These agreements – similar to the agreements for the funding we received for the Lift's Transit Maintenance Facility – will contain various conditions and federal grant management requirements. These requirements will include the issuance of RFPs for the performance of studies among other requirements.

### **Recommendation**

It is the Town Council's decision whether to authorize the submittal of the requests for Congressional Directed Spending and committing the required matching funds to advance the plans for a regional transportation system.

Should the Town Council wish approve Resolution 2126, the following motion should be made:

I move to approve Resolution 2126 authorizing the submittal of applications for Congressional Directed Spending and committing the required matching funds as presented.

Should the Town Council wish to deny the proposed applications, the following motion should be made:

I move to deny Resolution 2126 authorizing the submittal of applications for Congressional Directed Spending and committing the required matching funds as presented.

In the event the applications for CDS are not approved, the Town staff will explore alternative approaches to advancing the plans for a regional transportation system. Town Council direction on desired next steps would also be requested as well.

Should you have any questions or need additional information regarding this matter, please contact me.

TOWN OF WINTER PARK

RESOLUTION NO. 2126

SERIES OF 2024

A RESOLUTION SUPPORTING REQUESTS FOR CONGRESSIONAL DIRECTED SPENDING FOR THE WINTER PARK MULTI-MODAL TRANSIT PROJECT AND COMMITTING FUNDS FOR THE PROJECT.

WHEREAS, the State of Colorado through the Colorado Department of Transportation (CDOT) is developing plans to expand passenger rail connectivity from Denver to Craig;

WHEREAS, increasing connectivity along this corridor creates opportunities for inclusionary access to our State's public lands and broadens access to employment and housing opportunities;

WHEREAS, increasing connectivity along this corridor creates the opportunity to remove passenger vehicles from the I-70 corridor, thereby reducing congestions and lowering greenhouse gas emissions along this corridor;

WHEREAS, the Town of Winter Park, Winter Park Resort and JAC Colorado II, LLC are in process of forming a Public-Private partnership to advance the potential construction of a gondola system connecting Winter Park Resort and the Winter Park train platform to downtown Winter Park and the Town's transit system (the Lift) as well as other transportation systems;

WHEREAS, developing a gondola system connecting downtown Winter Park to Winter Park Resort's train platform will enable the Town's transit system (the Lift) to expand services to additional areas of Grand County, including the western gateway to Rocky Mountain National Park;

WHEREAS, the Town of Winter Park is pursuing Congressional Directed Spending to advance plans and environmental studies required 1) for validating the impact of the gondola systems impact as part of a regional transportation system; and 2) identifying environmental concerns to be managed during the development of this regional transportation system.

WHEREAS, the Town of Winter Park is financially constrained and unable to advance these plans and studies without securing outside funding; and

WHEREAS, the Town of Winter Park commits to providing required matching funds using general fund dollars as well as pursuing additional funds for the project.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Winter Park, Colorado as follows:

1. The Town Council strongly supports the submittal of applications for Congressional Directed Spending for the performance of the necessary environmental impact assessments and regional transportation study to advance the planned multi-modal transportation system.
2. The Town Council will provide the matching funds for the required studies and will formalize agreements with other funding partners to participate in the project.
3. If the Congressional Directed Spending is awarded, the Town Council will expeditiously pursue

completion of the projects specified in the applications.

APPROVED AND PASSED this 5<sup>th</sup> day of March, 2024, by a vote of \_\_\_\_ to \_\_\_\_.

TOWN OF WINTER PARK

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Nick Kutrumbos, Mayor

ATTEST:

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Danielle Jardee, Town Clerk

## MEMO

**TO** Mayor and City Council  
**FROM** Keith Riesberg, Town Manager  
**CC**  
**DATE** February 29, 2024  
**RE** Amend Development Agreement for Sitzmark South – tax refunds

### **Background**

In 2015 the Town entered into a Development Agreement to have the Sitzmark South property developed into the Hideaway Station condos, mixed-use buildings and retail buildings. To facilitate the development of the property, the Town agreed to refund the Town's property taxes that would be received from the new development. The refunding of the property taxes would occur for a period of ten years from the year revenues were first received by the Town. Under the original agreement the property taxes were to be refunded on a quarterly basis. The first property taxes were received in 2017 and to date, no taxes have been refunded. To address the past due tax refunds and to resolve future payments, the Town has proposed a one-time payment of \$144,664.82. The developer has agreed to the proposed amendment to the development agreement to resolve this issue.

### **Analysis**

In June 2015 the Town entered into a development agreement with Winter Park Development Co. LLC to develop the Sitzmark South property. The property was developed into two mixed-use buildings, a condominium building and two retail stores. To facilitate the development of this property, through Section 7(h) of the development agreement the Town agreed to refund the Town's property taxes that would be generated by the development. The refunding of the property taxes was to begin the first year the Town received taxes from the development and would continue for a period of ten years. The first property tax revenues were received in 2017 and the refunds were to be paid on a quarterly basis. To date the Town has not issued any property tax refunds to the developer.

In 2021 the Town was contacted by a representative for Winter Park Development CO. LLC regarding the property tax refunds. At that time the developer was requested to submit documentation showing the calculations of the property tax refunds that were due. In 2022 the Town received calculations showing the amount currently due. These calculations have

since been validated by the Town's Finance Director. The Town calculated the amount of property tax refunds owed for 2023 and then projected the amount of refunds that would be owed through the remainder of the ten-year refund period.

The Town's calculations show that at the end of 2022, the Town owed \$50,327.81 in property tax refunds. At the end of 2023, due to increased assessed valuations and market increases, the amount of property tax refund owed was \$67,520.06. The Town calculated the amount of property taxes that will be owed in the remaining years of the development agreement obligation. Based upon the Town's calculations, we estimate the amount of property tax that will be owed at the end of property tax refund period will be \$144,664.82. To resolve the property tax refund liability associated with this development agreement, the Town is proposing an amendment to the original development agreement that will issue a one-time payment of \$144,664.82. The developer representative has provided the Town written acceptance of this proposed amendment.

### **Recommendation**

It is at the Council's discretion whether or not to approve the proposed amendment to the Development Agreement as presented. Staff does recommend the proposed amendment to resolve the past due liability associated with the property tax refunds and to eliminate the need for quarterly refund payments in the future years.

Should the Town Council wish to approve the amendment, the following motion should be made:

I move to approve Resolution 2127 approving an amendment to the Development Agreement with Winter Park Development Co, LLC as presented.

Should the Town Council wish to deny the amendment, the following motion should be made:

I move to deny Resolution 2127 approving an amendment to the Development Agreement with Winter Park Development Co, LLC as presented.

Should the Town Council not approve the amendment to the development agreement, the Town staff will prepare to issue the owed property tax refund for 2017 – 2023 and will work with the developer to affirm the quarterly payment schedule for the remaining years of the Town's obligation.





Should you have any questions or need additional information regarding this matter, please contact me.

TOWN OF WINTER PARK

RESOLUTION NO. 2127  
SERIES 2024

A RESOLUTION APPROVING AN AMENDMENT TO THE  
DEVELOPMENT AGREEMENT WITH WINTER PARK DEVELOPMENT  
CO, LLC

WHEREAS, the Town and Winter Park Development Co, LLC, entered a Development Agreement (South Parcel) dated June 3, 2015, approved by Ordinance No. 490, Series of 2015 (the "Agreement"); and

WHEREAS, the Parties wish to amend the Agreement with respect to the rebate of Town property taxes.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Winter Park, Colorado as follows:

Section 1. The Amendment to the Agreement attached hereto is approved in substantially the form attached, and the Mayor is authorized to execute the same on behalf of the Town.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2024.

TOWN OF WINTER PARK

\_\_\_\_\_  
Nick Kutrumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk

**AMENDMENT TO THE**  
**DEVELOPMENT AGREEMENT**  
**(South Parcel)**

THIS AMENDMENT to the DEVELOPMENT AGREEMENT (the "**Amendment**") is made this \_\_\_ day of \_\_\_\_\_, 2024 (the "**Amendment Effective Date**"), by and between the the TOWN OF WINTER PARK, Colorado, a Colorado home rule municipality (the "Town") and WINTER PARK DEVELOPMENT CO, LLC, a Colorado limited liability company ("Winter Park Development") (each individually a "Party" and together the "Parties").

WHEREAS, the Parties entered into the Development Agreement (South Parcel) dated June 3, 2015, approved by Ordinance No. 490, Series of 2015 (the "**Agreement**"); and

WHEREAS, the Parties wish to amend the Agreement with respect to the rebate of Town property taxes.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties agree to amend the Agreement as follows:

1. Section 7, "Fees and Taxes," subsection (h), "Property Taxes," is hereby replaced in its entirety to read as follows:

7. Fees and Taxes.

\* \* \*

h. Property Taxes. Within thirty (30) days of the Amendment Effective Date, in full satisfaction of the Town's property tax refund obligation, the Town shall make a one-time payment to Winter Park Development in the amount of one hundred forty four thousand six hundred sixty four dollars and eight two cents (\$144,664.82).

2. The Agreement is ratified and affirmed except as necessary to conform the terms and conditions of the Agreement with this Amendment. All terms, conditions, and definitions of the Agreement apply to this Amendment unless expressly amended herein.

*Signature page follows.*

WHEREFORE, the Parties have executed this Amendment as of the Amendment Effective Date.

**TOWN OF WINTER PARK**

\_\_\_\_\_  
Nick Kutumbos, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk

**Winter Park Development Co, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_ as \_\_\_\_\_ of Winter Park Development Co, a Colorado limited liability company.

Witness my hand and official seal.

[seal]

**DEVELOPMENT AGREEMENT**  
**(South Parcel)**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of June 3, 2015 (the "Effective Date"), by and between the TOWN OF WINTER PARK, COLORADO, a Colorado home rule municipality (the "Town"), and WINTER PARK DEVELOPMENT CO LLC, a Colorado limited liability company ("Winter Park Development") (each individually a "Party" and collectively the "Parties").

WHEREAS, in 2013, the Town purchased the real property generally located at 78337 U.S. Highway 40 in Winter Park, Colorado, as more particularly described in **Exhibit A** (the "South Parcel");

WHEREAS, since acquisition of the South Parcel, the Town has determined that the South Parcel is not needed for municipal purposes, and should instead be used for private development that will provide substantial economic development opportunities for the Town and region as a whole;

WHEREAS, the Town commissioned a master site plan for the South Parcel entitled "Sitzmark Properties Master Site Plan, Winter Park, Colorado" dated November, 2013 (the "Site Plan");

WHEREAS, the Town received a market study entitled "Sitzmark Property Market Study" dated December 5, 2013 (the "Market Study") in conjunction with the Site Plan, which provided market analyses of possible uses of the South Parcel;

WHEREAS, the Market Study identifies several preferred uses for the South Parcel, including a grocery with related commercial and residential development;

WHEREAS, substantial public infrastructure improvements and public facilities are required to serve the Project, including roads, drainage facilities, water and sewer facilities, and parks and recreation facilities;

WHEREAS, Winter Park Development has advised the Town that it desires to acquire the South Parcel and attempt to develop the South Parcel;

WHEREAS, the Town is willing to convey the South Parcel to Winter Park Development to construct a food market with mixed uses if financially feasible (the "Project");

WHEREAS, the Town has analyzed and evaluated Winter Park Development's proposal and concluded that the Project is in the best interests of public health, safety and welfare, because it will provide a significant economic benefit to the Town;

WHEREAS, the completion of the Project, including all associated public improvements and facilities, will require substantial investments by Winter Park Development; and

WHEREAS, the Town is willing to assist Winter Park Development with financing the Project through the waiver of various fees, taxes and assessments as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

a. "Carrying Costs" means taxes paid and not refunded pursuant to the terms of this Agreement, interest paid on any financing obtained for Winter Park Development's purchase of the South Parcel from the Town, and third party costs incurred by Winter Park Development in connection with the negotiation of this Agreement, acquisition of the South Parcel, subdividing and planning for development of the South Parcel, including without limitation surveying, soils and environmental testing, engineering reports, architectural and engineering plans and specifications, and attorney fees.

b. "Final Plan" means the approved site plan and final design for the Project, or a phase thereof, as finally approved by the Planning Commission pursuant to the Town Code, for all or any portion of the South Parcel.

c. "Force Majeure" means an act of God, fire, abnormal weather, explosion, riot, war, labor disputes, governmental restrictions (other than those adopted by the Town), terrorism, Legal Challenge, or any other cause beyond the applicable person's reasonable control. The inability to obtain financing or lack of money shall not constitute Force Majeure.

d. "Legal Challenge" means a legal proceeding filed by a third party unrelated to any of the Parties challenging this Agreement or the zoning, platting or other development approval of any portion of the South Parcel, or a petition for a referendum to repeal the ordinance approving this Agreement.

2. Conditions Precedent.

a. Winter Park Development's obligations under this Agreement shall be subject to the following conditions precedent (the "Winter Park Development Conditions Precedent"):

i. Winter Park Development is satisfied with the environmental, soils and water table conditions of the South Parcel. After the Effective Date, Winter Park Development and its authorized agents, upon reasonable advance notice to Town, may enter upon the South Parcel for any lawful purpose, including to perform whatever inspections Winter Park Development deems appropriate including, without limitation, tests, borings, studies, investigations, environmental inspections and investigations as Winter Park Development deems appropriate, and tests of structures, soils, utility lines and systems, and general hazards.

ii. Winter Park Development is satisfied with the condition of title to the South Parcel as evidenced by a title commitment issued by a title company selected by Winter Park Development (the "Title Company").

iii. The Title Company is committed to issue an owner's title insurance policy in the amount of the purchase price insuring title to the South Parcel in Winter Park Development, subject only to such exceptions as are acceptable to Winter Park Development.

b. The Winter Park Development Conditions Precedent shall be satisfied within 90 days of the Effective Date. If the Winter Park Development Conditions Precedent are not satisfied by such date, Winter Park Development may either waive the Winter Park Development Conditions Precedent or terminate this Agreement by providing written notice of termination to the Town within 120 days of the Effective Date. Winter Park Development shall be deemed to have waived the Winter Park Development Conditions Precedent if Winter Park Development fails to terminate this Agreement within such 120 days after the Effective Date.

3. Town Obligations.

a. Conveyance of the South Parcel. Within 180 days after the Effective Date, if Winter Park Development has not terminated this Agreement, the Town shall convey to Winter Park Development, for a purchase price of \$1,200,000, the South Parcel plus 25 water and sewer taps, which water and sewer taps shall run with the property and be used in conjunction with the development of the South Parcel.

b. Title Insurance and Closing Costs. The Town will pay the premium for an owner's title insurance policy issued by the Title Company, insuring title to the South Parcel in Winter Park Development in the amount of the purchase price, and the Town and Winter Park Development shall pay all other closing costs in accordance with standard practice in Grand County, including each paying one half of the closing fee of the title company.

c. Conditions on Conveyance of South Parcel.

i. Deed Restriction. The deed conveying the South Parcel from the Town to Winter Park Development will contain a deed restriction (the "Deed Restriction") that will run with the land. The Deed Restriction will include the following:

A. Use of the South Parcel shall be limited to a food market and such other uses as may be approved by the Town.

B. If, after a period of 3 years from the date of the conveyance of the South Parcel, Winter Park Development has not begun development of a food market on the South Parcel or such other uses as may be approved by the Town, the Town may, in its sole discretion, require Winter Park Development to convey the South Parcel (and the 25 associated water and sewer taps) back to the Town

for payment by the Town to Winter Park Development of the greater of: (a) the original purchase price (\$1,200,000) plus Winter Park Development's Carrying Costs from the date of the original conveyance from the Town; or (b) the fair market value of the South Parcel as determined by an appraisal prepared by an MAI appraiser jointly selected by the Parties, assuming the South Parcel is not subject to the Deed Restriction or Right of First Refusal set forth herein for purposes of determining the fair market value. Such repurchase right shall terminate upon the earlier of (i) issuance of a building permit for construction of a food market or other uses approved by the Town on the South Parcel or (ii) four years after conveyance of the South Parcel to Winter Park Development.

C. If Winter Park Development subdivides the South Parcel and develops a portion of the South Parcel, the Town may, in its sole discretion, after a period of 3 years from the date of the conveyance of the South Parcel to Winter Park Development, require Winter Park Development to convey the parcel set aside for future development of a food market (the "Food Market Parcel") (and any water and sewer taps allocated to the Food Market Parcel), for payment by the Town to Winter Park Development of the greater of: (a) the original purchase price (\$1,200,000) multiplied by a fraction equal to the square footage of the Food Market Parcel divided by the total square footage of the South Parcel, plus Winter Park Development's Carrying Costs multiplied by the same fraction; or (b) the fair market value of the Food Market Parcel as determined by an appraisal prepared by an MAI appraiser jointly selected by the Parties, assuming the Food Market Parcel is not subject to the Deed Restriction or Right of First Refusal set forth herein for purposes of determining the fair market value of the Food Market Parcel. Such repurchase right shall terminate upon the earlier of (i) the issuance of a building permit for construction of a food market or other uses approved by the Town on the Food Market Parcel or (ii) four years after conveyance of the South Parcel to Winter Park Development.

ii. Right of First Refusal. If during the 3 years following the date of the conveyance of the South Parcel, Winter Park Development desires to sell the South Parcel, the Town shall have a right of first refusal (the "Town ROFR") to purchase the South Parcel (with the 25 associated water and sewer taps) in accordance with the following:

A. In the event an acceptable offer via a letter of intent is made to Winter Park Development for the purchase of the South Parcel by a *bona fide* third-party purchaser for market value (the "Offer"), Winter Park Development shall present the Offer to the Town before accepting the Offer or making a counteroffer. The Town shall have 15 days after the Town has received a copy of the Offer to notify Winter Park Development of its desire to purchase the South Parcel on the substantially the same terms as set forth in the Offer. Should the Town elect not to accept the Offer with substantially the same terms as set forth in the Offer or should the sale of the South Parcel not close, Winter Park



Development is not relieved from its obligation to present to the Town any future Offers from other *bona fide* third-party purchasers. The Town ROFR shall terminate automatically at the end of 3 years after the date of the conveyance of the South Parcel to Winter Park Development or upon conveyance of the South Parcel to either the Town or a third-party purchaser pursuant to an Offer.

B. Winter Park Development may enter into one or more joint ventures or similar arrangements with a third party (a "Joint Venture") for the purpose of developing the South Parcel. Winter Park Development shall provide information about the proposed Joint Venture to the Town, including ownership interest allocation and management structure, but without showing the financial terms of such Joint Venture. If the Joint Venture provides that Winter Park Development retains managerial control of the Joint Venture and the development of the South Parcel and if Winter Park Development also owns an equity interest in the Joint Venture, any transfer of some or all of the South Parcel to the Joint Venture will not trigger the Town ROFR, nor shall it trigger the termination of the Town ROFR.

C. If Winter Park Development develops a portion of the South Parcel for uses other than a food market prior to construction of a food market, the Town ROFR will continue to apply to the Food Market Parcel as set forth in Paragraph 3.c (ii) A above.

D. The Town ROFR may be modified, amended or terminated only with the consent of both the Town and Winter Park Development or their successors and assigns.

d. Right-of-Way Acquisition. The Town shall, as permitted by law, use its best efforts to secure required rights-of-way and construction and maintenance easements to allow Winter Park Development to fulfill its obligations under this Agreement and to proceed with the Project, provided that this Section shall not impose any fiscal obligation on the Town.

e. Access. The Town shall support any access permit application that Winter Park Development may elect to file with the Colorado Department of Transportation ("CDOT") for access to the South Parcel from Highway 40, and otherwise support Winter Park Development's requests for access to the South Parcel in connection with the Project, provided that this Section shall not impose any fiscal obligation on the Town.

f. Due Diligence Documents. Within 7 days after the Effective Date, the Town shall provide to Winter Park Development one copy of each of the following documents that are in the Town's possession or control, whether prepared by or for the Town or submitted to the Town by third parties, including prior owners and developers of the South Parcel:

i. Zoning and other development approvals for the South Parcel;

- ii. Construction drawings and reports;
  - iii. Demolition plans and reports related to the South Parcel;
  - iv. Licenses, permits, maps, building inspection reports, reciprocal easement agreements, and covenants, conditions and restrictions regarding the South Parcel;
  - v. Documents and contracts relating to any construction guarantees, warranties, as built drawings and signed plans relating to the South Parcel;
  - vi. Environmental investigations and studies related to the South Parcel; and
  - vii. Soils reports, surveys, appraisals, engineering and architectural studies or reports, termite reports, grading plans, topographical maps, floodplain reports, floodplain maps, drainage reports, and similar data related to the South Parcel.
4. Winter Park Development Obligations.
- a. Plans. Winter Park Development shall prepare all applications, design drawings and plans for the Project at Winter Park Development's sole cost.
  - b. Subdivision. Should Winter Park Development determine it necessary to further subdivide the South Parcel, Winter Park Development shall file the appropriate subdivision application and related documents with the Town.
  - c. Construction of Food Market. Winter Park Development shall use commercially reasonable efforts to construct a food market of not less than 15,000 square feet in size on the South Parcel, as determined by Winter Park Development in its commercially reasonable discretion.
  - d. Maintenance. Winter Park Development shall provide all ongoing maintenance for the improvements associated with the South Parcel, including snow removal, landscaping, painting, roof repair and replacement, and maintenance of all improvements constructed as part of the improvements. The Town shall have no obligation to maintain the South Parcel.
  - e. Applicable Law. Winter Park Development shall comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including (without limitation) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*;

the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable Colorado environmental laws; and all other federal, state or local laws and regulations relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, now or at any time hereafter in effect.

5. Public Improvements.

a. General. In addition to Winter Park Development's obligations under Section 4, Winter Park Development shall construct and install the public improvements required for the Project in accordance with the applicable ordinances, codes and regulations (the "Public Improvements"). All references in this Agreement to Winter Park Development maintaining a Public Improvement shall mean maintaining such Public Improvement until such time as it is accepted by the Town, in accordance with applicable Town ordinances and regulations.

b. Streets. Winter Park Development shall construct all interior roads, private driveways and related improvements, which shall thereafter be maintained by the property owners or their assigns, respectively.

c. Water and Sanitary Sewer. Winter Park Development shall construct water and sanitary sewer facilities, in accordance with the rules and regulations of the Town and the Grand County Water & Sanitation District No. 1.

d. Drainage. Winter Park Development shall construct drainage improvements in accordance with the rules and regulations of the Town. All drainage improvements within the public rights-of-way shall be dedicated to the Town upon acceptance by the Town and thereafter maintained by the Town. All drainage improvements on private property shall be maintained by Winter Park Development or private property owners, subject to drainage facilities access easements to allow the Town to enter the property in the case that Winter Park Development or such private property owners fail to adequately maintain such drainage facilities.

e. Lighting. Winter Park Development shall install all street and pedestrian lighting required for the Project in compliance with the Town's Design Guidelines, with attention to dark-sky compliant design and downcast lighting fixtures.

f. Landscaping.

i. Winter Park Development shall install and maintain all street trees and other landscaping for the Project, whether on private property or within public rights-of-way, at Winter Park Development's expense in compliance with applicable Town regulations.

ii. The landscaping requirements of the Winter Park Landscape Design Guidelines and Regulations shall be met or exceeded in terms of density and quality on the South Parcel. Special consideration shall be made to mitigate any visual impacts to the surrounding residential uses as well as landscaping along U.S. Highway 40.

g. Street Furniture. Winter Park Development shall install and maintain all street furniture at Winter Park Development's expense in compliance with applicable Town regulations.

h. Parking. The Project shall comply with all off-street parking requirements of the Town Code; provided that the Town shall consider joint parking agreements and shared parking between the Parties and with third parties.

i. Loading Areas. The Project shall include adequate loading and delivery facilities. If the design of the Project places loading and delivery facilities adjacent to loading and delivery facilities then existing on abutting commercial properties, Winter Park Development shall use commercially reasonable efforts to coordinate its loading and delivery facilities with such adjacent loading and delivery facilities to provide shared loading and delivery drive areas as contemplated in the Final Plan. Loading and delivery facilities may be located on private parking areas, drives, and roads located on the Project, but not on public streets.

6. Construction and Warranty.

a. Phased Development Schedule. The Project will be developed in phases as approved by the Town pursuant to its standard land use approval process. Public Improvements may be constructed in phases as required to serve the particular phase of the Project being constructed.

b. Security. Prior to site disturbance for the Project, Winter Park Development shall furnish to the Town either a cash escrow or an irrevocable letter of credit in an amount equal to 120% of the estimated costs of the Public Improvements required to support the phase of development for which the site disturbance is occurring. The Town shall have the right to draw against the security if Winter Park Development fails to construct the Public Improvements for such development phase in compliance with this Agreement or applicable law. The Public Improvements for each phase of development will be set forth in a Development Improvements Agreement, in the Town's standard form. The letter of credit shall be in a form reasonably approved by the Town and issued by a financial institution reasonably satisfactory to the Town. The security shall be released as construction progresses in accordance with the Town's standard practices.

c. Construction Standards. Winter Park Development shall ensure that all construction and improvements are performed in a workmanlike manner in accordance with Town rules, regulations, requirements, criteria, and codes governing such construction and this Agreement. The Town shall have no duty to accept the dedication of any Public Improvement that is not constructed in compliance with this Section.

d. Damage. Winter Park Development shall be fully responsible for the prompt repair of any property which may be damaged during construction of the Public Improvements, whether such property is public or private.

e. Completion. Winter Park Development shall notify the Town when it deems a Public Improvement to be complete.

f. Conditional Acceptance. Within 30 days of notification that the Public Improvements are complete, the Town will review the same and deliver a written Conditional Acceptance, or, for any that are not acceptable, specify in writing in reasonable detail which improvements are not acceptable and the reasons they are unacceptable.

g. Warranty. Winter Park Development warrants and guarantees that, for two years from the date of Conditional Acceptance, the Public Improvements:

i. Will not fail, and will be constructed and installed in a workmanlike manner suitable for their intended uses;

ii. Will be constructed in compliance with applicable federal, state, municipal, and special district statutes, ordinances, regulations, rules and codes; and

iii. Will comply with all applicable land use approvals.

h. Final Acceptance. Upon the expiration of the warranty period for any particular Public Improvement, and provided any breaches of warranty have been cured, the Town shall issue written Final Acceptance of such Public Improvement and, thereafter, the Town will accept and maintain such improvements. Upon Winter Park Development's request, the Town shall confirm in writing the acceptance of such Public Improvement.

