

TOWN OF RICO, COLORADO  
ORDINANCE NO. 2002-1

ACCEPTING AN EASEMENT FOR THE RICO WATER SYSTEM,  
WATER LINE, AND ACCESS ROAD

WHEREAS the Town of Rico installed a new main distribution line from the water treatment area to the Town of Rico and Rico Argentine Company previously dedicated easements to the Town for the water treatment site, distribution lines and access road but such legal descriptions of these easements were not accurate; and,

WHEREAS C.R.S. §31-15-101(1)(d) authorizes municipalities to acquire real property; and,

WHEREAS Rico Renaissance, LLC., as the current owner of property which contains portions of the Rico water system, desires to dedicate an easement for the water system to the Town of Rico in consideration of the Town vacating, abandoning and quit claiming to Rico Renaissance, LLC., the existing inaccurate water line easements;

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE TOWN OF RICO  
ORDAINS:

Section 1. Acceptance of Easement. The Town hereby accepts the Easement for Municipal Waterline as is attached to this Ordinance and authorizes the Town Mayor and Town Clerk and other appropriate Town officials to take all actions necessary to execute the Easement for Municipal Waterline.

Section 2. Vacation of Former Easement. The Town of Rico hereby vacates, abandons and transfers to Rico Renaissance by quit claim the former water line easements described as and attached to this Ordinance.

READ, MOVED AND APPROVED ON FIRST READING ON THE 16<sup>TH</sup> DAY OF JANUARY, 2002. MOVED, SECONDED AND FINALLY PASSED ON SECOND AND FINAL READING ON THE 20<sup>TH</sup> DAY OF MARCH, 2002.

TOWN OF RICO, COLORADO

BY: Thomas Clark  
Thomas Clark, Mayor

ATTEST: Linda Yellowman  
Linda Yellowman, Town Clerk

APPROVED AS TO FORM:  
Eric James Heil  
Eric James Heil, Town Attorney

Published by Title only before 2<sup>nd</sup> Reading in the Rico Sun-Times: \_\_\_\_\_

Published by Title only after adoption in the Rico Sun-Times: \_\_\_\_\_

After Recordation send Original to:

Eric Heil, Esq.  
Rico Town Attorney  
P.O. Box 56  
Rico, CO 81332

And a Copy to:

Ramon M. Escure, Esq., Manager  
Strategic Design Group, LLC  
P.O. Box 2542  
Telluride, CO 81435

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## GRANT OF EASEMENT FOR MUNICIPAL WATERLINE

GRANT OF EASEMENT made this \_\_\_\_ day of October, 2001, by and between Rico Mountain Life, LLC, a Colorado limited liability company (hereinafter referred to as AGrantor@) and the Town of Rico, Colorado, a home rule municipality under the laws of the State of Colorado (hereinafter referred to as AGrantee@).

### RECITALS

- (a) Rico Mountain Life, LLC, is the owner of a tract of real property legally described as follows:
- Evening Call Patented Mining Claim, M.S. #8029,  
  
County of Dolores,  
State of Colorado (the "Property");
- (b) The Town of Rico, Colorado, has a municipal water line that has been inadvertently constructed on a tract of real property owned and managed by the United States Department of Agriculture, United States Forest Service;
- (c) The Town of Rico, Colorado, does not possess an easement, special use permit or other authority that allows for the placement of the municipal waterline on real property owned and managed by the United States Forest Service;
- (d) The Town of Rico, Colorado, has requested a subsurface waterline easement under and across the Evening Call Patented Mining Claim for the perpetual use and benefit of the Town of Rico, Colorado; and
- (e) The Town of Rico, Colorado, and Rico Mountain Life LLC, have negotiated a perpetual subsurface waterline easement on the terms and conditions set forth herein.

NOW THEREFORE in consideration of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant to Grantee the following described easement:

1. **Grantor - Rico Mountain Life, LLC.** Rico Mountain Life, LLC, is the Grantor herein and owner of the above-described real estate known and commonly referred to as the Evening Call Patented Mining Claim, Dolores County, Colorado.
2. **Grantee - Town of Rico, Colorado.** The Town of Rico, Colorado, is the Grantee herein and is the owner and operator of a water treatment plant, storage facility and underground waterline presently situated on

the Evening Call Patented Mining Claim.

3. **Grant of Subsurface Easement for Waterline.** Grantor does hereby grant, convey, transfer and sell to Grantee for the use and benefit of the Town of Rico, Colorado a non-exclusive perpetual subsurface easement as more particularly described in the legal description attached hereto as Exhibit A and the survey map of the Evening Call Patented Mining Claim attached hereto as Exhibit B. Exhibit A and B are incorporated herein as though fully set forth. The easement granted herein is for the construction, installation, maintenance and operation of a water treatment plant, storage facility and subsurface waterline as more particularly located and situated in Exhibits A and B. The easement area shall include a non-exclusive surface easement that shall be twenty (20) feet in width extending ten (10) feet on each side of the waterline. Grantee shall be solely responsible for any cost or expense associated with the construction, installation, use and/or maintenance of the water treatment plant, storage facility and subsurface waterline. Grantee does hereby indemnify and hold Grantor harmless from any liability, damage, injury, lien, claim or expense including attorney fees associated in any way with the use, installation, construction and/or maintenance of the subsurface and surface easement granted herein.