## 7. Fees and Taxes.

a. General. Except as expressly provided in this Agreement, Winter Park Development shall pay all permit, plan review, and other similar fees to the Town in connection with the Project.

b. Subdivision Fees. The Town shall waive the application fees for any subdivision of the South Parcel proposed by Winter Park Development within 3 years after the Effective Date of this Agreement.

c. Real Estate Transfer Tax. The initial transfer of the South Parcel to Winter Park Development is not subject to the Town's Real Estate Transfer Tax, because it is a conveyance of real property by the Town.

d. Open Space Fees and Exactions. Due to the large wetland complex located in the vicinity of the South Parcel owned by the Town, no additional open space dedications or payments in lieu thereof, of any kind, type or sort, shall be required in connection with the Project or any uses of the South Parcel.

e. School Impact Fees. The Town shall support a request by Winter Park Development that the school district waive school impact fees in connection with the

development of the Project; provided that the Town's support shall not include any financial obligation.

f. Building Permit Fees. The Town shall waive any building permit application fees for building permits for a food market applied for on or before July 1, 2017.

g. Housing Fees. If Winter Park Development constructs employee or affordable housing on other property located in the Town, the Town will consider a waiver or refund of affordable housing fees applicable to development on the South Parcel, as permitted by the Winter Park Municipal Code, as amended.

h. Property Taxes. Subject to TABOR, the Town shall refund all Town-imposed property taxes not restricted by TABOR and paid to the Town for the South Parcel for a period of 10 years from the date of the first payment of such taxes to the Town. This refund obligation shall only apply to taxes in place on the Effective Date, and the Parties expressly recognize that any new property tax imposed after the Effective Date shall be applied to the South Parcel and shall not be refunded. The refund shall be made by the Town on a quarterly basis, within 30 days of receipt of such taxes.

8. Term. The term of this Agreement shall be 12 years from the Effective Date unless otherwise terminated as provided herein.

9. Vested Rights.

a. This Agreement shall constitute a site specific development plan pursuant to C.R.S. § 24-68-102(4)(a). Pursuant to C.R.S. § 24-68-101, *et seq.*, Winter Park Development shall have a vested right to undertake and complete the development and use of the South Parcel under the terms and conditions of this Agreement for a period not to exceed 12 years from the Effective Date, as follows:

i. Upon execution of this Agreement, Winter Park Development shall receive 3 years of vested rights.

ii. If Winter Park Development commences construction of a food market on the South Parcel within 3 years after the Effective Date, Winter Park Development shall receive an additional 3 years of vested rights, for a total of 6 years, calculated from the Effective Date.

iii. If Winter Park Development completes construction of a food market on the South Parcel within 6 years after the Effective Date, Winter Park Development shall receive an additional 6 years of vested rights, for a total of 12 years, calculated from the Effective Date.

b. The Town specifically finds, in granting these vested rights, that in light of all relevant circumstances, including without limitation the size and phasing of the Project, economic cycles and market conditions, the 12-year vesting period is warranted.

c. Nothing in this Section shall excuse Winter Park Development from compliance with all applicable land use, development, subdivision and other regulations, unless such regulations directly conflict with this Agreement, and Winter Park Development shall only be excused from any conflicting regulations to the extent of the conflict.

d. Should this Agreement be amended, the vested rights created hereby shall automatically terminate, unless re-created by such amended agreement.

10. Legal Challenge.

a. During Pendency of Legal Challenge. If a Legal Challenge occurs, this Agreement will remain in full force and effect through and until the 31<sup>st</sup> day following entry of a final, non-appealable order resolving such Legal Challenge, unless earlier terminated or modified by a written amendment signed by all Parties. If a Legal Challenge occurs, all deadlines and time requirements in this Agreement shall be tolled until such time as a final, non-appealable order resolving such Legal Challenge is entered.

b. Successful Legal Challenge Contingency. If a Legal Challenge successfully voids, enjoins, or otherwise invalidates this Agreement or a portion thereof, the Town and Winter Park Development shall cooperate to cure the legal defect in a manner that most fully implements the intent and purpose of this Agreement; provided, however, that if the Parties do not enter into a written agreement to cure the defect, either Winter Park Development or the Town shall have the right to terminate this Agreement.

11. Breach, Default and Remedies.

a. Notice and Right to Cure.

i. In the event of a breach by any Party of any provision of this Agreement, such Party shall not be in default of this Agreement unless the breaching Party is given notice of the breach and fails to cure such breach as provided in this Section.

ii. The non-breaching Party shall deliver written notice to the breaching Party of the breach, and the breaching Party will have 30 days to cure the breach, failing which, the breaching Party will be in default of this Agreement.

iii. If the breach is of a type that is not capable of being cured within the 30-day period and the breaching Party gives written notice to the non-breaching Party within the 30-day period that it is actively and diligently pursuing the cure, the breaching Party will have a reasonable period of time given the nature of the breach following the end of such 30-day period (not to exceed 120 days), to cure the breach, provided that the breaching Party is at all times actively and diligently pursuing the cure, failing which, the breaching Party will be in default of this Agreement.

b. Remedies.

i. Upon a Party being in default after notice and expiration of the applicable cure period, the non-breaching Party will have the right to terminate this Agreement or to enforce the obligations of the defaulting Party by any remedy available at law or in equity including injunction or specific performance, provided that specific performance shall never be an available remedy against the Town.

ii. Each remedy provided for in this Agreement is cumulative and is in addition to every other remedy provided for in this Agreement or otherwise existing at law, in equity or by statute.

c. Separation Fee.

i. If the Town fails to fulfill its obligations under this Agreement without fault of Winter Park Development, the Town hereby agrees to compensate Winter Park Development for: expenses and fees (including attorney fees) incurred in connection with the preparation and negotiation of this Agreement and any other agreements related to the transactions contemplated herein; expenses and fees (including attorney fees) incurred during site investigations and the initial planning and development phase of this Agreement (including costs incurred to prepare architectural, engineering, and construction drawings); expenses and fees (including attorney fees) incurred in connection with the costs of construction of any improvements on the South Parcel by Winter Park Development, up to a maximum amount of \$25,000. At the time of closing on the sale of the South Parcel to Winter Park Development, the Town shall place \$25,000 in a restricted escrow account to fund its obligations under this Section.

ii. On the first anniversary of the Effective Date, the maximum amount of the Separation Fee shall be reduced to \$15,000, and the Town shall be permitted to withdraw \$10,000 from the escrow account, so that \$15,000 remains in the escrow account.

iii. On the second anniversary of the Effective Date, the maximum amount of the Separation Fee shall be reduced to \$5,000, and the Town shall be permitted to withdraw \$10,000 from the escrow account, so that \$5,000 remains in the escrow account.

iv. On the third anniversary of the Effective Date or the issuance of the Certificate of Occupancy for the food market on the South Parcel, whichever occurs first, the obligation of the Town to pay the Separation Fee shall terminate, and the Town shall be permitted to withdraw all remaining funds from the restricted escrow account.

12. Representations and Warranties.

a. Winter Park Development. Winter Park Development represents and warrants to the Town that the following are true and correct as of the Effective Date:



- i. Authority. This Agreement has been duly authorized and executed by Winter Park Development as the legal, valid and binding obligation of Winter Park Development, and is enforceable as to Winter Park Development in accordance with its terms.
  - ii. Authorized Signatory. The person executing this Agreement on behalf of Winter Park Development is duly authorized and empowered to execute and deliver this Agreement on behalf of Winter Park Development.
  - iii. No Litigation or Adverse Condition. To the best of Winter Park Development's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Winter Park Development which, if decided or determined adversely, would have a material adverse effect on the ability of Winter Park Development to undertake its obligations under this Agreement nor is there any fact or condition of the South Parcel known to Winter Park Development that may have a material adverse effect on Winter Park Development's ability to complete the Project.
  - iv. No Conflict. Neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Winter Park Development is a party or by which Winter Park Development is bound or affected.
- b. The Town. The Town represents and warrants to Winter Park Development that the following are true and correct as of the Effective Date:
- i. Authority. Upon execution, this Agreement will have been duly authorized by the Town Council as the legal, valid and binding obligation of the Town and this Agreement is enforceable as to the Town in accordance with its terms.
  - ii. Authorized Signatory. The person executing this Agreement on behalf of the Town is duly authorized and empowered to execute this Agreement on behalf of the Town.
  - iii. No Litigation or Adverse Condition. To the best of the Town's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against the Town which, if decided or determined adversely, would have a material adverse effect on the ability of the Town to undertake its obligations under this Agreement nor is there any fact or condition of the South Parcel known to the Town that may have a material adverse effect on Winter Park Development's ability to complete the Project.
  - iv. No Conflict. Neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any

contract, agreement or obligation to which the Town is a party or by which the Town is bound or affected.

13. Miscellaneous.

a. Binding Effect; Assignment. This Agreement shall be binding upon the Parties and their officers, employees, agents and assigns. Winter Park Development may assign all or a portion of its rights and obligations under this Agreement to any third party which acquires an interest in the South Parcel, provided that the third party expressly assumes Winter Park Development's rights and obligations under this Agreement. Upon closing any such conveyance and assignment, Winter Park Development shall provide the Town with a copy of the fully-executed assignment and assumption agreement evidencing compliance with this Section.

b. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will, unless amended or modified by mutual consent of the Parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining.

c. No Third Party Beneficiaries. No third parties are intended to benefit by the covenants, agreements, representations, warranties or any other terms or conditions of this Agreement. It is the express intent of the Parties that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, will be strictly reserved to the Parties and their lawful successors and assigns.

d. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year. To the extent that any of the Town's obligations under this Agreement are deemed to constitute a multi-year fiscal obligation, the Town's performance will be conditioned upon annual appropriation by the Town Council, in its sole discretion.

e. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Grand County, Colorado.

f. No Joint Venture. Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any private entity.

g. Governmental Immunity. The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado

Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

h. Rights and Remedies. The rights and remedies of the Parties under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Parties' legal or equitable remedies, or the period in which such remedies may be asserted for work negligently or defectively performed.

i. Amendment. This Agreement may be amended or terminated only by mutual written consent in writing of the Parties.

j. Force Majeure. When Winter Park Development is required to complete construction, maintenance, repair or replacement of any improvements by a date certain, if the time for completion cannot be completed in a timely manner due to Force Majeure, the time for completion shall be extended for a reasonable period of time.

k. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

l. Waivers. A waiver of any provision of this Agreement shall be written. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.

m. Notices. All notices under this Agreement shall be in writing and shall be given by personal delivery or sent to the address of the Party set forth below by first-class mail, postage prepaid, or by overnight courier for next business day delivery, prepaid, receipt acknowledged. Notices shall be deemed received on the earlier of the date of actual receipt or, in the case of notice by mail, 3 days after the postmark.

If to the Town:            Town of Winter Park  
50 Vasquez Road  
Winter Park, CO 80027  
Attn: Town Manager

If to Winter Park Development:    1500 Wynkoop Street  
Suite 200  
Denver, CO 80202  
Attn: Executive Director

A Party may change the address to which notices should be sent by giving the other Parties notice of the new address in the manner set forth in this Section.

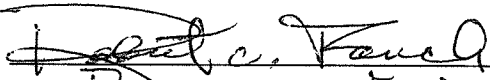
WHEREFORE, the Parties have executed this Development Agreement (South Parcel) as of the date first written above.

**TOWN OF WINTER PARK, COLORADO**

  
Jimmy Lahrman, Mayor

ATTEST:  
  
Taryn Martin, Town Clerk

**WINTER PARK DEVELOPMENT CO LLC, a**  
Colorado limited liability company

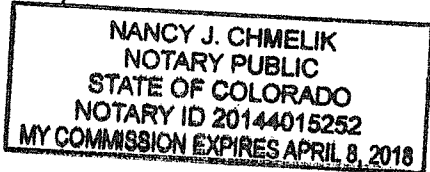
By:   
Name: ROBERT C. FANCH  
Title: MANAGER

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Denver )

The foregoing instrument was subscribed, sworn to and acknowledged before me this  
3rd day of June, 2015, by Robert C. Fanch as Manager of Winter  
Park Development Co LLC, a Colorado limited liability company.

My commission expires: 4/8/2018

(SEAL)



  
Notary Public

EXHIBIT A

PROPERTY DESCRIPTION

Lot 1B, Resubdivision of Lots 1 and 5, Sitzmark Subdivision, According to the Plat Thereof Filed February 20, 1986 at Reception No. 239625, County of Grand, State of Colorado.



TOWN OF WINTER PARK

RESOLUTION NO. 2128  
SERIES OF 2024

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
ESTABLISHING THE STEERING COMMITTEE FOR THE MOUNTAIN  
RAIL COALITION

WHEREAS, Routt County, City of Steamboat Springs, Steamboat Ski & Resort Corporation, Town of Hayden, Craig Chamber of Commerce, Yampa Valley Community Foundation, Town of Winter Park, and Intrawest/Winter Park Operations Corporation (the "Parties") desire to establish a steering committee to provide a temporary mechanism for coordination between the Parties with local, state, and federal stakeholders on mountain rail related matters; and

WHEREAS, the Memorandum of Understanding (the "MOU") is intended to serve as the Parties guiding document until such time that a not-for-profit corporation is established by the Parties to act as the liaison between the Parties and all relevant stakeholders regarding the creation and development of mountain rail across multiple counties in the State.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Winter Park, Colorado, as follows:

1. The Town of Winter Park hereby approves the Memorandum of Understanding between the Parties in the form attached in **Exhibit A**.

PASSED, ADOPTED AND APPROVED this this \_\_\_\_ day of \_\_\_\_\_ 2024, by a vote of \_\_\_\_ to \_\_\_\_.

TOWN OF WINTER PARK

---

Nick Kutrumbos, Mayor

ATTEST:

---

Danielle Jardee, Town Clerk

## **Memorandum of Understanding**

This Memorandum of Understanding (MOU), dated \_\_\_\_\_, 2024 between Routt County, City of Steamboat Springs, Steamboat Ski & Resort Corporation, Town of Hayden, Craig Chamber of Commerce, Yampa Valley Community Foundation, Town of Winter Park, and Intrawest/Winter Park Operations Corporation (the Entities), sets forth the terms and understanding between the Entities to establish the Steering Committee of the Mountain Rail Coalition (MRC).

### **Background**

The revived interest in passenger rail, statewide, represents a once in a lifetime opportunity to bring passenger rail to Colorado's mountain communities. The benefits of mountain rail include meeting transportation needs for residents, visitors, and commuters; supporting a just transition for coal impacted communities; improving access to attainable housing for resort communities; and reducing congestion and greenhouse gas emissions.

Formalizing a Mountain Rail Coalition (MRC) through this MOU will provide a temporary mechanism for coordination of the Entities with local, state, and federal stakeholders on mountain rail related matters. The MOU is intended to serve as the Entities' guiding document until such time that a not-for-profit corporation is established by these same entities for the purposes outlined in this MOU.

### **Purpose**

The MRC will serve as the liaison between communities along the mountain rail corridor and state and federal entities to support the creation and development of mountain rail across multiple counties. This work will be accomplished, generally, by:

- Communicating with mountain rail communities about current studies, legislation, and opportunities for engagement at the state and federal level.
- Coordinating local and state efforts to ensure equitable representation of all communities.
- Positioning mountain passenger rail for federal funding (i.e. corridor ID).
- Developing opportunities for collaboration with other Colorado rail development efforts including the Front Range Rail District and the I-70 Coalition.

In the short term, through this MOU, the Entities will:

- Address legislative issues that arise in the 2023-24 state legislative session.
- Form as a structured entity, likely a 501c3, for future activities.
- Conduct outreach to mountain rail stakeholders to invite Advisory Committee Members and general Members of the Coalition.
- Organize a launch event between mid-May 2024 and mid-June 2024, with local and state elected officials.

### **Accountability and Reporting**

The MRC will be a consensus-based body that strives for robust representation among interested stakeholders. The Steering Committee will be responsible for coordination and for tracking outputs and outcomes of the MRC effort.

### **Funding**

This MOU does not constitute a financial investment by any of the Entities.



### **Duration**

This MOU shall become effective upon signature by the authorized officials from each of Routt County, City of Steamboat Springs, Steamboat Ski & Resort Corporation, Town of Hayden, Craig Chamber of Commerce, Yampa Valley Community Foundation, Town of Winter Park, and Intrawest/Winter Park Operations Corporation, and will remain in effect until a not-for-profit corporation is established to accomplish these purposes outlined in this MOU.

### **Contact Information**

Partner name  
Partner representative  
Position  
Address  
Telephone  
Fax  
E-mail

Partner name  
Partner representative  
Position  
Address  
Telephone  
Fax  
E-mail

Date:

(Partner signature)  
(Partner name, organization, position)

Date:

(Partner signature)  
(Partner name, organization, position)

## MEMO

**TO** Mayor and City Council (Acting as the Winter Park Housing Authority)

**FROM** Alisha Janes, Assistant Town Manager

**CC** Keith Riesberg, Town Manager

**DATE** February 2<sup>nd</sup>, 2023

**RE** Housing Authority Resolution 27: Approving and Establishing the Hideaway Junction Homeowners Association Phase II, Inc

### **Background:**

In preparation for the final plat filing for Hideaway Junction Phase II, Town staff worked with legal counsel to engage outside legal counsel for the purpose of drafting HOA documents for Hideaway Junction Phase II. The Town engaged Orten Cavanagh Holmes and Hunt, LLC in September of 2021. Staff and legal Counsel worked on an initial set of HOA governance documents between the fall of 2021 and summer of 2022. Staff reviewed the HOA documents with the Hideaway Junction Phase II Development partners, MAHD, again in the fall of 2023. In January of 2024 staff and legal counsel again consulted with Orten Cavanaugh Holmes and Hunt, LLC for final changes to the HOA documents including the incorporation of design guidelines.

### **Analysis:**

The proposed HOA documents were updated to reflect the Winter Park Housing Authority as the declarant in lieu of the Winter Park Affordable Housing Corporation. The community does not include any common elements and does not have any current common services planned (once the declarant period ends for the HOA the homeowners could act to incorporate trash or snow removal if they so desire.) Subsequently, HOA services will initially be limited to the design committee, enforcing design guidelines, and ensuring the maintenance of the exterior appearance of the homes. All landscaping is incorporated into the individual homeowner lots. Additionally, since the development is comprised entirely of single-family homes, each individual homeowner is responsible for all required home maintenance.

The nature of the HOA allows the community to be partially exempt from the Colorado Common Interest Ownership Act (CCIOA) requirements. Subsequently annual dues for the community will be legally limited to no more than \$400 annually (allowing for inflation

adjustments moving forward.) and will cover professional management services and directors and officers insurance.

**Next Steps:**

Staff will hold an initial meeting of the HOA and record initial minutes and official record and file the government documents to form the HOA. Staff will also release a request for proposal for professional management of the HOA.

**Recommendation**

Staff recommends approval of Resolution 27. Should the Town Council (acting as the Winter Park Housing Authority) wish to approve the resolution, the following motion should be made:

I move to approve Housing Authority Resolution 27 approving and establishing the Hideaway Junction Homeowners Association Phase II, Inc, a planned community.

Should the Town Council (acting as the Winter Park Housing Authority) wish to deny the ordinance, the following motion should be made:

I move to deny Housing Authority Resolution 27 approving and establishing the Hideaway Junction Homeowners Association Phase II, Inc, a planned community.

Should you have any questions or need additional information regarding this matter, please contact me.

WINTER PARK HOUSING AUTHORITY

RESOLUTION NO. 27  
SERIES OF 2024

A RESOLUTION APPROVING AND ESTABLISHING THE HIDEAWAY  
JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC., A PLANNED  
COMMUNITY

WHEREAS, by conveyance from the Town of Winter Park, as evidenced by Ordinance No. 600, Series of 2023, Winter Park Housing Authority (the "WPHA") is the owner of certain real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, and known as Hideaway Junction Phase II (the "Property");

WHEREAS, the construction of 20 single-family homes at Hideaway Junction Phase II for sale as owner-occupied community housing requires support and participation from the Town and the WPHA (the "Project");

WHEREAS, the Town Council approved the final plat for Hideaway Junction Subdivision Filing 2 in Resolution 1950 during its March 1, 2022, meeting with a contingency requiring the filing of homeowners association declarations and by-laws; and

WHEREAS, the Town Council acting as the WPHA has reviewed the homeowners association governing documents in the form attached hereto:

NOW THEREFORE, BE IT RESOLVED by the Winter Park Housing Authority that:

1. The homeowners association declaration, articles of incorporation, by-laws, disclosure notice, governance policies, and design guidelines are approved in substantially the form attached hereto, and the Chair is authorized to execute the same on behalf of the Winter Park Housing Authority.
2. The Executive Director is directed to record the documents, as appropriate, and to take such other actions as are necessary to establish the homeowners association as the declarant.

PASSED, ADOPTED AND APPROVED this 5th day of March, 2024.

WINTER PARK HOUSING AUTHORITY

---

Nick Kutumbos, Chair

ATTEST:

---

Alisha Janes, Executive Director

**Bylaws**  
**of**  
**Hideaway Junction Homeowners Association Phase II, Inc.**

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**Bylaws  
of  
Hideaway Junction Homeowners Association Phase II, Inc.**

**RECITALS**

**ARTICLE 1. INTRODUCTION AND PURPOSES**

The Association is a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act.

These Bylaws are adopted to regulate and manage the affairs of the Association.

The Association's purposes are to:

- preserve the value and desirability of Hideaway Junction Phase II, a planned community
- act as an entity for the owners pursuant to the Declaration of Hideaway Junction Phase II, Inc., as the Declaration may be amended from time to time (the "Declaration")
- operate and govern the Community
- provide for the administration, maintenance and preservation of the Lots and Common Areas or Areas of Common Responsibility within the Community
- further the interests of the residents and occupants of the Community

**ARTICLE 2. DEFINITIONS**

All capitalized terms used in these Bylaws will have the same meaning as set forth in the Declaration.

**ARTICLE 3. MEMBERSHIP AND VOTING**

**Section 3.1 Membership.** Every person who is an Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of any Lot. Ownership of the Lot is the sole qualification for membership. To the extent deemed appropriate, classes of Members may be established by the Declarant. The terms "Member" and "Owner" are used interchangeably in the Governing Documents.

**Section 3.2 Suspension of Member Rights.** Without notice or hearing, during any period in which a Member is in default in the payment of any assessment levied by the Association, the Member's voting rights will be deemed suspended by the Board of Directors.

**Section 3.3 Member Voting.**

- (a) The Owner of a Lot is entitled to one equally weighted vote for the Lot.



(b) Each Member eligible to vote may vote in person or by proxy at all Member meetings.

(c) If only one of several Owners of a Lot is present at a Member meeting, the Owner present is entitled to cast the vote allocated to the Lot.

(d) If more than one of the Owners is present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority of those Owners. Majority agreement is deemed to exist if any one of the Owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another Owner of the Lot. If co-Owners disagree or attempt to cast more than one vote, no such votes will be counted.

(e) In the absence of express notice to the Board of Directors of the designation of a specific person to cast a vote, the vote of a partnership may be cast by any general partner of that partnership; the vote of a limited liability company may be cast by any manager of that limited liability company; the vote of a corporation may be cast by any officer of that corporation; and the vote of a trust may be cast by any trustee of that trust.

(f) The chair of the meeting may require reasonable evidence that a person voting on behalf of a partnership, limited liability company, corporation or trust is qualified to vote.

(g) Votes allocated to Lots owned by the Association may be cast by the Board of Directors.

### **Section 3.4 Proxies.**

(a) Proxies from Members are expressly allowed.

(b) The vote allocated to a Lot may be cast under a proxy duly executed by an Owner.

(c) All proxies will be in writing and filed with the secretary or designee of the Association at or prior to the meeting.

(d) If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of the vote by the other Owners of the Lot through a duly executed proxy. In the event of disagreement between or among co-Owners and an attempt by two or more of them to cast such vote or votes, such vote or votes will not be counted.

(e) An Owner may revoke a proxy given under this section by attending the meeting or by written notice of revocation to the person presiding over the meeting.

(f) A proxy is void if it is not dated.

(g) A proxy terminates 11 months after its date, unless it specifies a different term or a specific purpose, or upon sale of the Lot for which the proxy was issued.

(h) A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

**Section 3.5 Voting Procedures.** Voting by Members is subject to the following:

(a) Votes for contested positions on the Board of Directors may be taken by secret ballot.

(b) At the discretion of the Board or upon request of 20% of the Owners who are present in person or by proxy at a meeting at which a quorum is present, a vote on any matter affecting the Community on which all Owners are entitled to vote will be by secret ballot.

(c) A neutral third party or a committee of volunteers will count the ballots. The volunteers will be Members selected or appointed at an open meeting, in a fair manner, by the president or another person presiding during that portion of the meeting. The volunteers will not be Board members and, in the case of a contested election for a Board position, will not be candidates. The results of a vote taken by secret ballot may be reported without reference to Owners' names, addresses, or other identifying information.

(d) Voting may be by voice, by show of hands, by consent, by mail, by electronic means, by proxy, by written ballot, or as otherwise determined by the Board of Directors prior to the meeting or by a majority of the Members present at a meeting; provided, however, if secret balloting is required, the means of voting may protect the secrecy of the ballots.

**Section 3.6 Voting by Written Ballot or Electronic Means in Lieu of a Meeting.**

(a) In case of a vote by written ballot or electronic means in lieu of a meeting, the secretary will mail or deliver written notice to all Members at each Member's address as it appears in the Association's records given for notice purposes.

(b) The notice will include:

(i) a proposed written resolution setting forth a description of the proposed action;

(ii) a statement that Members are entitled to vote by written ballot or electronic means for or against such proposal;

(iii) a date at least 10 days after the date such notice will have been given, on or before which all votes must be received at the Association's office at the address designated in the notice; and

(iv) the number of votes which must be received to meet the quorum requirement and the percentage of votes received needed to carry the vote.

(c) Voting by written ballot or electronic means will be acceptable in all instances in the Declaration, Articles or these Bylaws requiring the vote of Members at a meeting.

(d) The Association may conduct elections of directors by written ballot or electronic means, in its sole discretion, and pursuant to procedures adopted by it.

**Section 3.7 Voting in Elections of Directors / Other Voting.** In an election of directors, the candidates receiving the largest number of votes will be elected. On all other items, the vote of more than 50% of Members voting at a meeting at which at least a quorum is present will constitute a majority and will be binding upon all Members for all purposes except where a higher percentage vote is required in the Declaration, these Bylaws, the Articles of Incorporation, or by law.

**Section 3.8 Voting List / Membership List.**

(a) The Association will maintain a list of the names and addresses of all Members and the number of votes each is entitled to vote.

(b) After a record date is fixed for a membership meeting or for determining the Members entitled to vote by written ballot, the secretary will make, at the earlier of 10 days before the meeting or two business days after notice of the meeting has been given, a complete list of the Members entitled to be given notice of the meeting or any adjournment of the meeting. The list will be arranged in alphabetical order and will show the name, address of each Member and number of votes to which each Member is entitled.

(c) For the period beginning the earlier of 10 days prior to the meeting or two business days after notice of the meeting is given and continuing through the meeting and any adjournment of the meeting, this list will be kept on file at the Association's office. The list will be available for inspection upon written request by any Member during regular business hours and during the period available for inspection.

(d) If the list is prepared in connection with a written ballot, it will be available for inspection beginning on the date the first written ballot is delivered and continuing through the time when such written ballots must be received by the Association in order to be counted.

(e) Any Member may copy the list during regular business hours, at the Member's expense, and during the period it is available for inspection, provided the Member pays a reasonable charge covering the costs of labor and material for the copies, not to exceed the estimated cost of production and reproduction.

(f) At all times, the list will be available for inspection and copying in accordance with these Bylaws and the Association's records inspection policy.

**Section 3.9 Limitation on Use of Voting List and Membership List.** The Association's voting lists and membership list or any part thereof may not be: (a) obtained or used by any person for any purpose unrelated to a Member's interest as a Member; (b) used to solicit money or property unless the money or property will be used solely to solicit the votes of the Members in an election by the Association; (c) used for any commercial purpose; or (d) sold to or purchased by any person.

**Section 3.10 Transfer of Membership.** Transfer of memberships will be made on the Association's books only upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Lot. Prior to presentation of such evidence, the Association may treat the previous Owner as the Member entitled to all rights connected with a membership, including the right to vote and to receive notice, without liability.

## **ARTICLE 4. MEETINGS OF MEMBERS**

**Section 4.1 Annual Meetings.** An annual meeting of the Members will be held during each of the Association's fiscal years, at such time, date and place as the Board determines. At these meetings, the directors will be elected by the Members, in accordance with the provisions of the Bylaws. Failure to hold an annual meeting will not affect the validity of any corporate action and will not be considered a forfeiture or dissolution of the Association.

### **Section 4.2 Budget Ratification Meetings.**

(a) Meetings to consider proposed budgets will be called in accordance with the terms of the Declaration and these Bylaws.

(b) The Declaration's budget process allows a percentage of the Membership to veto a proposed budget adopted by the Board.

(c) The budget process to be followed is as follows:

(i) The Board of Directors will prepare and approve a proposed budget at least annually.

(ii) Within a reasonable time or 90 days after the Board of Directors adopts the proposed budget, the Board of Directors will mail or deliver a summary of the proposed budget to those entitled to vote and set a date for a special or annual meeting to consider ratification of the proposed budget.

(iii) Notice for the meeting at which the budget will be considered must be provided not less than 10 days or more than 50 days before the meeting. Provided, however, the Board may choose to ratify the budget via written ballot or electronic means in lieu of a meeting.

(iv) Unless Owners holding 67% of the votes in the Association vote to reject the proposed budget, the proposed budget is ratified and becomes the approved budget of the Association.

(v) A quorum is not required at the meeting if the meeting is only a budget meeting. If the meeting is also an annual or special meeting at which other business is to be conducted, a quorum is required for other business to be conducted, but not required for ratification of the budget.

(d) If a proposed budget is rejected by a percentage vote of the Members (as allowed for in the Declaration), the budget last ratified continues until a subsequent budget proposed by the Board of Directors is ratified.

**Section 4.3 Special Meetings.** Special meetings of the Members may be called by the president, by a majority of the members of the Board of Directors or by the secretary upon receipt of a written petition signed by Owners comprising at least 20% of the total votes of the Association. A written petition by the Owners must identify the special meeting purpose on each page of the petition, which must be a purpose for which the Association membership is authorized to act under the Governing Documents. The Board of Directors will determine the form of notice, and the date, time and place of the meeting. If the secretary does not give notice

for a special meeting demanded pursuant to a proper petition within 30 days after the date the written demand(s) is delivered to the secretary, the person(s) signing the demand(s) may set the time and place of the meeting and give notice, pursuant to the terms of these Bylaws. Any meeting called under this section will be conducted by the president of the Board, or in their absence, a person chosen by a majority of the Board.

**Section 4.4 Record Date.** The record date for determining Members entitled to notice of any Member meeting will be the date of the notice of the meeting, unless the Board determines otherwise.

**Section 4.5 Notice of Meetings.**

(a) Written notice of each meeting of Members will be given by, or at the direction of, the secretary or person authorized to call the meeting, by delivering a copy of the notice, by first-class mail, postage prepaid, at least 10 days before, but not more than 50 days before the meeting to each Member entitled to vote, addressed to the Member's mailing address, or if no mailing address is provided, the Member's Lot address.

(b) The notice may also be physically posted in a conspicuous place in a part of the Community, if possible.

(c) In addition, if electronic means are available, notice may be sent by e-mail to any Owner who requests such delivery and furnishes the Association with their e-mail address at least 24 hours before the meeting.

(d) The notice will specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

(e) No matters will be heard nor action adopted at a special meeting except as stated or allowed in the notice.

(f) Notice of an annual meeting need not include a description of the purpose(s) except the purpose(s) will be stated with respect to:

(i) an amendment or restatement to the Declaration, Articles of Incorporation or Bylaws of the Association;

(ii) any proposal to remove an officer or director from office;

(iii) any budget changes; or

(iv) any other purpose for which a statement of purpose is required by law, including C.R.S. 7-127-104, or the Governing Documents.

**Section 4.6 Place of Meeting.** Member meetings will be held at such place as may be fixed by the Board of Directors and specified in the notice of the meeting. Preferably, the location should be convenient to the Community. The location of Member meetings may include by conference call or other electronic or virtual means, as determined by the Board, provided Members can participate pursuant to Section 4.11.

**Section 4.7 Quorum.** The presence of 20% of the Members and as are eligible to

vote at the beginning of any meeting, in person or by proxy, constitutes a quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, and these Bylaws. Once a quorum is established for a meeting, it is conclusively presumed to exist until the meeting is adjourned and will not need to be reestablished. If the required quorum is not present, the Members who are present will have power to adjourn the meeting from time to time to a later date, until such time as a quorum will be present.

**Section 4.8 Adjourned and Reconvened Meetings.** Any membership meeting may be adjourned, to be reconvened at a later date or time, by vote of the Owners holding a majority of the vote represented at the meeting, regardless of whether a quorum is present. Any business that could have been transacted properly at the original session of the meeting may be transacted at the reconvened session. No additional notice of such reconvened session is required if the original session is adjourned for a period not exceeding 10 days.

**Section 4.9 Order of Business.** The Board of Directors may establish the order of business and prescribe reasonable rules for the conduct of all Member meetings. Robert's Rules of Order are not required.

**Section 4.10 Waiver of Notice.** Waiver of notice of a membership meeting will be deemed the equivalent of proper notice. Any Member may waive, in writing, any notice of any membership meeting, either before or after such meeting. A Member's attendance at a meeting, whether in person or represented by proxy, is deemed a waiver by the Member of improper notice of the date, time, and location thereof and of any specific business being conducted at the meeting. The foregoing is not waived if the Member specifically objects to improper notice at the time the meeting is called to order or the Member objects to improper notice of the specific business before the business is put to a vote.

**Section 4.11 Telephone, Electronic or Virtual Attendance.** Members may attend meetings by telephone or electronic or virtual means whereby the Members hear each other on any matter properly brought at the meeting. The Member's vote shall be counted and the presence noted as if that Member were present in person.

## **ARTICLE 5. BOARD OF DIRECTORS**

### **Section 5.1 Number of Directors.**

(a) The Association's affairs are governed by a Board of Directors which will consist of three members, elected or appointed as provided below (the "Board").

(b) In the case where through removal or resignation the total number of Board members is less than three, the Board will be considered properly constituted until the vacancies are filled.

(c) The number of directors may be increased or decreased by amendment of these Bylaws.

**Section 5.2 Qualifications of Directors.** The following qualifications apply to Owner elected or appointed Directors. Declarant-appointed Directors are exempt from the following qualifications.

(a) Only one Owner per Lot who is eligible to vote, current in payment of

assessments, and otherwise in good standing may be elected to or appointed to fill a vacancy on the Board.

(b) If any Lot is owned by a partnership, corporation, trust, or other entity, any officer, partner, trustee or representative of that entity will be eligible to serve as a director and will be deemed to be a Member for the purposes of these Bylaws.

(c) Any director who is more than 30 days delinquent in payment of any assessment will not be qualified to serve on the Board.

(d) Any director who has unexcused absences from three consecutive Board meetings will not be qualified to serve on the Board. An absence will be excused if the absent Board member notifies the other Board members of the planned absence and the reason for the absence at least three days before the meeting, and a majority of the remaining Board members approve the absence as being for a valid purpose.

(e) Any director who is in violation of any provision of the Association's Governing Documents for more than 60 days will not be qualified to serve on the Board.

(f) Any director who maintains an adversarial proceeding of any type against the Association will not be qualified to serve on the Board.

(g) Any director who fails to provide information necessary to meet governmental reporting requirements.

If a director is not qualified to serve on the Board, the director's position may be deemed vacant upon determination by a majority of the remaining Directors.

#### **Section 5.3 Term of Office of Board Members.**

(a) The terms of the directors are to be staggered.

(b) The terms of approximately 1/3 of the directors will expire annually.

(c) Prior to the transition of control of the Board, a director shall serve a one-year term of office.

(d) At the transition of control meeting:

(i) One director is to be elected from Owners for a one-year term,

(ii) One director is to be elected from Owners for a two-year term, and

(iii) One director is to be elected from Owners for a three-year term.

(e) After the transition of control meeting, all directors are to be elected to three-year terms of office.

**Section 5.4 Resignation.** Any director may resign at any time by giving written notice to the president, to the secretary or to the Board of Directors stating the effective date of the resignation. Acceptance of a resignation will not be necessary to make the resignation effective.

### **Section 5.5 Removal of Directors.**

(a) One or more directors or the entire Board of Directors may be removed at a special Member meeting called pursuant to these Bylaws, with or without cause, if the number of votes cast to remove the director or directors would be sufficient to elect the director. Notice of any Member meeting to remove directors will state that the purpose of the meeting, or a portion of that meeting, is to remove one or more directors. Notice will be provided to every Member, including the directors sought to be removed, as provided in these Bylaws. Directors sought to be removed will have the right to be present at this meeting and will be given the opportunity to speak to the Members prior to a vote to remove being taken.

(b) In the event of removal of one or more directors, a successor will be elected by the Members at the meeting to serve for the unexpired term of their predecessor.

(c) The Board may remove a director appointed by the Board to fill a vacancy with cause by a vote of a majority of the directors then in office.

**Section 5.6 Vacancies.** Vacancies on the Board caused by any reason (other than removal) may be filled by appointment by a majority vote of the remaining Board at any time after the occurrence of the vacancy, even though the directors present at that meeting may constitute less than a quorum. Each person so appointed will be a director who will serve for the remainder of the unexpired term.

**Section 5.7 Compensation.** No director will receive compensation for any service they may render as a director to the Association. However, any director may be reimbursed for actual expenses incurred in the performance of Association duties.

### **Section 5.8 Standard of Conduct for Directors and Officers.**

(a) Each director and officer will perform their duties as a director or officer in good faith, in a manner the director or officer reasonably believes to be in the Association's best interests and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(b) In the performance of their duties, a director or officer will be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(i) one or more officers or employees of the Association whom the director or officer reasonably believes to be reliable and competent in the matters presented;

(ii) legal counsel, professional property manager, public accountant, or other persons as to matters which the director or officer reasonably believes to be within such person's professional or expert competence; or

(iii) a committee of the Association on which the director or officer does not serve if the director reasonably believes the committee merits confidence.

(c) A director or officer will not be considered to be acting in good faith if the director or officer has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A director or officer will not be liable to the Association or its



Members for any action the director or officer takes or omits to take as a director or officer if, in connection with the action or omission, the director or officer performs their duties in compliance with this section.

(d) A director or officer, regardless of title, will not be deemed to be a trustee with respect to the Association or with respect to any property held or administered by the Association.

(e) The Board of Directors has the power and authority to adopt additional reasonable standards or rules of conduct for directors and officers which do not conflict with this section.

## **ARTICLE 6. MEETINGS OF THE BOARD OF DIRECTORS**

**Section 6.1 Location of Meetings and Open Meetings.** All Board meetings will be open to attendance by Members or their designated representatives, as provided by Colorado law. All Board meetings will be held at such location within or convenient to the Community as may be fixed by the Board of Directors. Meetings may also be held by conference call or virtual or electronic means provided that directors can participate pursuant to Section 6.10.

**Section 6.2 Regular Meetings.** Regular Board meetings will be held at such times, place and hour as may be fixed by the Board. The Board may set a schedule of regular meetings by resolution, and no further notice is necessary to constitute regular meetings. Agendas for Board meetings will be made reasonably available for examination by all Members or their representative in advance of the meeting, or if no formal agenda is prepared, a general description of the purpose of the meeting and subject matter that will be discussed.

**Section 6.3 Special Meetings.** Special Board meetings will be held when called by the president or by any two directors. If a notice for a special meeting demanded by two or more directors is not given by the Board within 30 days after the date the written demand(s) is delivered to the Board, the directors signing the demand(s) may set the time and place of the meeting and give notice, pursuant to the terms of these Bylaws. Only those matters contained in the notice of the special meeting may be discussed, unless all directors are present at the meeting and agree to waive the notice requirement for such other matters. Agendas for special Board meetings will be made reasonably available as provided above.

**Section 6.4 Annual Meetings.** An annual meeting of the Board may be held, without notice, immediately following and in the same place as the annual meeting of the Members, or at such other date and place as may be determined. The purpose of this annual meeting is to elect officers and for the transaction of such other business as may come before the meeting.

**Section 6.5 Notice of Board Meetings.** Except as provided above, written notice of each Board meeting will be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, at least two days before the meeting, or by any other means permitted by the Colorado Revised Nonprofit Corporation Act. Other means of distribution of this notice include, and are not limited to, personal delivery, facsimile, and e-mail delivery to each Board member, addressed to the Board member's address last appearing on the Association's books, or supplied by a Board member for the purpose of notice. The notice will specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

The Association will inform Members, at least annually, the method by which meeting agendas, schedule of regular Board meetings (if any), and notice of special Board meetings will be provided, including the physical or online location of any posted agendas, schedules or notices. The Board will give at least 30 days' notice of any change in the manner or means by which meeting information will be provided.

**Section 6.6 Waiver of Notice.** A waiver of notice of any Board meeting, signed by a director, whether before or after the meeting, will be the equivalent to the giving of notice of the meeting to the director. A director's attendance at a meeting constitutes waiver of notice of the meeting except when the director attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

**Section 6.7 Quorum; Voting.** A majority of the directors constitutes a quorum for the transaction of business, unless there are fewer than three directors, in which case all directors must be present to constitute a quorum. One or more directors who participate by telephone or electronic or virtual means will be deemed present for establishing a quorum, if all persons so participating can hear each other. The votes of a majority of the directors present at a meeting at which a quorum is present will constitute a Board decision unless there are fewer than three directors, in which case, unanimity of the directors is required to constitute a Board decision. If at any meeting there will be less than a quorum present, a majority of those present may adjourn the meeting.

**Section 6.8 Director Proxies.** To determine a quorum with respect to a particular issue and for the purposes of casting a vote for or against that issue, a director may execute, in writing, a proxy to be held by another director. The proxy is to specify a yes, no, or abstain vote on each particular issue for which the proxy was executed. Proxies which do not specify a yes, no, or abstain vote will not be counted for the purpose of having a quorum present or as a vote on the particular issue before the Board.

**Section 6.9 Action without a Meeting.**

(a) The directors have the right to take any action in the absence of a meeting which they could otherwise have taken at a meeting if a notice stating the action to be taken and the time by which a director must respond is transmitted in writing to each director and each director, by the time stated in the notice:

- (i) Votes in writing for such action; or
- (ii) Votes in writing against such action, abstains in writing from voting; or fails to respond or vote; and
- (iii) Fails to demand that action not be taken without a meeting.

(b) The action will be authorized if the number of directors voting in favor of the action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted.

(c) An abstention is not a vote in favor or against an action.

(d) Any action taken under this section has the same effect as though taken at a Board meeting.

(e) All writings made pursuant to this section will be filed with the minutes of the Board meetings.

**Section 6.10 Telephone, Electronic, or Virtual Attendance.** A director may attend a meeting of the Board by telephone or electronic or virtual means whereby the directors may hear each other on any matter properly brought before the Board. The director's vote shall be counted and the presence noted as if that director were present in person

## **ARTICLE 7. POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**Section 7.1 Powers and Duties.** The Board may act in all instances on the Association's behalf, except as provided in the Declaration, these Bylaws or the Articles of Incorporation. The Board has, subject to the limitations contained in the Declaration, these Bylaws and the Articles of Incorporation, the powers and duties necessary for the administration of the Association's affairs, and for the operation and maintenance of the Community, including the following powers and duties:

- (a) exercise any other powers conferred by the Governing Documents;
- (b) adopt and amend rules, regulations and governance policies, including penalties;
- (c) adopt and amend budgets (subject to any requirements of the Declaration and the Bylaws);
- (d) keep and maintain full and accurate books and records showing all of the Association's receipts, expenses, or disbursements;
- (e) collect assessments as provided by the Governing Documents;
- (f) employ a managing agent, independent contractors or employees as it deems necessary, and prescribe their duties;
- (g) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents, and in the Association's name, on behalf of the Association or two or more Owners, on matters affecting the Community, except as to Excluded Claims. As to Excluded Claims, the terms of the Declaration control and must first be complied with;
- (h) make contracts, administer financial accounts and incur liabilities in the Association's name;
- (i) acquire, hold, encumber and convey, in the Association's name and in the ordinary course of business, any right, title or interest to real estate, with the approval of Owners with at least 67% of the votes for any conveyance of Common Areas;
- (j) grant easements, leases, licenses, concessions through or over the Common Areas;
- (k) borrow funds and secure loans with an interest in future assessments in order to pay for any expenditure or outlay required pursuant to the authority granted by the

provisions of the recorded Declaration and these Bylaws, and to execute all such instruments evidencing the indebtedness as the Board of Directors may deem necessary and give security for such loan, subject to the requirements set forth in the Declaration;

(l) provide for the indemnification of the Association's directors and any person serving without compensation at the Association's request, and maintain professional liability insurance;

(m) supervise all persons acting on the Association's behalf of and/or at the Association's discretion;

(n) procure and maintain insurance as set forth in the Governing Documents;

(o) cause all persons having fiscal responsibilities for the Association's assets to be insured and/or bonded, as it may deem appropriate;

(p) appoint committees as deemed appropriate or as required in the Declaration. Committees will have authority to act only to the extent designated in the Governing Documents or delegated by the Board; and

(q) exercise for the Association all powers, duties, rights and obligations in or delegated to the Association and not reserved to the membership by other provisions of the Governing Documents.

**Section 7.2 Responsible Governance Policies.** To the extent procedures are not already set in these Bylaws or the Declaration, the Board of Directors may adopt and maintain policies, procedures and rules and regulations concerning:

(a) collection of unpaid assessments;

(b) handling of conflicts of interest involving Board members;

(c) conduct of meetings;

(d) enforcement of covenants and rules, including notice and hearing procedures and a fine schedule;

(e) inspection and copying of Association records by Owners;

(f) investment of reserve funds;

(g) procedures for the adoption and amendment of policies, procedures, and rules;

(h) procedures for addressing disputes arising between the Association and Owners;

(i) obtaining reserve studies and funding reserves;

(j) guidelines on protecting personal identifying information of Owners; and

(k) any other policies or procedures required by law or adopted by the Board.

**Section 7.3 Managing Agent or Bookkeeper.** The Board may employ a managing agent and/or bookkeeper for the Community, at a compensation established by the Board, to perform duties and services authorized by the Board. Regardless of any delegation to a managing agent and/or bookkeeper, the directors will not be relieved of responsibilities under the Governing Documents or Colorado law.

## **ARTICLE 8. OFFICERS AND DUTIES**

**Section 8.1 Designation and Qualification.** The Association's officers consist of a president, one or more vice presidents, a secretary, a treasurer and any other officers and assistant officers the Board deems necessary. The president and vice president must be directors. Except for the offices of secretary and treasurer, which may be held by the same person, no person may hold more than one office simultaneously.

**Section 8.2 Election and Terms of Office.** The Board will elect the officers for one-year terms at the first Board meeting following the annual Member meeting. Each officer will serve until a successor is elected, the Board of Directors removes the officer, or the officer resigns.

**Section 8.3 Resignation and Removal of Officers.** A majority of the directors may remove any officer from office with or without cause. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. A resignation will take effect on the date of receipt of a notice or at any later time specified therein. Acceptance of a resignation will not be necessary to make it effective.

**Section 8.4 Vacancies.** A vacancy in any office may be filled by appointment by majority vote of the Board. Unless earlier removed, the officer appointed to the vacancy will serve for the remainder of the term of the officer he or she replaces.

**Section 8.5 Duties of Officers.** The duties of the officers are as follows:

(a) **President.** The president will be the chief executive officer and will have all of the general powers and duties which are incident to the office of president of a Colorado nonprofit corporation, including, but not limited to the following: preside at all Board and Member meetings; see that Board decisions and resolutions are carried out; sign all contracts, leases and other written instruments; direct, supervise, coordinate and have general control over the Association's day-to-day affairs.

(b) **Vice President.** The vice president will take the place of the president and perform the president's duties whenever the president is absent or unable to act and will perform other duties imposed by the Board of Directors. If neither the president nor the vice president is able to act, the Board of Directors will appoint another director to act in the place of the president on an interim basis.

(c) **Secretary.** The secretary will record the votes and maintain the minutes of all Board and Member meetings; serve notice of Board and Members meetings; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties incident to the office of secretary or as required by the Board.

(d) **Treasurer.** The treasurer will be responsible for the receipt, deposit and

disbursement of Association funds and securities and for maintenance of full and accurate financial records; will prepare an annual budget and a statement of income and expenditures to be presented to the membership; and deliver a copy of each to the Members. The treasurer will perform all duties incident to the office of treasurer and such other duties as may be assigned by the Board of Directors.

(e) **Delegation.** The duties of any officer may be delegated to the managing agent, bookkeeper or another Board member; provided, however, the officer will not be relieved of any responsibility under this section or under Colorado law.

## **ARTICLE 9. ASSOCIATION DOCUMENTS AND RECORDS**

**Section 9.1 Records and the Right to Inspect Records.** The Association or its managing agent, if any, will keep and maintain records as required by Colorado law. The Association's records are subject to inspection and copying by any Member, at the Member's expense, in accordance with the Association's responsible governance policy, if any, regarding inspection and copying of records. The policy may require advance notice of inspection, specify hours and days of the week during which inspection will be permitted, establish a reasonable maximum time limit for any inspection session, and establish reasonable fees for copies.

**Section 9.2 Disclosure of Records.** The Association will provide written notice to all Members of a change in where records are stored or the designated person to contact for records inspections, including changes in the Association's address, designated agent, or managing agent, within 90 days of the change.

**Section 9.3 Minutes.** Minutes or any similar record of Board and Member meetings, when signed by the secretary or acting secretary of the meeting, will be presumed to truthfully evidence the matters set forth in the minutes. A recitation in the minutes that notice of the meeting was properly given will be prima facie evidence that the notice was given.

## **ARTICLE 10. INDEMNIFICATION**

**Section 10.1 Obligation to Indemnify.** The Association will indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative; by reason of the fact that the person is or was a director, officer or committee member of the Association, as allowed by state statutes. Notice of any indemnification of a directors or officer under this section will be provided to Members in accordance with C.R.S. 7-129-110.

**Section 10.2 Payment in Advance of Final Disposition.** The Association may pay for or reimburse the reasonable expenses as described above in advance of final disposition of the action, suit or proceeding if allowed under state statutes.

**Section 10.3 Directors and Officers Insurance.** The Association will purchase and maintain insurance on behalf of any person who is or was a member of the Board of Directors, the manager, committee members, or anyone acting at the direction of the Board, covering defense and liability expenses arising out of any action, suit or proceeding asserted against the person by virtue of the person's actions on behalf of the Association or at the direction of the Board, whether or not the Association would have the power to indemnify the person against liability under provisions of this Article.

## ARTICLE 11. MISCELLANEOUS

**Section 11.1 Amendment.** These Bylaws may be amended by an affirmative vote of Members holding at least 50% of the total votes in the Association. That vote may be made, in person or by proxy, at a regular or special Member meeting at which a quorum is present or by written ballot as provided for in these Bylaws.

### **Section 11.2 Electronic Communications.**

(a) **Permissive.**

(i) Whenever the Governing Documents require that a document, record or instrument be “written” or “in writing,” the requirement is deemed satisfied by an electronic record if the Board of Directors has affirmatively published regulations permitting an electronic record or document as a substitute for a written item.

(ii) Whenever these Bylaws require a signature on a document, record or instrument, an electronic signature satisfies that requirement only if: (i) the Board of Directors has affirmatively published regulations permitting an electronic signature as a substitute for a written signature; and (ii) the electronic signature is easily recognizable as a secure electronic signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (iii) the Board of Directors reasonably believes that the signatory affixed the electronic signature with the intent to sign the electronic document, and that the electronic document has not been modified since the signature was affixed.

(b) **Verification and Liability for Falsification.** The Board of Directors may require reasonable verification of any electronic signature, document, record or instrument. Absent or pending verification, the Board may refuse to accept any electronic signature or electronic record that, in the Board’s sole discretion, is not clearly authentic. Neither the Board of Directors nor the Association will be liable to any Owner or any other person for accepting or acting in reliance upon an electronic signature or electronic record that the Board reasonably believes to be authentic, or rejecting any such item which the Board reasonably believes not to be authentic. Any Owner or person who negligently, recklessly or intentionally submits any falsified electronic record or unauthorized electronic signature will fully indemnify the Association for actual damages, reasonable attorneys’ fees actually incurred and expenses incurred as a result of such acts.