4. **Additional Easement Rights Granted.** In addition to the grant of easement set forth in Paragraph 3 above, Grantor grants, conveys, sells and transfers to Grantee the following additional rights:

(a) The right to construct, reconstruct, replace, remove, maintain, upgrade to meet changing needs, and to use the underground waterlines, as Grantee shall from time to time install for the delivery of water within Town of Rico, Colorado.

(b) The right of access to and from the easement area for maintenance, construction and operation purposes and across existing roads or by such route as will cause the least damage and inconvenience to Grantor. Notwithstanding any provision herein to the contrary, the easement herein granted to Grantee shall not be for vehicular access and shall not be for installation and maintenance of surface or above ground utilities or related facilities. The foregoing shall not alter or limit the Grantee's right to maintain and operate a water treatment plant and storage facility on the Evening Call Patented Mining Claim;

(c) The right, from time to time, to trim or cut down and clear away trees and brush on the twenty (20) foot described easement area, which may be a hazard to the facilities installed within the easement;

(d) All lines, pipes and other facilities installed by Grantee within the easement area shall remain the property of the Grantee and shall be removable at the option of the Grantee; and

(e) The Grantee shall be obligated to repair any damage which Grantee or its contractors may cause to Grantor's property.

5. **Rights of Grantor.** Grantor shall have the right to use the described easement area for any purpose, including vehicular access and the installation of other underground utilities that are not inconsistent with the Grantee's enjoyment of the rights granted herein, provided, that Grantor shall not erect or construct, without Grantee's written consent, any building or other structure or drill or operate any well within the described easement area. In the future Grantor shall have the absolute and unconditional right to relocate the Grantee's waterline to facilitate the development of the Evening Call Patented Mining Claim, provided, said relocation is engineered and all costs are paid by the Grantor. The terms of this easement shall be extended to the relocated waterlines.

6. **Termination of Easement.** If the Grantee at any time removes the waterline or discontinues its use for longer than six (6) months, the easements and easement right granted herein shall automatically terminate for all intents and purposes. Grantor shall have the right to remove any waterlines or related facilities after termination of the consent.

7. **Notices.** Any notices required or permitted herein shall be deemed delivered when deposited in the United States Mail, postage prepaid, certified or registered, addressed to the party intended at the address set forth below or to such other address as may be furnished from time to time by notice hereunder:

**To Grantor:** Rico Mountain Life, LLC  
P.O. Box 220  
Rico, CO 81332

**To Grantee:** Town of Rico  
C/o Rico Town Manager  
P.O. Box 56  
Rico, CO 81332

7. **Run with the Land/Benefit.** The easements granted herein shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors, assigns and personal representatives.

8. **Attorney Fees and Costs.** In the event of a dispute arising out of the enforcement of the above referenced Grant of Easement, the prevailing party in any action, litigation or arbitration shall be entitled to recover all reasonable attorney fees and costs incurred.

9. **Amendment of Easement.** This Grant of Easement is the entire integrated agreement of the parties, and it supersedes and merges any prior oral or written agreements, negotiations or understandings among them. This Grant of Easement may be modified, amended, canceled or superseded, and any of the terms or conditions hereof may be waived, however said amendment and waiver may only be effectuated by a written agreement executed by all parties.

EXECUTED by:

**GRANTOR: RICO MOUNTAIN LIFE, LLC**

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

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

The foregoing GRANT OF EASEMENT SUBSURFACE WATERLINE was acknowledged before me by \_\_\_\_\_, the Grantor, on this \_\_\_\_\_ day of October, 2001.

*Witness my hand and seal.  
My commission expires:*

\_\_\_\_\_  
*Notary Public*

**GRANTEE: TOWN OF RICO**

By: \_\_\_\_\_  
\_\_\_\_\_, Rico Town Manager

STATE OF COLORADO

}  
} ss.  
}

COUNTY OF \_\_\_\_\_

The foregoing GRANT OF EASEMENT SUBSURFACE WATERLINE was acknowledged before me by  
\_\_\_\_\_ Rico Town Manager, the Grantee, on this \_\_\_\_\_ day of October 2001.

*Witness my hand and seal.  
My commission expires:*

\_\_\_\_\_  
*Notary Public*



## EASEMENT

An easement, 20 feet in width, from Rico Renaissance to the Town of Rico for the installation, use, and maintenance of a waterline across portions of the Newman Millsite, M.S. 436B; the Melvin Clarence Lode, M.S. 999; and the Evening Call Lode, M.S. 8029; all in the Pioneer Mining District, Dolores County, Colorado, the centerline of which is further described as follows:

Beginning at a point on the North Right of Way of Mantz Ave. Town of Rico from which the Southeast corner of Block 16, Town of Rico bears  $S87^{\circ}54'00''W$ , 44.00';

Thence  $N02^{\circ}06'00''W$ , 110.00'; Thence  $N87^{\circ}54'00''E$ , 527.47'; Thence  $S08^{\circ}44'21''W$ , 579.67'; Thence  $S70^{\circ}95'51''E$ , 174.26'; from which the point of beginning on the North Right of Way of Mantz Ave. bears  $N49^{\circ}58'19''W$ , 782.09'.