**Section 11.3 Fiscal Year.** The Board has the right to establish and, from time to time, change the fiscal year of the Association.

**Section 11.4 Notices.** All notices to the Association or the Board will be delivered to the office of the managing agent or, if there is no managing agent, to the Association’s mailing address registered with the Secretary of State, or to such other address as the Board may designate by written notice to all Owners. Except as otherwise provided, all notices to Owners required to be mailed will be sent to the Owner’s address as it appears in the Association’s records. Any notice not otherwise required to be mailed may be sent by hand-delivery, email or any other reasonable means permitted under the Colorado Revised Nonprofit Corporation Act. All notices will be deemed to have been given when mailed or transmitted, except notices of changes of address, which will be deemed to have been given when received.

**Section 11.5 Conflicts.** In the case of any conflicts between the Declaration and these Bylaws or the Articles of Incorporation, the terms of the Declaration will control. In the case of any conflicts between the Articles of Incorporation and these Bylaws, the terms of the Articles of Incorporation will control.

**Section 11.6 Waiver.** No restriction, condition, obligation or provision contained in these Bylaws will be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 11.7 Interpretation.** The provisions of these Bylaws will be liberally construed to effect the purpose of ensuring that the Community will at all times be operated and maintained in a manner so as to optimize and maximize its enjoyment and utilization by each member.

The undersigned certifies their officer position in the Association and that the foregoing Bylaws constitute the Bylaws of the Association, as duly adopted by all of the then-current Members of the Association.

\_\_\_\_\_, President

\_\_\_\_\_  
Date



# **Articles of Incorporation For Hideaway Junction Homeowners Association Phase II, Inc.**

(A Colorado Nonprofit Corporation)

The undersigned signs and acknowledges, for delivery to the Secretary of State of Colorado, these Articles of Incorporation under the Colorado Revised Nonprofit Corporation Act.

## **ARTICLE 1 -- NAME**

The name of the corporation is Hideaway Junction Homeowners Association Phase II, Inc. (the "Association").

## **ARTICLE 2 -- DURATION**

The duration of the Association is perpetual.

## **ARTICLE 3 -- DEFINITIONS**

The definitions set forth in the Declaration for Hideaway Junction Phase II (the "Declaration") apply to all capitalized terms set forth in the Declaration, unless otherwise defined in these Articles of Incorporation.

## **ARTICLE 4 -- PRINCIPAL OFFICE AND REGISTERED AGENT**

The principal office of the Association is 50 Vasquez Road, Winter Park, CO 80482. The Association's initial registered office shall be at the office of its registered agent at 50 Vasquez Road, Winter Park, CO 80482, and its registered agent at such address is Winter Park Housing Authority. The principal office and the registered agent and office of the Association may change from time to time.

## **ARTICLE 5 -- NONPROFIT**

The Association is a nonprofit corporation, without shares of stock, and does not contemplate pecuniary gain or profit for the Members of the Association.

## **ARTICLE 6 -- MEMBERSHIP RIGHTS AND QUALIFICATIONS**

The Association will have voting Members for each Lot subject to the Declaration.

There is one membership for each Lot owned, which shall be automatically transferred upon the conveyance of the Lot.

The qualifications of Members of the Association, the voting rights, classes of Members and other rights and obligations of Members are contained in the Declaration and Bylaws of the Association.

Membership is automatically transferred upon the conveyance of a Lot.

The Members may be of such classes of membership as established by the Declarant, or in the Declaration (as the Declaration, or may be amended or supplemented).

## ARTICLE 7 -- PURPOSES AND POWERS OF THE ASSOCIATION

The purposes for which this Association is formed are as follows:

- (a) To operate and manage the planned Community known as "Hideaway Junction Phase II," as an affordable housing community for the purposes of enhancing and preserving the value of the Lots and any Common Areas in the Community for the benefit of the Members;
- (b) To be and constitute the Association to which reference is made in the Declaration recorded or to be recorded in the real property records for Grand County, State of Colorado, subject to:
  - 1. Applicable law;
  - 2. The Declaration (as defined and referred to above);
  - 3. The Bylaws of the Association;
  - 4. Governance policies of the Association; and
  - 5. Rules and Regulations and policies and procedures as the Board of Directors of the Association may from time to time adopt.
- (c) To institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents, and in the Association's name, on behalf of the Association or two or more Owners, on matters affecting the Community; except as to Excluded Claims. In those claims, the terms of the Declaration control and must first be complied with;
- (d) To provide an entity for the furtherance of the interests of the Owners of property subject to the Declaration;
- (e) To act for and on behalf of the Members of the Association in all matters deemed necessary and proper for the protection, maintenance and improvement of the Lots as more specifically provided for in the Declaration;
- (f) The Association may not sue or commence an arbitration on an Excluded Claim (as defined in the Declaration), without first complying with the terms and conditions set forth in the Declaration.
- (g) To eliminate or limit the personal liability of a Director to the Association or to the Members for monetary damages for breach of fiduciary duty as a Director, as allowed by law;
- (h) To perform all acts and services and exercise all powers and duties in accordance with the requirements for an association of owners under the terms of the Declaration;
- (i) To promote, foster and advance the health, safety, and welfare of the Owners and occupants;
- (j) To do any and all permitted acts suitable or incidental to any of the foregoing purposes and objects to the fullest extent permitted by law, and do any and all acts that in the opinion of the Board, will promote the common benefit and enjoyment of the members and occupants of the Residences, and to have and to exercise any and all powers, rights and privileges which are granted under Colorado law, the Declaration, and Bylaws.

The foregoing statements of purpose are to be construed as a statement of both purposes and powers.

The purposes and powers stated in each clause do not limit or restrict by reference or inference any other clause or as allowed under the Colorado Nonprofit Corporation Act.

Each clause and authority under that act are to be broadly construed as independent purposes and powers.

#### **ARTICLE 8 -- LIABILITY OF DIRECTORS**

No director is to be personally liable to the Association or its Members for monetary damages for any breach of fiduciary duty as a director, except for any of the following:

- (a) Any breach of the director's duty of loyalty to the Association or its Members;
- (b) Any acts or omissions of the director not in good faith or that involve intentional misconduct or a knowing violation of law; or
- (c) Any transaction in which the director received improper personal benefit.

Nothing in these Articles of Incorporation is to be construed to deprive any director of the right to all defenses available under the governing documents for the Community or state law. Nothing is to be constructed to deprive any director of any right for contribution from any other director or other person.

Any repeal or modification of this Article shall be prospective only and shall not adversely affect any right or protection of a director of the Association existing at the time of such repeal or modification.

#### **ARTICLE 9 -- BOARD OF DIRECTORS/EXECUTIVE BOARD**

The business and affairs of the Association shall be conducted, managed, and controlled by a Board of Directors (Executive Board). The initial Executive Board shall consist of three persons. The number of Executive Board Members may be changed, and the qualifications of directors, method of election, term of office, and removal and filling of vacancies shall be as set forth in the Bylaws.

The Declarant of the Community has additional rights and qualifications as provided under the Declaration, including the right to appoint Members of the Executive Board during the period of Declarant control.

#### **ARTICLE 10 -- AMENDMENT**

Amendment of these Articles requires the assent of at least a majority of the votes in the Association. No amendment to these Articles of Incorporation shall be contrary to or inconsistent with the provisions of the Declaration or apply to or treat any one Owner differently than all Owners.

**ARTICLE 11 -- DISSOLUTION**

In the event of the dissolution of the Association as a corporation, either voluntary or involuntarily by the Members, by operation of law or otherwise, then the assets of the Association shall be deemed to be owned by the Members at the date of dissolution, as part of their Lots.

**ARTICLE 12 -- INTERPRETATION**

The terms and provisions of the Declaration are incorporated by reference when necessary to interpret, construe, or clarify the provisions of these Articles. In the event of conflict, the terms of the Declaration shall control over these Articles of Incorporation and the Bylaws. In the case of conflict between the provisions of these Articles of Incorporation and the Bylaws, these Articles of Incorporation shall control.

**ARTICLE 13 – INCORPORATOR**

The name and address of the Incorporator of the Association and its registered agent is Alisha Janes of Winter Park Housing Authority at such address 50 Vasquez Road, Winter Park, CO 80482.

For the purposes of forming this corporation under the laws of the State of Colorado, the undersigned, as the incorporator of this Association, has executed these Articles of Incorporation this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Alisha Janes

The name and mailing address of the individual who causes this document to be delivered for filing, and to whom the Secretary of State may deliver notice if filing of this document is refused is: Alisha Janes of Winter Park Housing Authority, 50 Vasquez Road, Winter Park, CO 80482.

CONSENT OF REGISTERED AGENT

The undersigned hereby consents to the appointment as registered agent for the Association.

\_\_\_\_\_  
Alisha Janes

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF GRAND                    )

The foregoing was acknowledged before me by Alisha Janes on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary

Indexing notes:

Index in:

- Grantee's index under "Hideaway Junction Homeowners Association Phase II" and "Hideaway Junction Phase II" (the names of the Community) and "Hideaway Junction Homeowners Association Phase II, Inc." (the name of the Association)
- Grantor's index under "Winter Park Housing Authority" and the names of each person executing this declaration.

## **Declaration for Hideaway Junction Phase II**

**A limited expense planned community  
subject only to Sections § 38-33.3-105 through § 38-33.3-107  
of the Colorado Common Interest Ownership Act**

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**Declaration  
for  
Hideaway Junction Phase II  
a Limited Expense Exempt Planned Community under the Act**

This Declaration is made by Winter Park Housing Authority, a municipal housing authority (the "Declarant").

**Recitals:**

A. Declarant is the owner of certain real property located in Grand County, State of Colorado, described as set forth in *Exhibit A* attached and by reference made a part of this Declaration.

B. The Declarant desires to create an affordable housing and planned residential Community on the real property described in *Exhibit A* in which portions of the real property are designated for residential use and in which portions may be designated as Common Areas and/or as Limited Common Areas.

C. The purposes of the Declarant and of this Declaration include, but are not limited to the following:

- to create the planned community known as Hideaway Junction Homeowners Association Phase II, which Community is also known as Hideaway Junction Phase II;
- to create a limited expense community exempt from CCIOA except for C.R.S. 38-33.3-105 through 38-33.3-107;
- to develop, market and sell affordable housing to qualified residents in the Town of Winter Park, Colorado;
- to benefit subsequent purchasers of the Lots by limiting the purchase and sale price of Lots in the Community;
- to preserve and enhance the values of the Lots in the Community; and
- to serve the purposes set forth in this Declaration and other Governing Documents of the Community.

D. The Declarant has caused the "Hideaway Junction Homeowners Association Phase II, Inc.," a Colorado nonprofit corporation ("Association"), to be incorporated under the laws of the State of Colorado for the purpose of exercising the functions as set forth in this Declaration and as to which each Owner is a member.

**ARTICLE 1.           Submission/Defined Terms**

**Section 1.1   Submission of Real Estate.**

- (a)   Declarant submits the real property described in *Exhibit A*, together with all

exceptions to title described in *Exhibit B*, including easements, rights, and appurtenances and the improvements erected or to be erected (collectively, the "Real Estate") to the terms and conditions of this Declaration.

(b) The Declarant declares that:

(i) all of the Real Estate is held or sold, and conveyed subject to the easements, restrictions, covenants, and conditions in this Declaration;

(ii) this Declaration is made for the purpose of protecting the value and desirability of the Real Estate;

(iii) this Declaration is made to be subject to CCIOA only to the extent CCIOA applies to limited expense communities under C.R.S. 38-33.3-116;

(iv) this Declaration runs with the Real Estate;

(v) this Declaration is binding on all parties having any right, title or interest in the Real Estate, their heirs, legal representatives, successors, and assigns; and

(vi) this Declaration inures to the benefit and burden of each Owner.

## **Section 1.2 Exemption from CCIOA.**

(a) The Community is a limited expense community under C.R.S. 38-33.3-116 because it is (i) a planned community created after July 1, 1998, (ii) all Lots are for residential purposes, and (iii) the Declaration limits the annual average common expense liability of each Lot, exclusive of optional user fees and insurance premiums paid by the Association, to no more than \$400.00, as adjusted pursuant to CCIOA.

(b) As a limited expense residential planned community under C.R.S. 38-33.3-116, the Declarant declares that the Community, the Real Estate, the Lots, the Residences, the Owners and all other persons and property subject to this Declaration are exempt from and not subject to CCIOA except for § 38-33.3-105 through § 38-33.3-107 of CCIOA.

**Section 1.3 Defined Terms.** Each capitalized term in this Declaration has the meaning specified or used in this Declaration, as defined below, or as the context provides or requires otherwise.

(a) Allocated Interests. The Common Expense liability and votes in the Community / Association allocated to each Lot pursuant to the terms of this Declaration and as initially set forth in *Exhibit C*. The Allocated Interests for each Lot is a fraction, the numerator of which is one and the denominator of which is the total number of all Lots in the Community. Each Lot is allocated one vote in the Association.

(b) Area of Common Responsibility. Common Areas, together with those easements or other areas or matters which by the terms of the Governing Documents or other

applicable covenant, contract or agreement with any Person, including, the Town of Winter Park and/or the Declarant, are or will become the responsibility of the Association.

(c) Articles of Incorporation. The Articles of Incorporation for the Association filed with the Colorado Secretary of State, as the same may be amended from time to time.

(d) Association. Hideaway Junction Homeowners Association Phase II, Inc., a Colorado nonprofit corporation, and its successors and assigns.

(e) Bylaws. The Bylaws of the Association, as amended from time to time.

(f) Common Areas. Property owned by the Association, if any, within the Community and any easements for the benefit of the Association. The Common Areas exclude the Lots and Residences.

(g) Community-Wide Standard. The standard of conduct, maintenance, or other activity generally prevailing within the Community. This standard may be more specifically determined by the Board of Directors.

(h) CCIOA or Act. The Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as it may be amended from time to time. The Act does not apply to the Community except as provided for in section 38-33.3-116 of the Act.

(i) Common Expenses. As used in this Declaration, this term means the expenses and liabilities incurred or anticipated to be incurred by the Association including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Areas and/or Areas of Common Responsibility, allocations to reserves, and for fulfilling any of the Association's powers and duties.

(j) Community. Hideaway Junction Homeowners Association Phase II, also sometimes known as Hideaway Junction Phase II, is the Community created by this Declaration.

(k) Declaration. Collective term for all promises, restrictions, reservations, conditions, terms, easements, and rights-of-way specifically set forth or referenced in this Declaration and set forth in the Governing Documents, as the same may be adopted and amended from time to time and including any maps or plats recorded in connection with the Community. Each and every covenant is to be given the same force and effect at law or equity without regard to which Governing Document in which it is set forth.

(l) Declaration of Restrictive Covenant for Affordable Housing or Affordable Housing Declaration. That Declaration of Restrictive Covenant for Affordable Housing recorded with Grand County Clerk and Recorder at Reception No. \_\_\_\_\_ to which the Real Estate is subject. In the event of a conflict between this Declaration and the Affordable Housing Declaration, the Affordable Housing Declaration will control.

(m) Declarant. The Declarant named in this Declaration and/or any successor and/or assignee designated by written notice or assignment executed by a Declarant and by the

transferee and recorded (to the extent any rights or powers of the Declarant are transferred or assigned to such transferee).

(n) Development Rights or Special Declarant Rights. The rights of a declarant expressly stated in this Declaration and the rights of Declarant to control the Board of the Association during Period of Declarant Control.

(o) Excluded Claim(s). Any claim in a civil action, lawsuit or arbitration (other than the arbitration allowed for in this Declaration) related to construction or design of the Residences, grading, landscape, the Common Areas, drainage within the Community or any Improvements constructed or designed by Declarant or the following persons: a contractor, subcontractor, developer, builder, architect, engineer or inspector, or any of these affiliates of their persons or persons responsible for any part of the construction or design of a Residence or the Community, including officers, directors, shareholders, members, managers, employees or servants of these persons. Excluded Claim also includes any claims against the Declarant or its affiliates or agents or employees of Declarant or its affiliates.

(p) Executive Board, Board of Directors or Board. Collectively, these terms refer to the body designated in this Declaration to act on behalf of the Association, within the limits set forth in this Declaration.

(q) First Mortgage. Any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation that is not subordinate to any other lien or encumbrance, except liens for taxes or other liens given priority by statute.

(r) First Mortgagee. A bank, savings and loan association, insurance company, real estate mortgage investment trust, pension fund, an agency of the United States Government (including "VA" or "FHA"), mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Residence Loan Mortgage Corporation ("FHLMC") or any other lender generally recognized as an institutional lender, or the Declarant, holding a First Mortgage encumbering a Lot or Lots, or any insurer or guarantor of a First Mortgage.

(s) Governing Documents. Collective reference to those documents which govern the operation of the Community and the Association, including: (i) the Articles of Incorporation, (ii) the Bylaws, (iii) the rules, regulations, governance policies and procedures (if any), (iv) the Plat and any Maps, (v) this Declaration, and (vi) Affordable Housing Declaration, as one or more of the same may be amended from time to time.

(t) Improvements. Every structure and all appurtenances thereto of every type and kind including, but not limited to, buildings, outbuildings, fixtures, utilities, patios, hot tubs, garages, doghouses, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, pumps, wells, tanks, solar collectors, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water sewer, gas, electricity, solar energy, telephone, regular or cable television or other utilities.

(u) Lot. Any of the separately numbered lots or plots shown upon any recorded subdivision Plat of the Community, together with all appurtenances and improvements, with the exception of the Common Area and any public streets or rights-of-way.

(v) Owner. A record titleholder that holds fee title to a Lot, including the Declarant.

(w) Period of Declarant Control. The period of time commencing on the date of recordation of this Declaration and expiring on the earlier of: 60 days after conveyance of 75% of the maximum number of Lots that the Declarant may create (as allowed under this Declaration) to Owners other than the Declarant, two years after the last conveyance of a Lot by the Declarant in the ordinary course of business, two years after any right to add new Lots was last exercised or as surrendered, in writing, by the Declarant.

(x) Person. Any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

(y) Plat. That certain subdivision plat or plats for all or any part of the Real Estate recorded in the real property records for Grand County, Colorado, as the same may be amended from time to time. The “notes” on the various sheets comprising a Plat are incorporated by this reference and are fully enforceable as though set forth in this Declaration.

(z) Qualified Buyers or Qualified Residents. The terms have the same meaning as set forth in the Affordable Housing Declaration and refers to the Town, WPHA, and/or natural person(s) within a household who meets the following requirements:

- Currently working or been hired to work in Grand County as an employee or sole proprietor who is actively involved in his or her own business.
- Works a minimum of 32 hours per week, or at least 1,200 hours annually for a Grand County employer. At the time of the purchase of the Lot, the Person must earn no more than 300% of the Grand County Area Median Income as set by the Colorado Housing and Finance Authority (three times the 100% income associated with the appropriate household size) with Cumulative Assets not exceeding 200% of the allowed annual income. For purposes of this paragraph “Cumulative Assets” shall mean the total financial assets of the Person less an amount equal to: (i) the cash downpayment applied to the purchase of the Lot; plus (ii) any age-restricted retirement assets up to the following amounts: (x) for Persons under 40 years of age up to \$90,000, (y) for Persons between 40 and 55 years of age up to \$165,000, and (z) for Persons over 55 years of age up to \$330,000 (as these limits may be modified by WPHA from time to time).
- Does not own any other residential real estate or a mobile home as rental property at the time they occupy one of the Lots except to the extent permitted in the Affordable Housing Declaration. For purposes of this Section, if a person owns vacant land during the time of ownership

of a Lot and improves that vacant land with a residence, the person will be deemed to “own other residential real estate” when that Person receives a Certificate of Occupancy for that residence.

- Upon purchase of a Lot, the purchaser shall occupy the Lot as their primary residence.
- Household size must be no fewer than one less than the number of bedrooms in the property (i.e. for 3-bedroom home households must be comprised of 2 or more people, with at least one member meeting workforce requirements upon the time of sale). The household size must be met upon purchase and the following 5 years. Exemptions may be considered by the Winter Park Housing Authority.

(aa) Real Estate. The property described in *Exhibit A*, together with all easements, rights, and appurtenances and the improvements erected or to be erected on the Real Estate, together with all easements, rights, and appurtenances. The Real Estate is subject to Declarant’s Development Rights and Special Declarant Rights as provided for in this Declaration. All exceptions to title to which the Community is subject to as of the date of this Declaration are recited in *Exhibit B*.

(bb) Related User. Any person who resides with an Owner within a Residence; is a guest or invitee of an Owner; is an occupant or tenant of a Lot; and any family member, guest, invitee or cohabitant.

(cc) Residence. The dwelling unit, home or residence constructed on a Lot.

(dd) Rules. All rules, regulations, policies, and regulations, including by way of example only, use restrictions, governance policies, enforcement procedures and any rules, guidelines or requirements enacted by the Executive Board pursuant to this Declaration, the Bylaws and as allowed by law.

(ee) Town. Town of Winter Park, a Colorado home rule municipal corporation.

(ff) Winter Park Housing Authority (“WPHA”). WPHA is the original Declarant under this Declaration and the declarant under the Declaration of Restrictive Covenant For Affordable Housing applicable to this Community.

## **ARTICLE 2. Description of Real Estate, Lots and Common Areas**

**Section 2.1 Description and Type**. The Community is a planned residential community located in Grand County, State of Colorado. The Real Estate of the Community is described in *Exhibit A*. All exceptions to title to which the Community is presently subject are recited in *Exhibit B*. In addition, the Community may be subject to other easements or licenses granted pursuant to the Governing Documents, or granted or allowed by authority in any recorded document or established under this Declaration.

**Section 2.2 Number of Lots**. The initial number of Lots is 20. The maximum number of Lots is 50 with prior approval of the Town.

**Section 2.3 Identification of Lots/Lot Descriptions.** Every contract for sale, and every deed, lease, mortgage, or other another legal instrument may legally describe a Lot by its identifying number as shown on the Plat.

**Section 2.4 Initial Common Areas and/or Limited Common Areas.**

- (a) There are no initial Common Areas or Limited Common Areas.
- (b) Common Areas or Limited Common Areas may be added or modified, as allowed under this Declaration.
- (c) Any Common Areas and Limited Common Areas may be regulated by the Association, including the determination of the Board to use the Common Areas in manners deemed by the Board to be consistent with the purposes of this Declaration.

**Section 2.5 Radon Notice and Disclaimer.** Owners acknowledge that Declarant and this Declaration disclose that radon gas contamination is a naturally-occurring threat throughout the Rocky Mountain region and that potential radon contamination in a Residence can be mitigated through modifications to a Residence. By acquiring a Lot, each Owner acknowledges they have assumed all risk for any potential radon contamination and that should radon contamination be discovered by an Owner or resident at any time it is the Owner or resident's sole obligation to correct the radon contamination. The Declarant and the Association has made no investigation to determine whether a Residence is affected by radon. Each Owner and resident acknowledges that neither the Declarant or the Association has made any representations or warranties, express or implied, concerning the presence or absence of radon within any Residence or the soils beneath or adjacent to any Residence. Each Owner releases the Declarant and the Association from any and all liabilities and claims with respect to radon gas.

**Section 2.6 Concrete Finishes.**

- (a) Each Owner acknowledges and accepts that there may be concrete finishes on improvements of or serving a Residence and that those areas, as constructed with concrete, will settle and crack.
- (b) When natural materials like concrete are used, natural variability, not uniformity, is to be expected as the surface of the concrete matures. Each Owner and the Association waives and releases Declarant from variability in concrete finishes.
- (c) Declarant and the Association are not responsible for and do not warranty interior or exterior concrete, including, but not limited to, cracking, discoloration, spalling, settlement, heaving and/or movement.

**ARTICLE 3. The Association**

**Section 3.1 Membership.** Every person who is an Owner of a fee interest in any Lot which is subject to this Declaration is a member of the Association. Membership is appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot is the sole



qualification for such membership. Where more than one person holds an interest in any Lot, all such persons are members. Members may be of such classes as provided for in the Bylaws.

**Section 3.2 General Purposes, Powers, Authority and Restrictions on and of the Association.**

(a) The Association, acting solely through its Executive Board, is to perform functions and manage the Community including its business affairs as provided in the Governing Documents so as to protect the value and desirability of the Lots and the Community and to further the interests of the Owners and Related Users. The powers of the Executive Board shall include without limitation, the power to:

- (i) Adopt and amend bylaws and rules and regulations;
- (ii) Adopt and amend budgets;
- (iii) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (iv) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the Community;
- (v) Make contracts and incur liabilities;
- (vi) Regulate the use, maintenance, repair, replacement and modification of the Common Areas, if any;
- (vii) Cause addition improvements to be made as part of the Common Areas, if any;
- (viii) Acquire, hold, encumber and convey in its own name any right, title, or interest to real or personal property, except that any conveyance of the Common Areas will be by Owners holding 67% of the total Association votes;
- (ix) Grant easements, leases, licenses, and concessions through or over the Common Areas;
- (x) Impose and receive any payments, fees or charges for the use, rental or operation of the Common Areas;
- (xi) Impose charges for late payments of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of the Governing Documents;

(xii) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;

(xiii) Borrow funds and assign its right to future income, including the right to receive common expense assessments;

(xiv) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

(xv) Exercise any other powers conferred by this Declaration, the Articles of Incorporation and or Bylaws;

(xvi) Exercise all other powers as may be exercised in this state by legal entities of the same type as the Association; and

(xvii) Exercise any other powers necessary and proper for the governance and operation of the Association.

(b) Any purchaser of a Lot is deemed to have assented to, ratified and approved this Declaration and the terms of this Declaration.

(c) The Association is governed by the Governing Documents and other applicable laws.

(d) The Executive Board may, by written resolution, delegate authority to a manager, managing agent or bookkeeper for the Association, provided no such delegation relieves the Board of final responsibility.

(e) The Association may not commence an arbitration on an Excluded Claim without first complying with the terms of this Declaration.

**Section 3.3 Association Agreements.** Any agreement for professional management of or bookkeeping for the Community or any contract providing for services of the Declarant may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon 30 days' written notice. The Association is not bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Period of Declarant Control unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after at least 30 days' notice to the other party to the contract.

**Section 3.4 Promulgation of Rules.**

(a) Subject to the terms of this Declaration, the Executive Board may adopt, amend, repeal and enforce Rules and impose fines for violations of the Governing Documents.

(b) The Executive Board may proceed with Rules as it deems desirable with respect to the interpretation and implementation of this Declaration, the operation of the

Association, and the Lots in accordance with the following:

- (i) The Rules are to be reasonable and uniformly applied.
- (ii) Copies of the currently effective Rules must be made available to each Owner upon request.
- (iii) Each Owner must comply with the Rules and see that Related Users comply with the Rules.
- (iv) The Rules have the same force and effect as if they were stated in full in this Declaration.
- (v) In the event of conflict between the Rules and this Declaration, this Declaration prevails, but only to the extent that such rule or regulation invalidates a specific provision in this Declaration.

**Section 3.5 Governance Policies.** The Association may adopt and maintain governance policies, to guide governance and operation of the Community and the Association. The governance policies may be a part of the Rules.

**Section 3.6 Indemnification.** To the full extent permitted by law, all officers, members of the Executive Board and committee members of the Association shall be and are indemnified by the Owners and the Association. This indemnification extends to all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or member of the Executive Board, or committee member or any settlements. This indemnification applies whether or not they hold such position at the time such expenses are incurred. In the event such person is adjudged guilty of willful misfeasance or malfeasance in the performance of their duties, this indemnification will then no longer apply and such person is to reimburse the Association.

**Section 3.7 Appointment/ Removal of Officers and Board Members during the Period of Declarant Control.** The Declarant has the power and authority, pursuant to this Declaration and the other Governing Documents, to appoint and remove officers and members of the Executive Board. This authority extends through the Period of Declarant Control.

**Section 3.8 Initial Owner Elections of Board Members.** Initial or subsequent Owners will elect an Owner controlled Board upon expiration of the Period of Declarant Control. Subsequent to transition of control, Board positions are to be filled by vote of the Owners in accordance with the Bylaws.

**Section 3.9 Declarant May Relinquish Rights.** At any time prior to the end of the Period of Declarant Control, the Declarant may relinquish the right to appoint and remove Executive Board members as may require certain specific actions of the Executive Board to be approved by the Declarant.

## **ARTICLE 4. Easements**

### **Section 4.1 Easement for Utilities.**

(a) A blanket easement upon, across, over and under the Lots are shown upon the recorded plat of the Community, and other easements as may be established pursuant to the provisions of this Declaration or as may be granted by the Board of Directors of the Association.

(b) Declarant hereby reserves onto itself (for as long as Declarant owns property within the Community), the Association, and the designees of each, non-exclusive access and maintenance easements upon, across, over and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, broadband, security and similar systems, electricity, irrigation, sewer, drainage and/or other utility lines/utilities.

(c) Utilities serving any Lot, Lots, or Common Areas may pass through another Lot, which is burdened with this easement.

(d) By virtue of these easements, it is expressly permissible for the Declarant or the Association or the utility companies or municipalities supplying such utility service to erect and maintain the necessary equipment within the Real Estate and to affix, repair and maintain equipment, water and sewer pipes, gas, electric and telephone wires, circuits, conduits and meters.

(e) These easements and related obligations and duties are appurtenant to and pass with title to each Lot.

(f) Declarant has the reserved right to establish easements to serve the Community of the Real Estate or the properties described in *Exhibit A*. In this regard, any easements given of the Declarant subsequent to this Declaration or any Plat being recorded are confirmed and expressly included in the Community and made subject to this Declaration.

**Section 4.2 Easement for Encroachments.** If any portion of a Lot or Residence encroaches upon any Common Area or adjoining Lot, a valid easement for such encroachment and for the maintenance of same, shall and does exist. Similarly, if any portion of the Common Areas encroaches upon a Lot, a valid easement for the encroachment and for the maintenance of same shall and does exist. Such encroachments and easements are not considered or determined to be encumbrances either on the Common Areas or any Lots affected. Further, such easements are deemed to run with the land upon which the improvements may be found.

**Section 4.3 Easements for the Association and Each Owner.** Each Lot is subject to an easement in favor of the Declarant or Association (including its agents, employees and contractors) and to the adjacent Owner, to allow for their performance of obligations under this Declaration or under any of the other Governing Documents.

**Section 4.4 Emergency Easements.** A nonexclusive easement for ingress and egress is granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or

persons, now or subsequently servicing the Community, to enter upon any part of the Community in the performance of their duties.

**Section 4.5 Perimeter Easements.** Easements are given by all Owners to the Declarant and to the Association for the placement or existence of any perimeter fences and/or walls, if any, and for any boundary improvements. These easements include the right and easement, but not the obligation, of the Association to maintain either the perimeter wall on a Lot or any boundary line improvement or wall.

**Section 4.6 Warranty, Repair and Construction Easement.** The Declarant and its assignees has the right to perform warranty work, repairs and complete construction on a Lot, after conveyance to an Owner, after notice and with reasonable coordination with the Owner or Related User. This includes the right to control such work and repairs, along with a right of access, until completion. These rights of Declarant are not to be construed as Development Rights or Special Declarant Rights, but rather, as rights based on common law.

**Section 4.7 Owners' Easements of Enjoyment.**

(a) Every Owner has a right and easement for access to their Lot by this Declaration and through the Association.

(b) Every Owner also has the right and easement of enjoyment in and to the Common Areas of this Community, if any.

(c) These easements are appurtenant to and passes with the title to every Lot, subject to the following provisions:

(i) The right of the Association to promulgate and publish Rules with which each Owner and their Related Users must strictly comply.

(ii) The right of the Association to suspend the voting rights for any period during which any assessment against their Lot remains unpaid; and for a period not to exceed sixty days for any infraction of the Rules.

(iii) The right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer or conveyance or grant of any similar interest affecting the Common Areas, to the extent permitted by the Governing Documents.

(iv) The right of the Association to close or limit the use of the Common Areas while maintaining, repairing and making replacements.

(v) The rights of the Association as set forth in this Declaration and other governing documents for the Community.

(vi) The obligation of the Association to maintain general liability insurance on areas that are or may become Common Areas after those areas are improved by the Declarant and in use by the Owners.

**Section 4.8 Delegation of Use.** Any Owner may delegate his right of enjoyment to the Common Areas to Related Users.

**ARTICLE 5. Maintenance**

**Section 5.1 Scope of Association Maintenance.**

(a) The Executive Board of the Association determines the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities.

(b) The Executive Board of the Association may also approve and establish a maintenance and/or insurance chart for the Community to specify maintenance and insurance responsibilities and allocations.

**Section 5.2 Association's Maintenance and Other Responsibilities.**

(a) The Association is responsible for maintenance, repair, replacement and improvement of any Common Areas and any other portions of the Area of Common Responsibility.

(b) The Association may maintain other property that it does not own, including, but not limited to, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard, subject to approval of the Town. The Association may also enter into cost-sharing agreements with neighboring associations or other Persons for shared improvements, use of an improvement, preservation of wetlands, open space or other public improvements, if the Board determines that such arrangements are beneficial to the Community and/or is otherwise required by the Town.

(c) The Association will maintain and be responsible for trash and other services as may be provided by the Association, as allowed by this Declaration or as determined by the Board.

(d) The Association will maintain any and all pipes, lines, ducts, electrical conduits or other apparatus serving more than one Lot that are not otherwise maintained by the Town or other governmental or quasi-governmental entity.

(e) The Association may supplement the list of items to be maintained by the Association by resolution or by a maintenance and insurance chart adopted by the Board.

(f) The Association may, by contract or agreement, assign any of its obligations and responsibilities for maintenance, repair, replacement or administration described in this Section to the Town or other properly qualified Person as determined by the Board.

**Section 5.3 Owner Maintenance and Other Responsibilities.**

(a) Owners are responsible for the maintenance, repair, replacement and improvement of their Lot, including the Residence and any other Improvement located on the Lot.

(b) Without limiting the foregoing, Owners are specifically responsible for maintenance, repair, replacement and improvement of the following items on their Lot, including parts of a Residence or improvements serving a Lot that may encroach or protrude from their Lot onto the Common Areas or other Lots: Residence interiors, all structural components and exterior surfaces of a Residence, foundations, windows, screens, window wells, doors, external vents and flues, lights and bulbs, downspouts, landscaping and any other Improvements whether original installed or installed by an Owner.

(c) Owners are responsible for all utilities lines and facilities that serve their Lot, including, but not limited to, water and sewer, from the point where the utility only serves their Lot and/or Residence.

(d) Owners must maintain adequate drainage across and through their Lot, if any. If not adequately maintained, the Association may perform such maintenance as it deems necessary to achieve positive drainage and charge back the costs incurred to the Owner of the Lot as a default assessment and not a Common Expense..

(e) Owners are responsible for snow removal on the sidewalk(s) bordering their Lots consistent with the Town's snow removal requirements and the Association's Rules, if any. Provided, however, the Association may by written resolution assume responsibility for snow removal on the sidewalks located within the Community and treat it as part of the Common Expense.

(f) Each Lot and Residence on a Lot must at all times be kept well maintained, in good repair, and replacement, and in a clean, sightly, and wholesome condition consistent with the Community-Wide Standard.

(g) Trash, litter, junk boxes, containers, bottles, cans, implements, machinery, lumber or other building materials are not permitted to remain exposed upon a Lot so that the same are visible from any neighboring Lot, or any street, except as necessary during a period of construction.

(h) The Association, and its agents, have the authority to enter, replace, maintain, repair and clean up Lots which do not conform to the provisions of this Section, and to charge and collect from the Owner of that Lot all reasonable costs as a default assessment and not a Common Expense.

(i) The Association may supplement the list of items to be maintained by Owners by resolution or by a maintenance and insurance chart adopted by the Executive Board.

## **ARTICLE 6. Covenant for Assessments**

### **Section 6.1 Creation of Association Lien and Personal Obligation to Pay Assessments.**

(a) Each Owner is deemed to covenant and agree, by acceptance of a deed to a Lot, whether or not it is so expressed in any such deed or other conveyance, to pay to the

Association assessments for Common Expenses pursuant to the Governing Documents.

(b) Assessments are the personal obligation of the Owner of each Lot at the time when the assessment or other charges became due.

(c) The assessments are a charge on each Lot and are a continuing lien upon the Lot against which each such assessment is made.

(d) If any assessment payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due.

(e) The personal obligation to pay any past due sums does not pass to a successor in title, unless expressly assumed by them.

(f) No Owner may become exempt from liability for payment of the assessments by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot against which the assessments are made.

(g) All assessments are to be payable in the amounts specified in the levy, and no offsets or reduction are permitted by any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

**Section 6.2 Declarant Assessment Exemption.** Until the sale of the first Lot from the Declarant to an Owner that is not the Declarant, the Lots shall be exempt from assessments. Subsequent to the first sale of a Lot, Lots owned by the Declarant shall be exempt from assessment unless and until a certificate of occupancy is issued or the Lot is sold to an Owner other than the Declarant. The Declarant is obligated during any period of time assessments are not imposed on any Lot, to fund any operating deficit of the Association. The Declarant is to fund those deficits upon invoice from the Association.

**Section 6.3 Purpose of Common Expense Assessments.** In addition to such other purposes as set forth in other parts of this Declaration, Common Expense assessments are to be used for the purposes of promoting the health, safety, and welfare of Owners and Related Users, and in particular:

(a) To enforce all provisions of the Governing Documents;

(b) To exercise all rights and powers and to discharge all duties and obligations pursuant to the Governing Documents;

(c) To discharge all expenses incurred by the Association in the alteration, enhancement, construction, reconstruction, repair, maintenance or replacement of the Areas of Common Responsibility;

(d) To discharge all expenses incurred by the Association in the alteration, maintenance, repair and replacement of any property the Association may elect to so alter,



maintain, repair or replace pursuant to the Governing Documents; and

(e) To fund any operating deficit or reserves the Association deems necessary to meet its financial obligations.

**Section 6.4 Apportionment of Common Expenses.**

(a) Except as provided below and elsewhere in this Declaration, all Common Expense assessments are to be assessed against all Lots in an amount equal to the then-current annual estimated expenses (including reserves), subject to the maximum amounts in Section 6.6, of the Association multiplied by the Allocated Interest of each such Lot.

(b) If any assessment for utilities of the Association are based on use (for example, for water and/or sewer), to the extent the Association has private sub-meters for these utilities, those assessments may be based on the sub-metering of the Association.

(c) Fees, charges, taxes, impositions, late charges, fines, attorneys' fees, collection costs and interest charged by the Association against an Owner are enforceable as Common Expense assessments.

**Section 6.5 Default Assessments.** In the event that the need for maintenance, repair, or replacement of the Common Areas, Area of Common Responsibility, or any other portion of the Community, including the Lots, is caused by or in any way results from the negligent or willful act or failure to act, or the misconduct of an Owner or an Owner's Related User, then the expenses, costs, and fees incurred by the Association for such maintenance, repair, or replacement is the personal obligation of such Owner and not a Common Expense. This obligation is referred to as a "Default Assessment".

**Section 6.6 Maximum Annual Assessment/Commencement of Common Expense Assessments.**

(a) The Common Expense assessments are to be made on an annual basis against all Lots based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year; provided, however, the Common Expense assessment for each Lot shall not exceed four hundred dollars, exclusive of optional user fees and any insurance premiums, each fiscal year. The four hundred dollar maximum Common Expense assessment may be increased each year on July 1<sup>st</sup> in accordance with any increase in the United States department of labor bureau of labor statistics final consumer price index for the Denver-Boulder consolidated metropolitan statistical area for the preceding calendar year or as otherwise authorized under the Act.

(b) Assessments may include any metered utilities (as water and/or sewer utilities may be sub-metered) and r insurance.

(c) The budget is to be submitted to the Owners, pursuant to this Declaration and the Governing Documents, including the Bylaws.

(d) A budget proposed by the Executive Board is deemed adopted unless vetoed by the vote of at least 67% of the Lot Owners.

(e) Assessments are payable in monthly installments, or, as the Executive Board determines.

(f) Except as otherwise provided in Section 6.2, assessments begin at the first closing on the conveyance of a Lot to an initial Owner.

(g) The omission or failure of the Executive Board to levy the assessments for any period is not deemed a waiver, modification or a release of the Owners from their obligation to pay.

#### **Section 6.7 Lien Priorities.**

(a) The Assessment lien of the Association is prior to all other liens and encumbrances on a Lot, except: liens and encumbrances recorded before the recordation of this Declaration; a First Mortgage on the Lot except for an assessment lien equal to six months worth of assessments; and liens for real estate taxes and other governmental assessments or charges against the Lot.

(b) This Section does not affect the priority of mechanics or material-men's liens.

(c) The lien of the Association under this Article is not subject to the provisions of any homestead exemption as allowed by state or federal law.

(d) Sale or transfer of any Lot does not affect the lien for assessments except that the sale or transfer of any Lot pursuant to foreclosure of any First Mortgage or any proceeding in lieu of foreclosure, including deed in lieu of foreclosure, or cancellation or forfeiture, only extinguishes the lien of assessment as and if provided by applicable law. No such sale, transfer, foreclosure, or any proceeding in lieu of foreclosure, including deed in lieu of foreclosure, nor cancellation or forfeiture relieves any Owner from continuing liability for any assessment charges subsequently becoming due nor from the lien.

**Section 6.8 Effect of Non-Payment of Assessments.** Any assessment provided for in this Declaration, or any installment, which is not fully paid within ten days after the due date bears interest at the rate of interest specified in the collection policy as then in effect, as adopted by the Executive Board. The Association may also assess a monthly late charge. Failure to make payment within the 60 days of the due date may cause the total amount of such annual assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Executive Board.

Further, the Association may bring a lawsuit against any Owner obligated to pay overdue assessment(s); and may also proceed to foreclose its lien against such Owner's Lot subject to any restrictions set forth in the Affordable Housing Declaration. A lawsuit by the Association against an

Owner to recover a money judgment for unpaid assessments, or any monthly or other installment, may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien. The Association shall be entitled to recover its costs of suit, expenses and reasonable attorneys' fees incurred simply by virtue of the failure of the Owner to timely pay assessments when due, including attorneys' fees and costs for consultation and for preparing and recording any lien notice. Foreclosure by the Association of its lien, whether completed or commenced but not completed is not deemed to estop or otherwise preclude the Association from subsequently foreclosing or commencing an action to foreclose its lien for any subsequent Assessments, or monthly or other installments, which are not fully paid when due.

To the extent not prohibited under the Affordable Housing Declaration, the Association has the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, and cast the votes appurtenant to such Lot, and to convey or otherwise deal with the same. Any grantee of a Lot (excluding the Association) is jointly and severally liable with the grantor for all unpaid Assessments against the Lot which was assessed prior to the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. The rights of the Association are expressly subordinate to the rights of any First Mortgagee as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent provided for in this Declaration.

**Section 6.9 No Waiver or Abandonment.** No Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Lot against which the assessments are made.

**Section 6.10 This Declaration is Notice of Association Lien Rights.** Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. No further recordation is required. However, the Executive Board may prepare and record in the real property records of Grand County, Colorado, a written notice setting forth the then amount of unpaid indebtedness, the name of the Owner, and a description of the Lot.

**Section 6.11 Fees at Closing.** Owners also are to pay transfer, record change fees and other fees charged by the Association or its managing agent for a closing or refinance.

## **ARTICLE 7.           Restrictions on Use, Alienation and Occupancy**

### **Section 7.1   Use Restrictions.**

(a) Initial use restrictions applicable to the Real Estate are set forth in this Declaration.

(b) The Executive Board has absolute authority to promulgate Rules and resolutions for restrictions on use, occupancy or alienation which are not contrary to restrictions or other limitations contained within this Declaration or the Affordable Housing Declaration.

(c) It is expected that Rules will govern the operations of the Community, the Owners and the Association in greater detail than the covenants in this Declaration. A specific provision of a Rule is invalid only to the extent that its strict application would contradict a specific

provision in this Declaration or the Affordable Housing Declaration.

(d) The Executive Board may establish and enforce penalties for infractions.

(e) Owners are responsible for fines assessed against their Related Users.

(f) All monetary penalties enforced pursuant to this Declaration or the Rules are collectible as Default Assessments.

**Section 7.2 Use and Occupancy.** Except by the Town, WPHA and Declarant or otherwise provided in the Affordable Housing Declaration, the use and occupancy of the Lots shall be limited as follows:

(a) Use and occupancy shall be limited exclusively to housing for natural persons who meet the definition of Qualified Buyers or Qualified Residents.

(b) Owner must occupy the Lot as his or her sole place of residence, except as otherwise provided in the Affordable Housing Declaration. The Lots shall be limited to permanent residences of the respective Lot Owner. A “permanent residence” means the home or place in which one’s habitation is fixed and to which one, whenever he or she is absent, has a present intention of returning after a departure or absence there from. In determining what is a permanent residence, the Board may take into account, without limitation: (1) location of business pursuits, employment and income sources; (2) residence for income tax purposes; (3) residence of parents, spouse and children, if any; (4) location of personal and real property; and (5) motor vehicle registration.

(c) If at any time an Owner also owns any interest alone or in conjunction with others in any other developed residential property located in Grand County, the Owner must immediately list such other property interest for sale and sell his or her interest in such property in accordance with the Affordable Housing Declaration.

(d) Owners shall not engage in any business activity on or in the Lot, except home occupations as allowed by Town and WPHA regulations. Lots within the Community may be used only for residential purposes and purposes allowed by the local zoning codes and permits and as allowed for under restrictions in this Declaration.

(e) Lots shall not be sold, transferred or leased except in accordance with this Declaration and the Affordable Housing Declaration.

**Section 7.3 Leasing.** The Community is intended to be an owner-occupied community. However, any Owner has the right to lease or allow occupancy of a Lot upon terms and conditions the Owner deems advisable, subject to restrictions of this Declaration, Affordable Housing Declaration, any other restrictions of record, and the following:

(a) No leasing of a Lot without the prior written approval of WPHA.

(b) All leases shall be in writing and subject to such terms and conditions as

approved by WPHA. A signed copy of the lease and written authorization by WPHA must be provided to the Board prior to occupancy by the tenant.

“Leasing” for the purposes of this Declaration is defined as occupancy of a Lot by any Person other than the Owner, but does not include the Owner sharing occupancy of the Lot with non-Owners provided the Owner continues to meet the definition of a Qualified Resident.

**Section 7.4 Encumbrances and Mortgages on Lots.** Lots shall not be encumbered in an amount in excess of the purchase price originally paid by the current Owner of the Lot. A Owner shall not default in payment or other obligations to a mortgagee. Owners must notify WPHA in writing, within five calendar days of receipt of a notice from a mortgagee for past due payments or default in payment or other obligations under the mortgage or as otherwise required under the Affordable Housing Declaration.

**Section 7.5 Owners’ Acknowledgment.** All Owners and Related Users are given notice that use of each Lot is limited by provisions of each of the Governing Documents, including the Affordable Housing Declaration. All Owners and Related Users acknowledge that the Governing Documents may be amended, expanded and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of their Lot affected by this provision and that all restrictions upon the use and occupancy of a Lot, may change from time to time.

**Section 7.6 Landscaping.** Initial landscaping may be installed by Declarant prior to sale of a Lot, but, if not installed by Declarant, then shall be installed by the Owner of the Lot within one year from the date of conveyance. Owners must obtain prior written approval of the Association before installing or changing landscaping improvements.

**Section 7.7 Disclaimers.** Declarant has disclosed that the Community is subject to construction of initial Residences. Owners acknowledge that initial construction, dust, construction noise, inconveniences and related issues, as well as the density of the greater community, may occur. These inconveniences include those from construction labor personnel, storage, port-a-potties, construction debris, parking of construction personnel, and more.

**Section 7.8 Restrictions on Fences and Similar Structures.** Fences or similar structures may not be constructed or maintained on a Lot without written approval as required under this Declaration.

**Section 7.9 Hot Tub Restrictions.** Hot tubs or similar facilities may not be constructed or maintained on a Lot.

**Section 7.10 Restriction on Signs, Advertising and Devices.** No sign, poster, billboard, advertising device, banners, balloons, streamers or display of any kind may be erected or maintained anywhere within the Community except as provided by express state or federal law, in this Declaration, and any Rules of the Association.

**Section 7.11 Pet Covenants and Restrictions.**

(a) Owners may keep pets which are common, bona fide household pets, so long as such pets are of the type, number, or combinations allowed by the city or applicable government authority, and by Rules adopted by the Association.

(b) Pets may not be bred or kept for any commercial purpose or kept in such number or in such manner as to be unreasonable or to create a nuisance to any resident.

(c) The Association may adopt reasonable Rules designed to minimize damage and disturbance to other Owners and occupants, including Rules requiring waste removal, leash controls noise controls and more.

(d) Nothing in this section of the Declaration prevents the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance, which includes excessive barking or pet noises, in the Executive Board's sole discretion.

(e) An Owner's right to keep household pets is coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages is subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

(f) Any Owner or occupant or guest who keeps or maintains any pet in a Residence or within the Community is deemed to have agreed to indemnify and hold the Association, its directors, Officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within a Residence or in the Community.

**Section 7.12 Restriction on Further Subdivision.** No Lot upon which a Residence has been constructed may be further subdivided or separated into smaller Lots by any Owner. No portion consisting of less than all of any Lot, or any easement or other interest in this Declaration, may be conveyed or transferred by an Owner, without conveyance of the Lot. This covenant does not prohibit deeds of correction, deeds to resolve boundary line disputes, and similar corrective instruments.

**Section 7.13 Vehicular Parking, Garages, Storage, RV's and Repairs.**

(a) Garages are primarily for parking of vehicles that the garage has been designed to include.

(b) Storage is not permitted in garages (to the extent the parking of the number of vehicles for which the garage is designated would be precluded).

(c) RV's, boats, trailers, ATV's and similar vehicles may not be parked on the Lot unless parked within the garage with the garage door closed. Provided, however, the Association may adopt a rule regulating parking of these types of vehicles on a temporary basis.

(d) The Rules of the Association may further govern the types of vehicles that

may be parked or stored within the Community.

**Section 7.14 Prohibitions on Increased Costs, Damage, Nuisance and Noise.** Without the prior written consent of the Board, nothing may be done or kept in a Residence, or any part of a Lot, that would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

**Section 7.15 Noxious and Other Activities.** Without the prior written consent of the Board, nothing will be done or kept on a Lot or the Community that would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive, offensive or unsanitary activities may not be carried on within the Community. No Owner or Resident may use or allow the use of the Lot or any portion of the Community at any time, in any way, that may endanger persons or property, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Residents, or constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Residents a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment.

Nothing in this section will be construed to affect the rights of an aggrieved Owner or Related User to proceed individually against a violator for relief from interference with his property or personal rights. The Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their rights before the Association intervenes and commences enforcement action. No aggrieved Owner or Resident will have a claim against the Association for failure to enforce the provisions of this section if the aggrieved Owner or Related User has not personally pursued all available remedies against the violator for redress provided under Colorado law.

**Section 7.16 Easements Protected.** No Owner or Related User may do any work which, in the Board's reasonable opinion, would impair any easement or other interest in a Lot, without prior written consent of the Board.

**Section 7.17 No Waste.** No damage to or waste of a Residence or the Area of Common Responsibility is permitted by any Owner or Related User. Each Owner and Related User indemnifies and holds the Association and the others harmless against all loss to the Association or others resulting from any such damage or waste caused by such Owner or Related Users.

**Section 7.18 Use of Common Areas.** To the extent there are Common Areas, there shall be no obstructions of the Common Areas allowed. Nor may anything be kept or stored on any part of the Common Areas without the prior written approval of the Board, or others with rights in those areas.

**Section 7.19 Failure to Maintain.**

If the Board determines that any Owner has failed or refused to discharge properly

their obligation with regard to the maintenance, repair, or replacement of items for which he or she is responsible under this Declaration, then, the Association will give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary work at the Owner's sole cost and expense. The notice will describe with reasonable particularity the work the Association deems necessary.

Unless the Association determines that an emergency exists, the Association will provide a reasonable cure period to the Owner. If the Association determines that: (a) an emergency exists or (b) the Owner has not complied with the Association's demand, the Association may perform the work, then assess the cost of that maintenance, repair, or replacement against the Owner's Lot, which cost will become the Owner's personal obligation, a lien against the Lot, and collected as provided in this Declaration and the Association's collection policy.

**Section 7.20 Rubbish, Trash, and Garbage.** All rubbish, trash, and garbage must be regularly removed from each Residence and is not allowed to accumulate in a Residence or on a Lot. No garbage or trash may be placed outside the Residence, temporarily or otherwise, except in trash cans located in any trash enclosure or designated area. Rubbish, trash, and garbage must be disposed of in appropriate sealed bags and either placed in the trash cans or proper receptacles designated by the Executive Board for collection, and only at times to allow for timely collection by a contractor, or must be removed from the Community.

**Section 7.21 No Unsightliness.** All unsightly conditions, structures, facilities, equipment, objects and conditions must be enclosed within an approved structure.

**Section 7.22 Antennas and Satellite Dishes.** Satellite dishes, antennae or other devices for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation will not be erected, used or maintained by Owners or Related Users except as allowed by federal law. However, the Association has the right to erect, construct and maintain these devices on the Common Areas.

**Section 7.23 Solar Panels or Similar Installations.** Solar panels or similar installations may be made with written approval of the Board of Directors or Committee (if established) as elsewhere provided in this Declaration and as allowed by local government.

**Section 7.24 Reasonable Rights to Develop.** No Rule by the Association or Board may unreasonably impede the Declarant's right to develop in accordance with the Plat, Town and this Declaration.

**Section 7.25 Individual Owner Rights of Enforcement.** Nothing in this Declaration may be construed to affect the rights of an aggrieved Owner to proceed individually against a violator of this Declaration for relief from interference with their property or personal rights. The Executive Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action. No claim for any loss, damage or otherwise exists by an aggrieved Owner or occupant against the Association for failure to enforce the provisions of this Declaration if the aggrieved Owner or occupant has not personally pursued all available remedies against the violator for redress provided under Colorado law and complied with dispute resolution procedures



of the Association.

**Section 7.26 Declarant's Exemption and Uses.** It is expressly permissible for the Declarant, its assigns, employees and agents, to perform such construction activities, and to maintain upon portions of the Community such facilities as deemed incidental by Declarant to the construction and sale of Lots and the development of the Community. This includes exemption from the covenants and restrictions in this Article and also, without limiting the generality of the foregoing, the maintenance of temporary business offices, construction trailers or offices, storage areas, trash bins, portable toilets, construction yards and equipment, any and all signs of any kind, flags, banners, model Residences, temporary sales offices, parking areas, lighting facilities and similar or dissimilar uses.

**Section 7.27 Maximum Sales Price and Other Restrictions on Transfer.** Maximum sales prices and other restrictions and procedures regarding the sale or transfer of Lots are subject to and governed by the Affordable Housing Declaration, as may be amended.

## **ARTICLE 8. Architectural Approval**

**Section 8.1 Approval of Improvements Required; Restrictions and Requirements.** The Architectural Review Committee ("Committee") shall consists of three or more persons appointed by the Board of Directors or by the Declarant during the Period of Declarant Control. Except for Declarant appointed committee members, the Board of Directors may determine terms of office, fill vacancies, and may remove committee members, with or without cause. If committee members are not appointed, the Board will serve as the ARC.

### **Section 8.2 Submissions of Plans.**

(a) Prior to commencement of work to accomplish any proposed Improvement to property, the person proposing to make that Improvement ("Applicant") shall submit to the Board or Committee all documentation required under this Declaration and under any adopted Design Guidelines. Provided, however, if the request is for an Eligible Capital Improvement as defined in Affordable Housing Declaration, WPHA approval shall also be required.

(b) The Board or Committee may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvement.

(c) Until receipt of all required materials in connection with the proposed Improvement, the Board or Committee may postpone review of any materials submitted for approval. If the Board or Committee requires submission of additional plans, specifications, or other information, the Board or Committee is to provide written notice to the Applicant.

### **Section 8.3 Criteria for Approval.**

(a) The Board or Committee shall exercise its reasonable judgment to determine whether the proposed improvements, construction, alterations or landscaping conform to and harmonize with the existing surroundings, residences, landscaping and structures.

(b) Actions taken by the Board or Committee on matters coming before it are to be in good faith and not arbitrary or capricious.

(c) The standards for approval include, but not be limited to:

(i) conformity and harmony of exterior appearances of structures with neighboring structures, including design compatibility and scale;

(ii) color and materials to be used;

(iii) effective location and impact on nearby Lots;

(iv) relation to the Community;

(v) preservation of aesthetic beauty and conformity with the specifications and purposes generally set out in this Declaration and in the Design Guidelines; and

(vi) any other matter deemed to be aesthetically relevant or appropriate.

**Section 8.4 Design Guidelines.** The Board or Committee may, from time to time, issue, revise, and reissue guidelines (the "Design Guidelines") to be applicable to all subsequent Improvements.

**Section 8.5 Design Standards and Procedures.** The Board or Committee may, from time to time, issue, revise, and reissue standards or rules ("Design Standards") relating to the procedures, materials to be submitted, and fees in connection with the approval of any proposed Improvement to Property.

**Section 8.6 Design Review Fee.** The Board or Committee may, in the Design Standards, provide for the payment or deposit of a fee to accompany each request for approval of any proposed Improvement.

**Section 8.7 Decision of Committee.** No Improvements may be made without the Board or Committee's approval. Approval is not given by lapse of any time frame. Approval is only given by affirmative action of the Board or Committee.

**Section 8.8 Prosecution of Work After Approval.** After approval of any proposed Improvement, the proposed Improvement shall be accomplished promptly and diligently and in complete conformity with the description of the proposed Improvement and any other materials submitted to the Board or Committee in connection with the proposed Improvement and with any conditions imposed by the Board or Committee. Approved modification or construction must be completed within 4 months after the date of commencement, unless a longer period is approved by the Board or Committee. If an approved modification or construction is not commenced within one year of approval, the approval granted shall automatically lapse.

**Section 8.9 Inspection of Work.** The Board or Committee or its duly authorized representative has the right to inspect any Improvement prior to or after completion.

**Section 8.10 Notice of Noncompliance.** If, as a result of inspections or otherwise, the Board or Committee determines that work has been done without obtaining approval of the Board or Committee, or was not performed in accordance with the terms of the approved application, or was not completed within the required time frame, the Board or Committee may notify the Owner in writing of the noncompliance specifying the particulars of the noncompliance.

**Section 8.11 Correction of Noncompliance.**

(a) The Owner or Applicant must remedy the noncompliance within 30 days after notification by the Board or Committee; provided, however, if a timely appeal to the Board was submitted by the Applicant, the noncompliance may be remedied within 45 days after denial of the appeal.

(b) If the Owner fails to cure the noncompliance within that period, the Board or the Board or Committee may, at its option, record a Notice of Noncompliance against the Lot(s) on which the noncompliance exists, may enter upon that Lot(s) and remove the non-complying Improvement, and/or may otherwise remedy the noncompliance and the Applicant shall reimburse the Association, upon demand, for all expenses incurred. If those expenses are not promptly repaid by the Applicant or Owner to the Association, the Board may levy an Individual Assessment against the Owner of the Lot for those costs and expenses. The right of the Association or the Board or Committee to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association and the Board or Committee may have at law, in equity, or under this Declaration. The Applicant and Owner of the Lot has no claim for damages or otherwise on account of the entry upon the property and removal of the non-complying Improvement to Property.

**Section 8.12 No Implied Waiver or Estoppel.** No action or failure to act by the Board or Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Board or Committee or the Board of Directors with respect to any Improvement. Specifically, the approval of the Board or Committee of any Improvement shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement.

**Section 8.13 Committee Power to Grant Variances.** The Board or Committee may authorize variances from compliance with any of the provisions of the requirements in this Article or the Design Guidelines, including restrictions upon height, size, floor area, or placement of structures or similar restrictions, when circumstances like topography, natural obstructions, hardship, or aesthetic or environmental conditions may require or allow. A variance by the Board or Committee does not remove any Owner's obligation to obtain approval from WPHA pursuant to the Affordable Housing Declaration.

**Section 8.14 Meetings of Committee.** The Board or Committee may meet from time to time as necessary to perform its duties. The Board or Committee may from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may but need not be one of its members) to take any action or perform any duties for or on behalf of the Board or Committee, except the granting of approval of any Improvement to Property,

determination of non-compliance, and granting of variances. The authorized action taken by the committee representative represented within that representatives authority constitutes action of the Board or Committee.

**Section 8.15 Non-Liability of Committee Action.** No liability may be imposed on the Board or Committee, any member of the Board or Committee, any Committee Representative, the Association, or any member of the Board of Directors, for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Board or Committee unless due to the willful misconduct of the party held liable. Owners requesting the Improvement are responsible for any safety concerns, structural or otherwise, that the Improvement may raise. Owners are also responsible for verifying the Improvement meets any and all building codes or other governmental laws or regulations. Members of the Board or Committee shall be indemnified by the Association to the same extent as the Board of Directors of the Association, as set forth in the Articles of Incorporation or Bylaws of the Association.

## **ARTICLE 9. Insurance**

**Section 9.1 Insurance on the Lots.** Each Owner will obtain property and liability insurance covering loss, damage or destruction by fire or other casualty to the Improvements, installed or made to their Lot, the other property of that Owner, and any injuries occurring to the persons while on a Lot. Property insurance shall be for replacement cost of market-value as set annually by WPHA. The Association will not be liable for the failure of any Owner to maintain insurance.

**Section 9.2 Association's Insurance.** The Association will obtain and maintain at all times, as a Common Expense, property insurance on the Common Areas, if any, and may obtain such further insurance on any Area of Common Responsibility. The Association will obtain and maintain in full force and effect, to the extent reasonably available and at all times, the following insurance coverage:

(a) **Association Comprehensive/General Liability Insurance.** The Association may obtain comprehensive/general liability insurance for the Common Areas, if any, and any other property the Association maintains, in amounts the Board determines from time to time. Coverage may include, without limitation, liability for personal injuries and operation of automobiles on behalf of the Association.

(b) **Association Fidelity Insurance.** The Association may obtain fidelity coverage to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees and others who are responsible for handling the funds of the Association. The fidelity coverage should be in at least an amount equal to the aggregate of two months' assessments plus reserves, based on the current budget, to the extent reasonably available.

(c) Directors' and Officers' Personal Liability Insurance. The Association may obtain directors' and officers' personal liability insurance to protect the officers, directors, Committee members and any other individuals acting at the Board's direction from personal liability in relation to their duties and responsibilities in acting on the Association's behalf.

(d) Other Insurance. The Association may obtain other insurance against other risks of similar or dissimilar nature as it deems appropriate with respect to its responsibilities and duties.

**Section 9.3 Miscellaneous Terms Governing Insurance Carried by the Association.**

To the extent reasonably available, the Association will include in its insurance policies the following terms or provisions.

(a) All insurance policies will provide that each Owner is an insured under the policy with respect to liability arising out of the Owner's membership in the Association.

(b) All insurance policies will contain waivers of subrogation against any Owner or member of the Owner's household.

(c) All insurance policies will contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and will provide that policies may not be canceled or modified without at least 30 days prior written notice to all of the Owners, holders of first lien security interests and the Association, except in instances of nonpayment of premiums, which will require at least ten days' prior written notice.

(d) If requested, duplicate originals of all policies and renewals, together with proof of payments of premiums, will be delivered to all holders of first lien security interests at least ten days prior to the expiration of the policies.

(e) All liability insurance will cover the Association, the directors and officers, the manager or managing agent, if any, holders of first lien security interests, their successors and assigns, and Owners, with respect to Owner's liability arising out of Association membership.

(f) All Association insurance policies will be primary, if there is other insurance in an Owner's name covering the same risk.

**Section 9.4 Insurance Premium.** Insurance premiums will be a Common Expense included as a part of the Association's annual assessments and are not subject to the statutory maximum for assessments.

**Section 9.5 Insurance Review.** The Board may review the insurance carried by the Association periodically, to determine the amount of insurance required and the service capabilities of the current carrier.

**Section 9.6 Claims and Adjustments by the Association.** Any loss covered by an Association insurance policy will be adjusted by the Association. The insurance proceeds for a loss will be payable to the Association and not to any holder of a first lien security interest. The

Association will hold any insurance proceeds for the repair or restoration of the damaged property. The Association is not entitled to use insurance proceeds for other purposes unless there is a surplus after the damaged property has been completely repaired or restored.

**Section 9.7 Duty to Repair.** The Association must repair or replace promptly any portion of the Community for which it has a duty to maintain that is damaged or destroyed, unless Owners entitled to cast 67% of the total Association vote agree not to rebuild or as otherwise stated in the Affordable Housing Declaration.

**Section 9.8 Condemnation and Property Insurance Allocations and Distributions.** In the event condemnation proceeds or property insurance proceeds are distributed to the Owners, the distribution will be as the parties with interests and rights are determined or allocated by record and in accordance with the Affordable Housing Declaration..

**Section 9.9 Responsibility for Payment of Deductible Amount.** Whether the Board, in its discretion, submits a claim under the Association's insurance policies or not, the Association will pay or absorb the deductible amount for any work, repairs or reconstruction for damage to property that is the Association's maintenance responsibility unless the damage is caused by the negligent or willful act or omission of an Owner, the Owner's family, guests, or invitees, in which case the Association will seek reimbursement of the deductible amount as a default assessment in compliance with and under the terms of the Declaration.

**Section 9.10 Damage to or Destruction of Residences on Lots.** In the event of damage to or destruction of structures on a Lot, the Owner will promptly repair or reconstruct the damaged structure in a manner consistent with the original construction or plans approved in accordance with this Declaration and the Affordable Housing Declaration. If the structure is substantially destroyed and the Owner determines not to rebuild or reconstruct pursuant to the Affordable Housing Declaration, the Owner will promptly clear the Lot of all debris and continue to maintain the Lot in a neat and attractive condition consistent with this Declaration.

## **ARTICLE 10. Alternative Dispute Resolution – Excluded Claims**

**Section 10.1 Purpose/Scope of Alternative Dispute Resolution.** One of the purposes of this Declaration is to establish a harmonious Community including the prompt, efficient, fair and non-belligerent resolution of any construction or design dispute. Accordingly, any construction, design controversy or other claim against the Declarant or its affiliates or agents or employees of its affiliates (an Excluded Claim) arising out of or relating to the Residences, Common Areas or related to the Community must be resolved as set forth in this Article.

**Section 10.2 Direct Communication.** The parties to the disagreement over an Excluded Claim must set forth their respective positions in any dispute in correspondence. Each party must respond within 21 days after receipt of a letter from the other until agreement is reached. If an agreement is not reached, the next section of this Declaration applies.

**Section 10.3 Mediation.** If an Excluded Claim cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. The parties must participate in the mediation in good faith until the dispute

is resolved for a period not to exceed 90 days with the consent of all parties. The cost of the mediation must be divided equally among the parties. If a mediation does not resolve the Excluded Claim, the next sections of this Declaration apply.

#### **Section 10.4 Pre-Conditions to Arbitrations by the Association or Any Owner.**

(a) The conditions and provisions of any city ordinance limiting or setting forth procedures for claims against either Declarant must first be completed with of the Association of Owner and must continue to be complied with the Association or Owner.

(b) The Association or any Owner may proceed with communication and mediation, as allowed for under this Article, without a vote of Owners holding at least 90% of the votes as long as the Association or any Owner is in compliance with the provisions of this Declaration.

(c) On an Excluded Claim, the Association, if the Association complies with the terms of this Article, has the power to commence and maintain an arbitration, as may be deemed appropriate by the Executive Board only if approved by Owners holding at least 90% of the votes in the Association.

(i) In making its recommendation to the Owners to bring an arbitration on an Excluded Claim, the Executive Board is to exercise its reasonable judgment. The Executive Board must consider, without limitation, the likelihood of success, the impact such action may have upon the market values of Lots or other portions of the Community, the cost of pursuing the arbitration including attorneys' fees and expert fees, the resources of the Association and whether a special assessment or depletion of reserves will be required in connection with pursuit of those claims or as a result after those claims have been pursued.

(ii) The Executive Board must prepare a written analysis of the risks and benefits to the Owners of commencing and maintaining an arbitration on an Excluded Claim.

(iii) The Executive Board must deliver a copy of that written analysis to each of the Owners at least 7 days prior to the date scheduled for the meeting of Owners or prior to any vote on proceeding with arbitration on an Excluded Claim.

(iv) The Association may not bring an arbitration or any other legal action on an Excluded Claim even with amendment of this Declaration, without compliance with the terms of this Article (un-amended).

(v) The Association may not commence or maintain an arbitration on any Excluded Claim unless the commencement and maintenance has first been recommended by the Executive Board and, is also approved by Owners holding at least 90% of the votes in the Association.

#### **Section 10.5 Arbitration Process and Procedures.**

(a) If the Excluded Claim cannot be resolved through mediation, such dispute must be decided by mandatory and binding arbitration in accordance with the rules of the American Arbitration Association (“AAA”) currently in effect.

(b) If the mandatory and binding arbitration of this Declaration is determined to be unenforceable by any court of competent jurisdiction, then, in those events, all Excluded Claims must still be decided by mandatory and binding arbitration in accordance with the rules of the AAA currently in effect.

(c) The following procedures apply to arbitration:

(i) Demand for arbitration must be filed in writing with the other party and with the AAA.

(ii) A demand for arbitration must be made within 30 days after the dispute in question has arisen and failed to be resolved by mediation.

(iii) In no event may the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

(iv) No arbitration arising out of or relating to this Declaration may include, by consolidation, joinder or any other manner, an additional person or entity not subject to the Declaration, except that the Declarant, at its sole election and in its sole discretion, may by consolidation, joinder or any other manner, include contractors, subcontractors or other parties involved in the construction and/or planning of the Community.

(v) The arbitrator to hear the Excluded Claim may be jointly selected by the parties. If the parties cannot agree within 30 days, the parties shall select the arbitrator they desire. Then, those arbitrators shall, amongst them, select the arbitrator to hear the Excluded Claim.

(d) The provision of this Article to arbitrate, or the Declarant’s election to arbitrate, or the Declarant’s determination to include any additional person or entity not subject to this Declaration in an arbitration are specifically enforceable in accordance with applicable law with any court having jurisdiction.

(e) The award rendered by the arbitrator or arbitrators is final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

(f) All filing fees and AAA costs associated with the arbitration itself must be paid for by the party who files the notice of arbitration.

**Section 10.6 Sole Remedy; Waiver of Judicial Rights.** Subject to the Declarant’s election rights set forth in this Declaration, and the remedies available for Excluded Claims, the Declarant, the Association, and each Owner expressly consent to the substance and procedures established in this Article as their sole and exclusive remedy. Each of these parties also expressly



waive any right they may have to seek resolution of any Excluded Claim contemplated by this Article in any court. Each of these parties also waive any right to trial by a jury. If a dispute involves the Declarant, an Owner or the Association, no person may file a memorandum of *lis pendens* or similar instrument that would encumber or create a lien upon Lots or the land owned by the Declarant, an Owner or the Association.

**Section 10.7 Binding Nature; Applicable Law.** The consideration of the parties to be bound by the provisions of this Article of this Declaration is not only the waiver of access to determination by a court (as applicable) and by a jury, but also the waiver of any rights to appeal the arbitration finding other than for the reasons available under Colorado law. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction.

**Section 10.8 Location.** All alternative dispute resolution proceedings under this Article must be held in Grand County in the State of Colorado, unless otherwise mutually agreed by the parties.

**Section 10.9 Payment of Expenses under This Article.** Beyond filing fees and AAA costs associated with the arbitration (those costs being the obligation of the party who files the notice of arbitration) and except as otherwise provided in this Declaration, each party is responsible for their own costs, expenses, experts and attorney fees in the mediation and arbitration.

**Section 10.10 Amendment of This Article.** The provisions of this Article may only be amended with the consent of the Declarant until December 31, 2045. This reservation is a reserved Development Right of the Declarant under this Declaration.

## **ARTICLE 11.           Amendment And Termination**

**Section 11.1 Amendment of Declaration by Owners.** Subject to provisions elsewhere contained in this Declaration and/or Affordable Housing Declaration requiring the consent of others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be changed or repealed, and any such provision added to this Declaration at any time and from time to time upon approval of the Executive Board and at least 67% of the votes in the Association.

**Section 11.2 Technical, Clerical, Typographical or Clarification Amendment.** If the Declarant determines that any amendments to this Declaration or to the Plat are necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section, the Declarant has the right and power to make and execute any such amendment without obtaining the approval of any Owners. Each such amendment of this Declaration must be made, if at all, by the Declarant prior to December 31, 2045.

**Section 11.3 Amendment Required by Mortgage Agencies.** Prior to December 31, 2045, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which the FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to insure, guarantee, make or purchase Mortgage loans requires to be amended or repealed may be

amended or repealed by the Declarant. After that date, those types of amendments maybe made by the Board of Directors or the Association. Any such amendment or repeal will be effective upon the recordation in the office of the Clerk and Recorder of Grand County, State of Colorado, of a certificate, setting forth the amendment or repeal in full.

**Section 11.4 Recording of Amendments.** To be effective, all amendments to or termination of this Declaration must be recorded in the office of the Clerk and Recorder of Grand County, Colorado, and must contain evidence or a recital of approval. One method of satisfying the requirements of this Section is the recordation of a certificate of the Secretary of the Association, certifying that Owners representing the requisite percentage of the Lots have given their notarized written consent to the amendment. The Secretary must further certify that originals of such written consent by Owners along with the recorded amendment are in the corporate records of the Association and available for inspection. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than 1 year after the amendment is recorded.

**Section 11.5 Approval Required for Certain Amendments.**

(a) Allocated Interests. No amendment may change the formulas for determining Allocated Interests as set forth in this Declaration in the absence of the approval of the Owners holding at least 90% of the votes in the Association.

(b) Affordable Housing Restrictive Covenants. No amendment to this Declaration may change or contradict the Affordable Housing Declaration or any restrictive covenants contained therein. The Affordable Housing Declaration and covenants may only be amended pursuant to the terms of the Affordable Housing Declaration.

(c) Declarant Reserved Rights. Any proposed amendment or repeal of any provision of this Declaration reserving rights of the Declarant, or for the benefit of the Declarant, or its assignees, is not effective unless the Declarant, and its assignees, if any, have given written consent to such amendment or repeal. That consent may be evidenced by the execution by the Declarant or its assignees of any certificate of amendment or repeal. The foregoing requirement for consent to any amendment or repeal terminates on December 31, 2045.

Rights of Declarant, as provided for in this Section, are not to be construed as development rights or special declarant rights but as rights based on common law.

**Section 11.6 Association Certification.** Amendments to the Declaration required by this Article to be recorded by the Association are to be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. In the event of an amendment to the Declaration by the Owners, the Association may record the amendment with a certificate from the Association executed by any officer designated for that purpose, or, in the absence of the designation, by the president, which the requisite number of Owners, have consented to the amendment.

**Section 11.7 Expenses.** All expenses associated with preparing and recording an amendment to the Declaration are the sole responsibility of the Association as a Common Expense or by the applicable Owner.

**Section 11.8 Termination.** The Community may be terminated upon an affirmative vote of the Owners holding 90% of the Allocated Interests and consent of the Declarant, WPHA and Town.

## **ARTICLE 12. General Provisions**

**Section 12.1 Enforcement.** The Association or an Owner or Owners of any of the Lots may enforce the this Declaration by proceedings at law or in equity against any person or persons, either to recover damages for such violation, including reasonable attorneys' fees incurred in enforcing the covenants or restrictions, or to restrain such violation or attempted violation. Failure of the Association or of any Owner to enforce any covenant or restriction in this Declaration is not and shall in no event be deemed a waiver of the right to do so subsequently. Disputes which do not involve payment of sums and charges due to the Association, upon approval of both the Owner(s) and the Executive Board, may be submitted to binding arbitration. Without limiting the foregoing, the Association may enforce all applicable provisions of the Governing Documents and may impose sanctions for their violation, which includes, without limitation:

- (a) imposing reasonable monetary fines, after notice and opportunity for a hearing, which will be a lien upon the violator's Lot;
- (b) suspending voting rights;
- (c) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;
- (d) exercising self-help or action to abate any violation of the Governing Documents in a non-emergency situation, subject to any requirements set forth in this Declaration, including those related to maintenance, repair or replacement, provided that the Association does not have the authority to enter the Residence;
- (e) requiring an Owner, at the Owner's expense, to cease any construction of any modification that has not been approved, or to remove any structure or improvement in the Lot or the Common Areas in violation of the Governing Documents and to restore the Lot or Common Areas to its previous condition and, upon the Owner's failure to do so, the Association has the right to enter the Lot or Common Areas, remove the violation and restore the Lot or Common Areas to substantially the same condition as previously existed and any action is not deemed a trespass;
- (f) recording in the real property records a notice of violation identifying any uncured violation of the Governing Documents; and
- (g) other remedies provided for in this Declaration or by applicable law.

**Section 12.2 Security.** The Association may, but will not be required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community; however, each Owner, for himself or herself and his or her family members, tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and the Association will not have a duty to provide security in the Community. Furthermore, the Association does not guaranty that non-residents will not gain access to the Community and commit criminal acts in the Community nor does the Association guarantee that criminal acts in the Community will not be committed by other Owners or Residents. It will be each Owner's and Resident's responsibility to protect his or her person and property and all responsibility to provide such security will lie solely with each Owner. The Association will not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken

**Section 12.3 Right to Pay Taxes and Insurance Premiums.** Any institutional First Mortgagee or other holder of a First Mortgage is entitled to pay any taxes or other charges which are in default and which may or have become a lien against a Lot.

**Section 12.4 Severability.** Each of the provisions of this Declaration is deemed independent and severable. If any provision of this Declaration or the application of this Declaration to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

**Section 12.5 Term of Declaration.** The provisions of this Declaration (and all covenants) run with and bind the Real Estate in perpetuity, unless amended or terminated as allowed for in this Declaration.

**Section 12.6 Interpretation.** The provisions of this Declaration are to be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration is to be construed and governed under the laws of the State of Colorado.

**Section 12.7 Singular Includes the Plural.** Unless the context otherwise requires, the singular includes the plural, and the plural includes the singular, and each gender referral is deemed to include the masculine, feminine and neuter.

**Section 12.8 Captions.** All captions and titles used in this Declaration are intended and use solely for convenience of reference and ease of use of this Declaration. Captions and titles used in this Declaration do not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article of this Declaration.

## **ARTICLE 13.           Development Rights of Declarant**

**Section 13.1 Development Rights and Special Declarant Rights.** The Declarant reserves, through December 31, 2045 after the recording of this Declaration, the following Development Rights and Special Declarant Rights:

(a) the right to withdrawal all of any part of the real property described in *Exhibit A*; provided no part of the Lot or Residence constructed have been conveyed by Declarant to an Owner. Otherwise, all Lots are subject to Declarant's withdrawal rights;

(b) the right to annex any withdrawn real estate or real estate adjacent to the Community, in the vicinity of the Community or across a public or private street from the Community or within the Town in which the Real Estate is located (provided the Owner consents). See also *Exhibit E*.

(c) the right to re-designate, change, modify or amend any improvement or Lot;

(d) the right to change the allocated interests initially set forth in *Exhibit C* if Lots are withdrawn or added;

(e) the right to subject the Real Estate and the Community to a master declaration or to merge the Community with another adjacent community with such terms, conditions, reservations and restrictions as Declarant determines;

(f) the right to relocate boundaries between adjoining Lots owned by the Declarant, enlarge Lots, reduce or enlarge the areas that may become Common Areas (as those areas are set forth in *Exhibits A, D, E, and F*, reduce the size of Lots, subdivide Lots owned by Declarant or complete or make improvements, as the same may be indicated on Plats filed of record;

(g) the right to modify or alter the fences and the location of the fenced areas, if any;

(h) the right to add property adjacent to the Real Estate, with the consent of that Owner of that Real Estate and additional unspecified Real Estate according to the provisions of this Declaration subject to the limitations set forth in this Declaration;

(i) the right to exercise any additional reserved right created by any other provision of this Declaration;

(j) the right to amend the use restrictions included in this Declaration, together with the right to add new use restrictions;

(k) the right to amend the Declaration in connection with the exercise of any Development Right;

(l) the right to make amendments to this Declaration or the other Governing Documents to meet or comply with any requirements of any lender to an Owner, WPHA or the Town;

(m) the right to amend the Plats in connection with the exercise of any Development Right;

(n) the right to make amendments to the Declaration, Bylaws or Articles of Incorporation to meet or comply with any requirement of FHA or VA; and

(o) the right to use and to permit others to use, easements through the areas that may become Common Areas (as set forth in *Exhibits D and E*) and also the Common Areas, once and if deeded to the Association, as may be reasonably necessary;

The rights reserved to Declarant, for itself, its successors and assigns, shall expire as set forth above, unless (i) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board may impose on the subsequent exercise of the expansion rights by Declarant, (ii) extended as allowed by law, or (iii) terminated by written instrument executed by the Declarant, recorded in the real property records of Grand County. The development rights may be exercised with respect to different parcels at different times, in no particular order. If the Declarant exercises a development right in any portion of the Real Estate subject to such development right, the Declarant shall not be obligated to exercise the development right over the remainder of that Real Estate.

**Section 13.2 Additional Reserved Rights.** In addition to the rights set forth above, Declarant also reserves the following additional rights:

(a) Sales and Offices. The right to maintain mobile and other sales offices, parking lots, management offices and models on Lots of the Declarant.

(b) Signs. The right to maintain signs and advertising at the Community and to advertise the Community or other communities developed or managed by or affiliated with Declarant.

(c) Construction Easement. Declarant and its assignees expressly reserve to itself the right to perform warranty work, and repairs and construction work, and to store materials in secure areas, in Lots and in Common Areas, and the future right to control such work and repairs and the right of access thereto, until completion. All work may be performed without the consent or approval of any Owner or holder of a security interest. Declarant and its assignees have such an easement through the Common Areas as may be reasonably necessary for exercising reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Real Estate.

(d) Use Agreements. The rights to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance and regulation of parking and/or recreational facilities and/or Common Areas, which may or may not be a part of the Community.

(e) Access Easement. Declarant and its successors and assigns shall have an access easement to and from any real property accessible through the Community.

(f) Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration.

The additional reserved rights shall expire or terminate in the same manner as the Development Rights and Special Declarant Rights set forth in Section 13.1.

**Section 13.3 Rights Transferrable/Rights Transferred.** Any rights, or portion thereof, created or reserved under this Article for the benefit of Declarant may be transferred to any person, including, but not limited to a third party builder or developer, by an instrument describing the rights transferred recorded in the real property records of the Grand County. Such instrument shall be executed by the transferor Declarant and the transferee without the consent of the Association, any Owners or any holders of a security interest in a Lot. Any rights created or reserved under this Article for the benefit of Declarant may also be transferred to the Association by an instrument describing the rights transferred recorded in the real property records of the Grand County. Such instrument shall be executed by the transferor Declarant and the Association as transferee with the consent of the Owner(s) or any holders of a security interests in the Lots.

**Section 13.4 No Further Authorizations Needed.** Except as set forth in this Declaration, the consent of Owners or holders of security interests shall not be required for exercise of any reserved rights, and Declarant or its assignees may proceed without limitation at its sole option. Declarant or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Community beyond the number of Lots initially submitted.

**Section 13.5 Interpretation.** Recording of amendments to the Declaration and the plat or plats pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically: (a) vest in each existing Owner the reallocated Allocated Interests appurtenant to their Lot; and (b) vest in each existing security interest a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Community as expanded and to any additional Improvements, and the same shall be added to and become a part of the Community for all purposes. All conveyances of Lots after such amendment is recorded shall be effective to transfer rights in all Common Areas, whether or not reference is made to any Amendment of the Declaration or Plat. Reference to the Declaration and Plat in any instrument shall be deemed to include all Amendments to the Declaration, and the Plat without specific reference thereto.

**Section 13.6 Construction.** Subsequent to the initial Real Estate and improvements made subject to this Declaration, any additional buildings, structures and types of improvements to be placed on the Real Estate or any part may be of such quality and type as the persons developing the same may determine, and those improvements need not be of the same quality or type as the Improvements previously constructed on the Real Estate, nor of the same size, style or configuration. The improvements may be located anywhere in the Common Areas of the Community, the same being reserved for future development, or on the additional Real Estate as may be added or as shown on the Plat.

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

Witness my hand and official seal. My commission expires: \_\_\_\_\_.

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**Exhibit A - Description of the Real Estate**

Lots 1-20, inclusive  
Hideaway Junction Subdivision Filing No. 2  
Town of Winter Park, County of Grand, State of Colorado

As shown on Final Plat recorded September 26, 2022 at Reception No. 2022008233

**Exhibit B - Exceptions to Title**

**Exhibit C – Allocated Interests**

<b>Lot Number</b>	<b>Common Expense Liability</b>	<b>Votes</b>
1	1/20 or 5%	1
2	1/20 or 5%	1
3	1/20 or 5%	1
4	1/20 or 5%	1
5	1/20 or 5%	1
6	1/20 or 5%	1
7	1/20 or 5%	1
8	1/20 or 5%	1
9	1/20 or 5%	1
10	1/20 or 5%	1
11	1/20 or 5%	1
12	1/20 or 5%	1
13	1/20 or 5%	1
14	1/20 or 5%	1
15	1/20 or 5%	1
16	1/20 or 5%	1
17	1/20 or 5%	1
18	1/20 or 5%	1
19	1/20 or 5%	1
20	1/20 or 5%	1
<b>Total</b>	<b>100%</b>	<b>20</b>

**Exhibit D - Common Areas**

None.

**Exhibit E – Additional or Annexable Property**

Any real estate adjacent to the Community, in the vicinity of the Community or across a public or private street from the Community or within the City in which the Real Estate is located - provided the owner of that property consents to the annexation.

**Exhibit F - Limited Common Areas**

None.

**Lender Consent**

This Lender Consent is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ as a "Lender" with a loan secured by a deed of trust on the property described in the Declaration. Lender is the beneficiary under a deed of trust and other loan documents, which deed of trust is recorded or will be recorded in the real property records of Grand County, State of Colorado (the "Deed of Trust"). For good and valuable consideration, the receipt and sufficiency of which is acknowledged, Lender consents to the Declaration.

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

Notary Name Printed:  
\_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## **HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC. DESIGN GUIDELINES**

1. Introduction and Purpose. These Design Guidelines (“Guidelines”) are intended to assist Owners and their representatives with respect to making improvements or alterations to their property (as provided for in Article 8 – Architectural Approvals of the Declaration) and to establish architectural, construction, structural and aesthetic criteria, rules, and guidelines pertaining to the Community.

The Board of Directors (“Board”) of the Hideaway Junction Homeowners Association Phase II, Inc. (“Association”) has adopted these Guidelines to establish and preserve the planning and design concepts for the Community, to enhance property values, and to promote respectful quality of life within the Community. The Board (and/or Architectural Review Committee) reserves the right to add, modify or amend these Guidelines from time to time in its reasonable discretion.

2. Applicability/Approval Required. Unless otherwise provided herein, plans and specifications for any proposed improvement, modification, or alteration to any Lot or Residence must be submitted to the Board or the Architectural Review Committee that has been established, if any, for prior written approval. No improvements, modifications or other work which in any way alters the exterior appearance of any Lot or Residence shall be made, installed or constructed without the prior approval of the Association. Any change or deviation from approved plans either during or after completion of approved work must have the prior approval of the Association.

In addition to the Association’s approval, the Owner is required to obtain any require approval by the Winter Park Housing Authority for Eligible Capital Improvements as further set forth in the Affordable Housing Declaration.

3. Definitions. Any capitalized term used but not otherwise defined herein shall have the meaning given in the Declaration.

4. Procedures for Design Review Approval and Construction Process.

(a) *Application; Submittal of Plans and Specifications.*

(i) All applications for design approval must be made by submitting a completed Design Review Application and must include the property address and the name, mailing address and email address of the Owner. A copy of the Design Review Application is attached to these Guidelines as ATTACHMENT A. No work may commence until the Owner has obtained written approval. The Design Review Application must include the items and documentation specified therein, which may include such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specification and samples of materials and colors, and other information as the Association may reasonably request showing the nature, kind, shape, height, width, colors, materials and location of the proposed improvements, modifications or alterations. In most instances, a simple drawing with dimensions or photo and a description and/or identification of the materials to be used for any exterior modifications is sufficient.

(ii) Submittals must include the estimated timing of all construction or improvements, including projected commencement and completion dates. To the extent possible, proposed plans must identify the location of all construction staging areas, parking requirements, designated parking areas for construction vehicles/equipment, and the location of any trash dumpsters and temporary toilets to be used in conjunction with the construction or improvement project.

(iii) The Association will review applications only after determining that it has all



information necessary. Applications will be initially reviewed by the Association's manager or management company for completeness. If additional information is required, a request will be sent to the Owner/Applicant.

(b) *Action by the Board or Committee.* In reviewing applications, the Board or Committee may consider:

- (i) conformity and harmony of exterior appearances of structures with neighboring structures, including design compatibility and scale;
- (ii) color and materials to be used;
- (iii) effective location and impact on nearby Lots;
- (iv) relation to the Community;
- (v) preservation of aesthetic beauty and conformity with the specifications and purposes generally set out in this Declaration and in the Design Guidelines;
- (vi) any other matter deemed to be aesthetically relevant or appropriate; and
- (vii) whether any other necessary approvals from WPHA, Town or Declarant have been obtained.

(c) *Prosecution of Work.* Upon receipt of approval from the Association and any other required approvals from WPHA, Town or Declarant, the approved Improvement shall be accomplished promptly and diligently and in complete conformity with the description of the proposed Improvement and any other materials submitted to the Board or Committee in connection with the proposed Improvement and with any conditions imposed by the Board or Committee. Approved modification or construction must be completed within 4 months after the date of commencement, unless a longer period is approved by the Board or Committee.

## 5. Specific Improvements.

- (a) *Satellite Dishes, etc.* An Owner may install a satellite dish ("Dish") of less than one (1) meter in diameter, or a replacement thereof, intended to receive broadcast television satellite service, as well as other types of antenna providing broadcast television satellite service ("Antennae"). The installation of a Dish or Antennae must be on Lot owned by an Owner. An Owner intending to install a Dish or antennae shall provide the Association with notice of the pending installation. Any Dish or Antenna that does not meet these specifications shall require prior written approval.
- (b) *Spas and Hot Tubs.* Spas, hot tubs, and pools are not permitted.
- (c) *Fencing and Similar Structures.* Fences and similar structures, other than those originally constructed, are generally discouraged. Prior written approval will be required for any such structures.
- (d) *Signs.* The regulation of signs is subject to C.R.S. 38-33.3-106.5. An Owner may place up to one non-commercial sign up to 36" x 48" in size within the boundaries of their Lot. The sign must be maintained in good condition. If the sign is placed in the yard areas, the sign may not be affixed to any fence or other similar improvement. One professionally-lettered security sign not to exceed two square feet in size may be displayed on the property, and a reasonable number of professional security decals not larger than eight inches by eight inches may be displayed within windows in a Residence. Commercial signs, which include For Sale/For Rent/Open House signs, require prior written approval.
- (e) *Flags.* The regulation of flags is subject to C.R.S. 38-33.3-106.5. An Owner may display one

non-commercial flag within a window of the Residence, from an adjoining patio or porch, or in the front or back yards of the Residence. Any staff or pole may not exceed 6' in length and flags shall be no larger than 3' x 5' without prior written approval.

(f) *Solar Panels*. The regulation of solar panels and other energy efficiency devices are subject to C.R.S. 38-33.3-106.7. Solar panels and other energy efficiency devices require prior written approval.

(g) *Landscaping*. Changes from the initial landscaping design requires prior written approval.

6. Variance Requests. Any deviation from these Guidelines, processes, procedures, or Guidelines requested by an Applicant requires an approved variance. The Applicant must send and/or deliver a written variance request, along with any supporting documentation, photographs, alternative design plans, etc. to the Board or Committee.

7. Enforcement/Failure to Submit. If an Owner fails to submit an application and/or obtain approval prior to starting work, the Association may take all action afforded by law and in equity, and exercise any remedies consistent with the Declaration, the policies of the Association regarding covenant enforcement, and/or other action permitted by law, including, without limitation, requiring the Owner to stop work and/or restore the property to its original condition.

**ATTACHMENT A**  
**Hideaway Junction Homeowners Association Phase II, Inc.**  
**Design Review Application**

PLEASE PRINT

Owner Name: \_\_\_\_\_ Date: \_\_\_\_\_

Property Address: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Installation and construction of approved alterations, modifications and improvements must conform in all respects with the applicable provisions in the Declaration and Design Guidelines, and any other requirements as set forth by the Board or Committee. Owners are also responsible for ensuring compliance with any requirements or conditions of approval by WPHA, the Town and/or Declarant.

Please submit the following as applicable:

- a. Plans and specifications which reasonably detail the proposed alterations, modifications and improvements including information on proposed materials and colors for the improvements and modifications, showing the nature, kind, shape, height, width, colors, materials and location of the proposed improvements, modifications, or alterations.
- b. To the extent applicable, identify the location of all construction staging areas, designated parking areas for construction vehicles/equipment, and the location of any trash dumpsters to be used in conjunction with the construction.
- c. Estimated time to complete construction including projected commencement and completion dates.
- d. Such other information as the Board or Committee may reasonably request to inform their decision about the Application.

Should the Board or Committee require additional information, approval will be deferred until additional information is received. The Board or Committee, as applicable, will review your Application and advise you of additional information required. By submitting this Application you acknowledge that you may be required to reimburse the Association for the Association's retention of a consultant, such as an engineer or architect, if the application is such that it requires, in the Board's discretion, a consultant for the Association. The Association will address this with you before retention of the consultant.

Once approved, construction must be completed within the approved timeframe and must be done in a way that does not unreasonably interfere with neighboring properties. Applicant is responsible for the removal, in a timely manner, of any debris resulting from construction. Construction must meet all zoning, building codes, and laws of the Town. Nothing herein contained shall be construed as a waiver or modification of any such code or law. Where applicable, utility easements and property setbacks are to be marked before excavation is to be started. Misrepresentation of any items in this request, either oral or written, may void any approval of this Application. Any changes from approved design require management approval.

Owner signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Indexing note:

- Grantee's index under "Hideaway Junction Homeowners Association Phase II" and "Hideaway Junction Phase II" (the names of the Community) and "Hideaway Junction Homeowners Association Phase II, Inc." (the name of the Association)
- Grantor's index under "Winter Park Housing Authority" and the names of each person executing this document

# ***NOTICE***

## **Regarding Hideaway Junction Phase II, a planned community ("Community")**

**Subjects:** Disclosure of documents and other information of Hideaway Junction Phase II.

**Purpose:** 1) To provide notice of and disclose certain documents and information of the Community; and

2) Through this notice, to promote the recreation, health, safety and welfare of the Owners and occupants of the properties subject to the Declaration.

**Authority:** The recorded Declaration for Hideaway Junction Phase II, a planned community, as recorded in the records of the Clerk and Recorder of the County of Grand, Colorado (the "Declaration"), and Colorado law.

**Properties Affected:** All Lots and properties within the County of Grand, State of Colorado, as made subject to the Declaration.

**Effective Date:** \_\_\_\_\_, 20\_\_.

**Notice:** Exemption from CCIOA.

The Community is a limited expense community under C.R.S. 38-33.3-116 and subject only to C.R.S. 38-33.3-105 through C.R.S. 38-33.3-107 of the Colorado Common Interest Ownership Act.

### Disclosure of Documents and Other Information.

The Association discloses the following:

1. The name of the entity to govern and operate Community is Hideaway Junction Homeowners Association Phase II, Inc. ("Association").
2. The name of the community is Hideaway Junction Phase II.
3. The date on which fiscal year commences is January 1.
4. The following information may be obtained by contacting the Association's principal office and/or registered agent and office

of the Association, as maintained by the Association at the office of the Colorado Secretary of State:

- a. The name of Association's designated agent or management company, if any
- b. The physical address and telephone number for both the Association and the designated agent, management company, or bookkeeper, if any
- c. The initial recording date of Declaration and other or related recording information
- d. The current operating budget
- e. A list of Association insurance policies
- f. The Declaration
- g. The Bylaws
- h. The Articles of Incorporation
- i. Rules, Regulations and Governance Policies governing the owners and the Community, if any
- j. Minutes of Board and Member meetings.

Association's Agent.

The Association's agent for management of the properties subject to the Declaration, if engaged, may be contacted at the Community or through the principal office and/or registered agent and office of the Association. The principal office and/or registered agent and office are to be maintained by the Association at the office of the Colorado Secretary of State.

Supplemental to Law.

The provisions of this Notice are in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Community.

[SIGNATURES ON SUBSEQUENT PAGE]

**President's  
Certification:**

The undersigned President of Hideaway Junction Homeowners Association Phase II, Inc., certifies that the foregoing Notice was approved and adopted by the Board of Directors of the Association at a duly called and held meeting.

Hideaway Junction Homeowners Association Phase II, Inc., a Colorado nonprofit corporation

By: \_\_\_\_\_  
\_\_\_\_\_, President

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**Declarant's  
Certification:**

The undersigned Declarant certifies that the foregoing Notice was approved and adopted.

Winter Park Housing Authority, a Colorado housing authority

By: \_\_\_\_\_  
Nick Kutrumbos, Chair

ATTEST:

\_\_\_\_\_  
Alisha Janes, Executive Director

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
ADOPTION AND AMENDMENT PROCEDURE**

Effective Date: \_\_\_\_\_

1.     Definitions:

- A.     A policy is a course or principle of action adopted to guide the Board.
- B.     A procedure is an established or official way of conducting a course of action.
- C.     A rule is defined as a regulation or requirement governing conduct or behavior or the use of property.

2.     The Board has the authority to adopt policies, procedures, and rules to the extent they do not conflict with the Declaration, Articles of Incorporation, and Bylaws of the Association.

3.     The Board has authority to adopt and amend policies and procedures governing Association operation. These policies and procedures will be adopted at an open Board meeting and documented in the minutes or in a formal resolution. Current policies may be posted on the Association's website, if any.

4.     The Board may adopt rules and regulations governing the use of the Lots and Common Areas. Rules and regulations will be adopted at an open Board meeting and documented in the minutes or in a formal resolution. Rules, once adopted, will be sent to all Owners and will be effective 10 days following notice or such other date as provided in the notice. Newly adopted rules may also be posted on the Association's website with accompanying notice to all Owners in the Association's newsletter, or via first-class mail, or via email if the Owner has provided an email address.

        This Adoption and Amendment Procedure was adopted by the Board of Directors this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President



**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
COLLECTION POLICY AND PROCEDURE**

Effective Date: \_\_\_\_\_

1. Due Dates, Late Charges, Interest, Suspension of Rights, and Acceleration of Assessments.

A. Due Dates. Monthly payments of the annual assessment are due and payable on the 1<sup>st</sup> day of each month. Other assessments, fees, or charges are due and payable as set forth in the Association's notice. Payments will be deemed received on the date the payment is received in the Association's office or the Association's payment processor's office; provided, however, if the Owner's name or the Lot address for which payment is made is not identified on or with the payment, payment will not be deemed received until such time as the Owner and Lot to which payment should be credited are determined. Any payment not paid in full when due is past due and delinquent.

B. Late Fee or Charge. A late charge in the amount of \$\_\_\_\_\_ will be imposed for any assessment, fine, or other charge not paid within 10 days of the due date without further notice to the Owner. The late charge is a personal obligation of the Owner and a lien on the Lot.

C. Interest. Interest at the rate of \_\_\_\_\_% per annum will accrue on any delinquent assessment, fine, or other charge from the due date without further notice to the Owner. Interest may be added to the Owner's account 10 days following the due date. Interest is a personal obligation of the Owner and a lien on the Lot.

D. Lien. Under the terms of the Declaration, there is a lien for any unpaid assessment. The Association reserves the right to record a notice of lien in the county records at any time after an assessment becomes delinquent. The Association delegates authority to the Association's attorney to sign and acknowledge the notice of assessment lien. This delegation may be withdrawn at any time by sending written notice to the Association's attorney of the withdrawal.

E. Administrative Expenses. Collection costs imposed by the Association or its managing agent for delinquent accounts will be the obligation of the Owner and may be posted to the Owner's account.

F. Suspension of Rights. An Owner's voting rights are may be suspended without notice if an assessment or other charge is delinquent as set forth in this policy.

G. Acceleration. Following written notice to the Owner, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment. Upon acceleration, that Owner loses the privilege of paying any and all assessments and charges in installments for the remainder of the fiscal year, unless privilege is otherwise reinstated in the Board's sole discretion.

2. Attorney's Fees and Collection Costs. The Association is entitled to recover its reasonable attorney's fees and collection costs incurred in collecting assessments or other charges due the Association from a delinquent Owner pursuant to the terms of the Declaration and Colorado law.

3. Application of Payments. If an Owner who has both unpaid assessments and unpaid fines, fees, or other charges makes a payment to the Association, the Association will apply the payment first to fines, fees, or other charges owed and the remaining to assessments.

4. Notice of Delinquency. The Association may send one or more courtesy notices to Owners. Before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association may send the Owner a notice of delinquency specifying:

- A. The total amount due, with an accounting of how the total was determined;
- B. Whether the Owner has an opportunity to enter into a payment plan;

C. The name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt; and

D. Failure to respond in 30 days may result in a lien being filed, the account being turned over to an attorney or collection agency, or legal action being taken to collect the debt.

5. Owner Contact and Delivery of Notice. The Association may contact the Owner by one of the following means:

i. First-class mail;

ii. Text message to a cellular number that the Association has on file that the Owner has provided to the Association; or

iii. Email to an email address that the Association has on file that the Owner provided to the Association.

6. Payment Plans.

A. The Association will make a good faith effort to coordinate with the Owner to set up a payment plan. An Owner may enter into a payment plan to pay off a deficiency in equal installments over such period as authorized by the Board.

B. If the Owner fails to comply with the terms of the payment plan, the Association may pursue legal action to collect the debt.

C. The Association may choose not to negotiate a payment plan with:

i. an Owner who has previously entered into a payment plan pursuant to this policy, or

ii. an Owner who does not occupy the Lot and acquired the Lot because of a default of a security interest encumbering the Lot or a foreclosure of the Association's lien.

D. All payment plans involving accounts referred to an attorney for collection will be set up and monitored through the attorney in consultation with the Board or other person designated by the Board.

7. Referral of Delinquent Accounts to Attorneys. After an account has been referred to the Association's attorney, the account remains with the attorney until it is settled, has a zero balance, or is otherwise resolved. Once accounts are turned over to the Association's attorney, Owners will make payments to the Association at the attorney's address. The Association's attorney is authorized to take whatever action is necessary, in consultation with the Board President or other person designated by the Board, believed to be in the Association's best interest.

After a delinquent account has been referred to the Association's attorney, all communication with the delinquent Owner will be handled through the Association's attorney. Neither the manager, if any, nor any member of the Board may discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact. Action by the Association's attorney may include the following:

A. Notice of Lien. If not already recorded, a notice of lien may be recorded against the delinquent Owner's property to provide record notice of the Association's claim against the property.

B. Filing Lawsuit. The Association may file a lawsuit against the delinquent Owner seeking a money judgment. If a personal judgment is entered against the delinquent Owner, the Association may pursue remedies such as garnishing the Owner's wages or bank account to collect judgment amounts.

C. Judicial Foreclosure. The Association may foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or in other circumstances that may favor such action. If the Association forecloses on its lien, the Owner will lose the Owner's Lot, having the same effect as if a first mortgagee institutes a foreclosure action against the property (though the procedure is different).

D. Receivership. A receiver is a disinterested person, appointed by the court, who manages rental of the Owner's property and collects the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past-due assessments, and prevent waste and deterioration of the property.

E. Bankruptcy Filings. Filing necessary claims, documents, and motions in Bankruptcy Court to protect the Association's claim.

8. Certificate of Status of Assessment/Estoppel Letter. The Association will furnish to an Owner, or such Owner's designee, upon written request delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against the Owner's Lot. The statement will be delivered within 14 calendar days after receipt of the request personally or by certified mail, first-class postage prepaid, return receipt requested. If the Owner's account has been turned over to the Association's attorney, the statement will include any attorney's fees incurred in providing the statement.

9. Return Check Charges.

A. If any check or other instrument payable to or for the benefit of the Association is not honored by the bank or is returned by the bank for any reason, including, but not limited to insufficient funds, the Owner is liable to the Association for one of the following amounts, at the option of the Association:

i. An amount equal to the face amount of the check, draft, or money order and a return check charge of: (a) \$20.00; or (b) 20% of the face amount of the check, draft, or money order, but not less than \$20.00, if it has been assigned to a collection agency for collection; or (c) an amount equal to the actual charges incurred by the Association levied by the party returning the check, whichever is greater; or

ii. If notice has been sent as provided in C.R.S. § 13-21-109 and the total amount due as set forth in the notice is not paid within 15 days after such notice is given, the person issuing the check, draft, or money order will be liable to the Association for three times the face amount of the check, but not less than \$100.00.

B. If two or more of an Owner's checks are returned within any fiscal year, the Association may require that future payments, for a period of one year, be made by certified check or money order.

10. Bankruptcies and Public Trustee Foreclosures. Upon receipt of any bankruptcy notice or a foreclosure notice by any holder of an encumbrance against any Lot within the Association, the Association may advise the Association's attorney of the same and turn the account over to the Association's attorney.

11. Waivers. The Association may modify these procedures as the Association determines appropriate under the particular circumstances. Any accommodation may be documented in the Association's files. Failure to require strict compliance with this policy is not deemed a waiver of the Association's right to require strict compliance and will not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney's fees, and/or costs as described and imposed by this policy.

This Collection Policy and Procedure was adopted by the Board of Directors this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
CONDUCT OF MEETINGS POLICY AND PROCEDURE**

Effective Date: \_\_\_\_\_

**1. Board Meetings.**

A. Members or their representatives may attend all Board meetings, except that Members may be excluded from an executive session. The Board may go into executive session for any purpose allowed under the Colorado Revised Nonprofit Corporation Act. Prior to going into executive session, the chair of the meeting will announce the purpose for the executive session.

B. The Board may post notice of upcoming Board meetings on a website, bulletin board, or other feasible location within the community.

C. The meeting agenda will be made reasonably available for examination by Association Members or their designated representatives.

D. The rules for Member participation during the meetings are:

i. Each Member who wishes to address the Board will be given a reasonable time to speak, provided the chair may impose reasonable time limits to facilitate Member participation. If more than one person desires to address an issue on which the Board is to vote and there are opposing views, the Board will provide for a reasonable number of Members to speak on each side of the issue. After other Members have had an opportunity to speak, then a Member who has already spoken will be given another opportunity, time permitting.

ii. Each Member who wishes to speak must be recognized by the chair. Once recognized, the Member will state his/her name and address.

iii. All comments must be delivered in a businesslike and professional manner. Personal attacks or inflammatory comments will not be permitted.

iv. To facilitate free and open discussion, Members are prohibited from audio or video recording meetings.

v. The Board is not obligated to take immediate action on any item presented by a Member.

E. There will be a Members' forum at the beginning of each regular Board meeting. The Members' forum will be for up to 15 minutes, although the Board may extend this time in its discretion. Following the conclusion of the Members' forum, the Board will proceed with the business portion of the meeting.

F. Members who attend may not participate in deliberation or discussion during the business portion of the Board meeting until expressly authorized by the Board.

G. Items will be discussed based on the meeting agenda, provided that items may be taken out of order if deemed advisable. Items not on the agenda may be discussed once all other items have been concluded, time permitting.

H. Any director may make a motion. All motions and the outcome of the vote will be recorded in the minutes. If any director requests his vote in favor or against or his abstention be recorded in the minutes, the minutes will so reflect.

I. Board meetings are not required to be held in accordance with Robert's Rules of Order.

**2. Annual Meetings/Special Member Meetings.**

A. Notice of a membership meeting will be sent to each Member not less than 10 or more than 50 days prior to the meeting. If a Member requests notice by email only and provides an email address, notice will be provided by email.

B. Members will sign in prior to the meeting for themselves and for any proxies they hold. If an election or vote is to be held, the Member will be given the appropriate number of ballots. If voting rights of delinquent Members are suspended, those Members will not be given a ballot.

C. Secret ballots are required if so requested by at least 20% of the Members present in person or by proxy. If secret balloting is not required, the Association may indicate the number of proxies held on the ballot itself.

D. Ballots will be counted by a neutral third party or by a committee of volunteers who are Members selected or appointed at an open meeting by the President or other person presiding during that portion of the meeting. The committee of volunteers will not be Board members and, in case of a contested election, will not be candidates. The results of any vote taken by secret ballot will be reported without identifying information.

E. The President, or other person directed by the Board, will call the meeting to order and conduct the meeting. The meeting will proceed in the order set forth in the agenda.

F. Each Member who wishes to speak will be given a reasonable time to speak, provided the chair may impose reasonable time limits to facilitate Member participation. Members may not speak a second time until everyone who wishes to speak has been given an opportunity to speak once. Members may not speak more than twice on any one topic, subject to the chair's discretion.

G. Members must maintain decorum and refrain from addressing the membership or Board until recognized by the chair. Upon being recognized, the Member must state his name and address.

H. Members may not interrupt anyone who validly has the floor, or otherwise disrupt the meeting. Members may not engage in personal attacks on either Board members or other Association Members. All comments and questions are to be delivered in a businesslike manner and comments will be confined to matters germane to the agenda item being discussed. No Member may use abusive, rude, threatening, vulgar or crude language. To facilitate free and open discussion, Members are prohibited from audio or video recording meetings.

I. Members must obey all orders made by the meeting chair, including an order to step down.

J. Any Member who refuses to follow the above rules will be asked to leave the meeting.

K. Any motions must be seconded prior to discussion and voting. Because the nature of a motion and vote may be outside the Members' authority, the Board reserves the right to determine whether a motion will be considered binding on the Association or a recommendation for proceeding. The determination may be made following consultation with legal counsel.

L. Meetings are not required to be held in accordance with Robert's Rules of Order.

This Conduct of Meetings Policy and Procedure was adopted by the Board of Directors on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
CONFLICT OF INTEREST POLICY**

Effective Date: \_\_\_\_\_

1. Disclosure. The director is to disclose any conflicting interest in a proposed transaction in an open meeting prior to the discussion and vote. The disclosure will be reflected in the meeting minutes or other written form.
2. Participation. The director will not take part in the discussion and will leave the room during the discussion and the vote on the matter. However, a majority of the disinterested Board members may ask the interested Board member to remain during any portion of the discussion and/or vote, provided that the director does not vote.
3. Quorum. The interested director will count for the purpose of establishing a quorum of the Board for the matter in which there is a conflict.
4. Approval. The contract, Board decision, or other Board action must be approved by a majority of the disinterested directors who are voting. No contract, Board decision, or other Board action in which a director has a conflict of interest will be approved unless it is commercially reasonable to and/or in the Association's best interests.
5. Standard of Review. No conflicting interest transaction will be set aside solely because an interested director is present at, participates in, or votes at a Board meeting that authorizes, approves, or ratifies the conflicting interest transaction if:
  - A. the material facts as to the director's relationship or interest as to the conflicting interest transaction are disclosed or known to the Board, and the Board, in good faith, authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors may be less than a quorum; or
  - B. the material facts as to the director's relationship or interest as to the conflicting interest transaction are disclosed or known to the Members entitled to vote on the transaction, if any, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Members entitled to vote; or
  - C. the conflicting interest transaction is fair to the Association.
6. Loans. The Association will not make loans to its directors or officers. Any director or officer who assents to or participates in making a loan to a director or officer will be liable to the Association for the amount of the loan until the loan is repaid.
7. Association Lien Foreclosure. Colorado law prohibits a director or officer of the Association, and their immediate family members, from purchasing a Lot during any foreclosure action filed by the Association to enforce its lien.
8. Definitions:
  - A. "Conflicting interest transaction" means a contract, transaction, or other financial relationship between the Association and: (i) a director, or (ii) a party related to a director, or (iii) an entity in which an Association director is also a director or officer or has a financial interest.
  - B. "Immediate family member" means a person related by blood, marriage, civil union, or adoption.
  - C. "Party related to a director" means a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the director or party related to a director has

a beneficial interest, or an entity in which a party related to a director is a director, officer, or has a financial interest.

D. "Officer," for purposes of this policy only, means any person designated as an officer of the Association and any person to whom the Board delegates responsibilities, including, without limitation, a managing agent, attorney, or accountant employed by the Board.

9. Review. Directors will periodically review this policy.

This Conflict of Interest Policy was adopted by the Board of Directors on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President



**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
COVENANT AND RULE ENFORCEMENT POLICY AND PROCEDURE**

Effective Date: \_\_\_\_\_

1. Enforcement Procedure. The Association will not impose fines or commence legal action for violations of the governing documents until after the Association has followed the procedures set forth below.
2. Complaints. Any Owner may send the Association a written complaint by email or first-class mail, with as much information as is known of a covenant or rule violation. Complaints may also be initiated by the manager, any member of the Board, or committee of the Board. Complaints that cannot be independently verified by a Board member or the Association's manager must be in writing. The Association has no obligation to consider oral or anonymous complaints. The Board may determine whether a written complaint is justified before continuing with any enforcement action or the notice and hearing procedures.
3. Notice of Violation.
  - A. If the Board determines a violation occurred or is likely to have occurred based on the information provided, the Association may send a written notice of any asserted violation of any provisions of the governing documents to the Owner in accordance with this policy. The notice will describe: (i) the nature of the violation; (ii) the action or actions required to cure the violation and applicable cure period for the violation; (iii) any fines that may be imposed; (iv) the right to request a hearing to contest the violation or possible fine; and (v) if a hearing is requested, a date by which such request must be received and a timeline for the hearing process ("Notice of Violation").
  - B. For the purpose of this policy to comply with Colorado law, a notice is deemed received when sent by and according to the following timelines:
    - i. Email or text – Upon successful transmission of electronic mail or text;
    - ii. Certified Mail/First-Class Mail – 3 business days after deposit for delivery;
    - iii. Posting – Upon physical posting at the Owner's Lot; or
    - iv. Actual Notice – Upon hand-delivery.
4. Request for Hearing. If an Owner desires a hearing to contest any alleged violation and possible fine or to discuss any mitigating circumstances, the Owner must request the hearing, in writing, prior to the deadline stated in the Notice of Violation. The request for hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived. If a hearing is not requested by the deadline, the Board may assess a fine as set forth in the fine schedule upon expiration of any applicable cure period(s).
5. Hearing Board to Conduct Hearing. The hearing board, which may be the Board of Directors, will hear and decide cases set for hearing pursuant to the procedures set forth in this policy. The hearing board may appoint an officer or other Owner to preside at any hearing.
6. Hearings. The Board will inform the Owner of the scheduled time, place, and date of the requested hearing by any of the following means: first-class mail; certified mail; email; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or hand-delivery. Hearings may be conducted during or subsequent to any applicable cure period(s). The presiding officer may grant continuances for good cause. At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted. The complaining parties and the Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The decision will be based on

the matters set forth in the notice of alleged violation, request for hearing, and evidence as may be presented at the hearing. If a complaining party is unable to attend the hearing, the complainant may submit a letter to the hearing board explaining the basis of the complaint.

7. Decision. After all testimony and other evidence has been presented to the hearing board, it will render its written findings and decision, and impose a fine, if applicable, upon expiration of any applicable cure period(s). A decision, either a finding for or against the Owner, will be by a majority vote of the hearing board.

8. Fine Schedule.

A. General Fine Schedule.

Unless otherwise specified in the governing documents, the following fines may be imposed for each violation of the governing documents occurring within a one-year period:

First violation:	\$25
Second violation:	\$50
Third violation:	\$100
Fourth violation:	\$150

The Association may send one or more courtesy notices prior to a Notice of Violation. A Notice of Violation may be sent for any first violation. Additional or subsequent violations of the same provision occurring within one year from the date of the first Notice of Violation will be considered repeat or recurring violations, subject to additional fines. After the one-year period, any subsequent occurrence of the same violation will be treated as a new first violation. The Board may adopt fines in excess of the fine schedule above if the violation presents a health and safety concern.

B. Continuing Violation Fine Schedule.

For any violation that is continuing in nature, the Association may impose fines in accordance with the general fine schedule or may impose fines on a weekly basis in the amount of \$100 per week until the Owner cures the violation.

For purposes of this policy, a violation is considered "continuing in nature" if the violation is uninterrupted by time or, by the nature of the violation, it occurs at such frequency to create a continuous pattern of occurrence. Examples of continuing violations include failure to paint your house, unsightly yard, unauthorized improvements, parking an unauthorized vehicle in the community on a nightly or other regular basis, etc.

9. Additional Enforcement Rights.

A. Recorded Notice of Violation. The Board may issue and record with the Clerk and Recorder a Notice of Violation.

B. Default Assessments. Except fines, the Board may levy an Default Assessments against any Owner and Owner's Lot for those purposes set forth in the Declaration.

C. Self-help Remedies. The Association or its duly authorized agent has the authority to abate or remove any structure or condition that violates the governing documents, as more fully provided in the Declaration. All costs of self-help will be assessed against and be a lien on the Owner's Lot.

D. Suspension of Right to Vote. An Owner's right to vote may be suspended for up to 60 days after notice to the Owner if the Owner is in violation of the governing documents.

10. Failure to Enforce. The Association's failure to enforce the governing documents is not a waiver of the right to enforce for any subsequent violations.

11. Administrative Expenses. Enforcement costs, imposed by the Association or its managing agent, related to covenant and rule enforcement will be the obligation of the Owner and may be posted to the Owner's account.

This Covenant and Rule Enforcement Policy and Procedure was adopted by the Board of Directors on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
INVESTMENT OF RESERVES POLICY**

Effective Date: \_\_\_\_\_

1. With regard to investment of reserve funds, directors and officers are subject to the standard of care outlined in this policy. Officer, for purposes of this policy only, means any person designated as an officer of the Association and any person to whom the Board delegates responsibilities, including, without limitation, a managing agent, attorney, or accountant employed by the Board.

A. Directors and officers will perform their duties regarding investment of reserves in good faith, in a manner the director or officer reasonably believes to be in the Association's best interests, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In performing the duties, a director or officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by: (i) one or more Association officers or employees whom the director or officer reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, community association manager, public accountant, or other persons as to matters which the director or officer reasonably believes to be within the person's professional or expert competence; or (iii) an Association committee on which the director or officer does not serve if the director reasonably believes the committee merits confidence.

B. A director or officer is not considered to be acting in good faith if the director or officer has knowledge concerning the matter in question that would cause reliance on others as provided above to be unwarranted. A director or officer is not liable to the Association or its Members for any action the director or officer takes or omits to take as a director or officer if, in connection with the action or omission, the director or officer performs his duties in compliance with this policy. A director or officer, regardless of title, is not deemed to be a trustee with respect to the Association or with respect to any property held or administered by the Association.

2. The Board establishes the amount, if any, to be transferred to reserve funds on an annual basis. The amount will be reflected in the budget to be ratified by the Owners.

3. Reserves may be invested in certificates of deposit, money market deposit accounts, money market funds, U.S. treasury and government obligations, municipal bonds and other state obligations, and other investments pursuant to the Association's investment goals. No funds will be deposited or invested except in authorized investment funds. All investments must be insured by FDIC, SIPC or comparable insurance.

4. The reserve funds will be invested to achieve the following goals, in descending order of importance:

A. Promote the preservation of principal;

B. Structure maturities to promote liquidity and accessibility of funds for projected or unexpected expenditures;

C. Mitigate the effects of interest rate volatility upon reserve assets;

D. Seek the highest level of return that is consistent with preserving the principal and accumulated interest;

E. Minimize investment costs.

5. The Board may consider the following circumstances in investing reserve funds:

A. General economic conditions;

B. Possible effect of inflation or deflation;

- C. Expected tax consequences;
- D. Role that each investment plays in the overall investment portfolio;
- E. Other Association resources.

6. All accounts, instruments and other documentation of investments will be subject to the approval of, and may from time to time be amended by, the Board as appropriate, and will be reviewed periodically.

7. The President or Treasurer or manager, if authorized by the Board, are authorized to purchase, invest in, acquire, sell, or assign any and all types and kinds of investments meeting the goals in paragraph 4; and to enter into agreements, contracts, and arrangements with respect to security transactions and to execute, sign or endorse agreements on the Association's behalf. To withdraw or transfer funds, the signature of the President and Treasurer will be required.

8. The Association will carry fidelity insurance to protect against theft or dishonesty from anyone with access to the reserve funds, as required by the governing documents and Colorado law.

9. The Association's manager or other person designated by the Board will maintain monthly statements, including detailed accounting of current values, income, and all transactions.

This Investment of Reserves Policy was adopted by the Board of Directors on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
RECORDS INSPECTION POLICY AND PROCEDURE**

Effective Date: \_\_\_\_\_

1. Availability and Inspection of Records. Any records required to be made available by law will be made reasonably available for inspection and copying by a Member or the Member's authorized agent. "Reasonably available" means available during normal business hours after written request of at least 5 business days. The written request will describe the records sought with reasonable particularity. The Board may require that requests be submitted on the form attached to this policy.

A. Upon receipt of a request, the Association will make an appointment with the Owner, at a time convenient to both parties, to conduct the inspection. Unless otherwise agreed, all records will be inspected at the management company's office. All appointments for inspection will be limited to two hours. If additional time is needed, another appointment will be made within two weeks, at a time convenient to both parties.

B. At the discretion of the Board or Association manager, records will be inspected only in the presence of a Board member, management company employee, or other person designated by the Board.

C. During inspection, an Owner may designate pages to be copied with a paperclip, post-it note, or other means the Association provides. Copies will be made at a cost based on the standard schedule of fees charged by the Association's management agent, which charges will include reasonable retrieval costs for off-site files or for any other necessary special processing. The Owner will be responsible for paying the total copying cost prior to receiving the copies. The Owner will be responsible for mailing costs, if any.

D. Records may not be removed from the office in which they are inspected without the Board's express written consent.

2. Association Records. In addition to any records specifically required by law or the Association's Declaration or Bylaws, the Association will maintain the following records, which are the Association's sole records:

A. detailed records of receipts and expenditures affecting the Association's operation and administration;

B. records of claims for construction defects and amounts received pursuant to settlement of those claims;

C. minutes of membership meetings, minutes of Board meetings, a record of all actions taken by the Members or Board without a meeting (i.e., by written ballot or written consent in lieu of a meeting), and a record of all actions taken by a committee of the Board;

D. written communications among, and the votes cast by, Board members that are directly related to an action taken by the Board without a meeting pursuant to the Association's Bylaws or Colorado law;

E. Members' names in a form that permits preparation of a list of names and physical mailing addresses of all Members, showing each Member's number of votes ("Membership list");

F. the current articles of incorporation, declaration, covenants, bylaws, rules and regulations, and any policies or resolutions adopted by the Board;

G. financial statements, to the extent available, showing, in reasonable detail, the Association's assets and liabilities and results of its operations for the past three years;

- H. tax returns for the past seven years, to the extent available;
- I. a list of the names, electronic mail addresses, and business or home addresses of its current directors and officers;
- J. its most recent annual report delivered to the Secretary of State;
- K. financial records sufficiently detailed to enable the Association to provide statements of unpaid assessments;
- L. current written contracts to which the Association is a party;
- M. ballots, proxies, and other records related to voting by Members for one year after the election, action, or vote to which they relate (provided that any identifying information on ballots may be redacted prior to owner inspection);
- N. resolutions adopted by the Board relating the characteristics, qualifications, rights, limitations, and obligations of Members or any class of Members; and
- O. written communications within the past three years to Members generally as Members.

If the Association stores other types of documentation, or stores documentation for a longer time period than may be required above, those documents will not be considered Association records. The Association may condition production of records on a statement of a proper purpose pursuant to C.R.S. 7-136-102. The term "proper purpose" means a purpose reasonably related to the demanding Member's interest as a Member.

### 3. Restrictions on Use of Membership List.

- A. No Member may use Association records, or allow Association records to be used, for commercial purposes.
- B. In addition, a Membership list may not be:
  - i. used to solicit money or property unless such money or property will be used solely to solicit votes of the Members in an election held by the Association;
  - ii. used for any commercial purpose;
  - iii. sold to or purchased by any person;
  - iv. used for any purposes unrelated to the Member's interest as a Member; or
  - v. used for any other purpose prohibited by law.

Members requesting a Membership list will be required to sign the agreement attached to this policy indicating that they will not use the list for the purposes stated above.

### 4. Records That May Be Withheld. The Association may withhold any document, information or record not required to be disclosed pursuant to C.R.S. 7-136-101 or other applicable law. This includes but is not limited to:

- A. architectural drawings, plans, and designs, unless the legal owner of the drawings, plans, or designs provides written consent to the release;
- B. contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are still in or under negotiation;

C. communication with legal counsel protected by the attorney-client privilege or the attorney work product doctrine;

D. disclosure of information in violation of law;

E. records of an executive session of the Board; and

F. records related to an individual Lot other than the Member's.

If these records are made available for inspection, the procedure set forth in Paragraph 1 applies.

5. Records That Are Not Available. The following records are not subject to review, inspection, and/or copying, and will be withheld from any inspection:

A. personnel, salary, or medical records related to specific individuals; and

B. Members' personal identification and account information, including:

i. bank account information;

ii. telephone numbers;

iii. electronic mail addresses;

iv. driver's license numbers;

v. social security numbers; and

vi. vehicle identification information.

Notwithstanding the limitations above, an Owner or resident may provide the Association with prior written consent to the disclosure of, and the Association may publish to other Owners and residents, the person's telephone number, electronic mail address, or both.

6. Creation of Records. Nothing contained in these policies will be construed to require the Association to create records that do not exist or compile records in a particular format or order.

7. Remedies. The Association may pursue any Owner for damages or injunctive relief or both, including reasonable attorney fees, for abuse of inspection and copying rights, including use of any records for a commercial purpose.

\_\_\_\_ This Records Inspection Policy and Procedure was adopted by the Board of Directors on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President



**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
REQUEST FOR ACCESS TO ASSOCIATION RECORDS**

Member Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

1. Pursuant to state law and the Association's Records Inspection Policy, I hereby request that HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC. provide access to the records of the Association. I have requested to inspect and/or obtain copies of the following records:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

(Please be as specific as possible. Add additional pages, if necessary.)

I understand that upon receipt of this request, the Association will set an appointment with me during regular business hours.

2. I understand that under the terms of the Colorado Revised Nonprofit Corporation Act, Association records may not be obtained or used for any purpose unrelated to my interest(s) as an Owner or for any commercial purpose. I further understand and agree that the Association's membership list may not be:

- (i) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election held by the Association;
- (ii) Used for any commercial purpose;
- (iii) Sold to, otherwise distributed to, or purchased by any person; or
- (iv) Any other purpose prohibited by law.

3. I acknowledge and accept the Association's records inspection policy. I acknowledge and accept that the Association's records will be made available to me only at such time and place as the Association's policy provides, and that there may be a cost associated with providing copies of these documents for me. I agree to pay any costs associated with copying these documents. In the event the records provided to me by the Association are used for any commercial purposes or other improper purpose, I will be responsible for any and all damages, penalties and costs incurred by the Association, including attorney fees, and I shall be subject to all enforcement procedures available to the Association through its governing documents and/or Colorado law.

Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Member Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
DISPUTE RESOLUTION POLICY AND PROCEDURE**

Effective Date: \_\_\_\_\_

1. Required dispute resolution procedure for claims against Association. For Excluded Claims the dispute resolution process in Article 11 of the Declaration shall apply. For all other claims, this policy shall control.

Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner must request and attend a hearing with the Board. The request will be in writing and will be personally delivered to any Board member or the Association's property manager. The Owner, in the request and at the hearing, must make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and will give the Board a reasonable opportunity to address the Owner's grievance. Upon receiving a request for a hearing, the Board will give notice of the date, time, and place of the hearing to the person requesting the hearing. The Board will schedule this hearing for a date not less than 14 or more than 30 days from the date the request is received. If the dispute cannot be resolved, the parties may utilize the discretionary mediation procedure set forth below but will not be required to do so.

2. Discretionary dispute resolution procedures for other claims. The procedures set forth below may be used in any disputes between Owners and/or residents. At its discretion, the Board may use the procedures set forth below to resolve disputes with Owners prior to filing litigation.

A. Negotiation. A request for dispute resolution by negotiation may be initiated by an Owner or the Association. The request will be in writing stating the nature and details of the dispute and will be personally delivered to the other party. So long as the other party agrees to negotiate, a meeting will be held between the parties to begin a good faith attempt to negotiate a resolution not less than 14 or more than 30 days of receipt of the request, unless otherwise extended by written agreement. Through negotiation, the parties will communicate directly with each other in an effort to reach an agreement that serves the interests of both parties. Should the dispute pertain to property issues, each party will be granted the right to inspect the alleged defects or problems at a time convenient to everyone involved.

B. Mediation. If the dispute is not resolved by negotiation, any party may request in writing that the issue be submitted to mediation. If the parties agree to mediate the dispute prior to seeking other remedies, they will participate in good faith in the mediation. The role of the mediator is to facilitate further negotiation between the parties. The mediator will not have power to decide how to resolve the dispute but will use recognized, accepted mediation techniques to assist the parties in making that decision. The mediator will be selected by a consensus of the parties involved within 14 days of the receipt of the request. Any cost of mediation will be shared equally among the parties unless they and the mediator agree otherwise.

This Dispute Resolution Policy and Procedure was adopted by the Board of Directors on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President

**HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II, INC.  
RESERVE STUDY AND FUNDING POLICY**

Effective Date: \_\_\_\_\_

1. Reserve Study. The Association is not required under the governing documents to have a reserve study, but may obtain if it deems necessary. The Association may have any reserve study updated or revised periodically. Reserve studies are preferred to be based on a physical examination of the Community by the person preparing the reserve study but may be performed by the person preparing the study without a physical examination of the Community.
2. Reserve Funding. Funding for replacement is preferred to be based on a financial analysis performed by a professional reserve specialist or by the Association's managing agent, but may be performed without a financial analysis. Funding for replacement is planned and projected to be assessment of the Owners, as determined, from year-to-year, by the Board.

This Reserve Study and Funding Policy was adopted by the Board of Directors on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

HIDEAWAY JUNCTION HOMEOWNERS ASSOCIATION PHASE II,  
INC., a Colorado nonprofit corporation,

By: \_\_\_\_\_  
Its: President