

Town of Rico Memorandum

Date: February 16, 2024

TO: Town of Rico Board of Trustees
FROM: Chauncey McCarthy, Rico Town Manager
SUBJECT: February Board of Trustees Regular Meeting

Swearing in of the recently reelected Trustee of the Rico Board of Trustees

Congratulations to Joe Croke for your appointment as a Rico Trustee.

Consideration of first reading of Ordinance 2024-01, an ordinance of the Town of Rico, Colorado amending the Rico Water Operations Rules and Regulations to provide for payment of water system impact fees.

Included in packet is Ordinance 2024-01, an ordinance of the Town of Rico, Colorado amending the Rico Water Operations Rules and Regulations to provide for payment of water system impact fees. The calculation for the fee was done by Bryan Mantz of GovRates. Bryan will present the proposed water system impact fee and methodology use to make his determination during the meeting. His PowerPoint has been included in the packet. If this ordinance is adopted the structure of it allows the fee to be adopted and revised yearly by resolution. Although the resolution will be presented for consideration during the second reading of this ordinance it has been included in the packet for the board's review.

Recommended Motion:

- I move to approve first reading of Ordinance 2024-01, an ordinance of the Town of Rico, Colorado amending the Rico Water Operations Rules and Regulations to provide for payment of water system impact fees.

Consideration of Rico Fire Protection District request to host the 86th annual Tri-State Firemen's Association Convention and Training in the Town Park

Included in the packet is a letter from the Rico Fire Protection District requesting permission to use the Town Park August 1 – 4, 2024 to host the 6th annual Tri-State Firemen's Association Convention

Consideration of second reading of Ordinance 2023-06, an ordinance of the Town of Rico, Colorado amending the short-term rental restrictions and licensing requirements in the Rico Land Use Code.

Included in the packet is ordinance 2023-06 which would amend the short-term rental restriction and licensing requirements in the Rico Land Use Code. In addition to the ordinance, a staff memo summarizing the changes, and reviewing the proposed amendment to the RLUC requirements has been provided. Through this review and adoption process, the Board discussed the idea of reconfiguring the quadrant system. The staff memos, related to reconfiguration, have not been included in the packet since the board elected not to amend the quadrant system at this time. Although the Board ultimately decided to not change the quadrant system, public comment letters have been included in the packet as well.

The Board reviewed and approved the first of this ordinance during their January with no proposed changes.

Recommended Motion:

- I move to approve the second reading of Ordinance 2023-06, an ordinance of the Town of Rico,

Colorado amending the short-term rental restrictions and licensing requirements in the Rico Land Use Code.

Consideration of liquor license renewal, Garden Bar LLC applicant

Included in the packet is a liquor license renewal, Garden Bar LLC applicant. This application is complete and compliant.

Recommended Motion:

- I move to approve the liquor license renewal, Garden Bar LLC applicant

Consideration of preliminary plat (condo conversion) subdivision Bedrock subdivision Lot 6, BRD LLC applicant

Included in this packet is a preliminary plat subdivision application and required submittal materials for the creation of 10 condominiums on the Bedrock subdivision Lot 6. In addition to the application is a staff memo reviewing the RLUC standards and requirements against the applications. A large part of their submittals, pages 63 – 254, were legal documents regarding the creation of the Homeowners Association which are being reviewed by legal. In addition to the application and staff materials the original Bedrock Subdivision Plat and SIA/PUD agreement has been included.

This item was reviewed by the Planning Commission at their February 14, 2024 meeting and a recommendation was made:

Motion

I recommend the approval of the preliminary plat condo conversion subdivision for Bedrock subdivision Lot 6, BRD LLC applicant with the following conditions:

- The development of individual water shut of meter to each unit and the EQR difference.
- Applicant is to address redline comments on condo plat provided by legal,
- If applicant should choice to propose updated deed restrictions, they provide the material.
- The applicant shall present options and apply the selected veneer on all walls and require that the HOA maintain said veneer,
- The applicant repair parking space grade to be compliant to the code.

Moved by Kiplynn Smith, Second Gerrish Wilis

Vote: 4 – 0

Appointment of timekeeper/time keeping method for public comment

Mayor Pieterse requested this be an action item for the Board to discuss and make a formal decision.

Voluntary lead soils clean up (“VCUP”) status

Mayor Pieterse to provide an update on the Voluntary lead soils clean up status.

Roles and responsibilities of town staff and elected officials

Mayor Pro Tem Fallon requested this be a discussion item. This will be a round table discussion between staff and elected officials.

Dark Sky Association lighting ordinance review and next steps

There has been a community driven initiative for Rico to be designated as an International Dark Sky community. A petition and letter of support have been included in the packet. Aaron Watson, dark sky certification specialist, presented at last month's board meeting. The board directed staff to provide examples of lighting ordinances and next steps. Those items have been included in the packet for the Board's consideration.

2024 and beyond work plan

Included in the packet is the 2024 and beyond work plan. The Board reviewed this at the January meeting but not all Trustees were in attendance. Please review the work plan and be prepared to discuss the status of current goals and objectives along with providing direction to staff for the upcoming year.

Water rates

I presented to the Board last month regarding water rates, potential increase, and changes to the rate schedule. Included in this packet is a staff memo reviewing the different options.

RICO TOWN BOARD MEETING MINUTES

Date: January 17, 2024
Call to Order 7:02PM

Trustees Present: Mayor Nicole Pieterse
Mayor Pro Tem Patrick Fallon
Trustee Joe Dillsworth
Trustee Benn Vernadakis

Trustees Absent:
Trustee Jordan Carr
Trustee Chris Condon

Staff Present. Chauncey McCarthy, Anna Wolf

Approval of the Agenda

To start public comment with a moment of silence for Michael Enriquez.

Motion

To approve the agenda.

Moved by Trustee Benn Vernadakis, seconded by Mayor Pro Tem Patrick Fallon.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Approval of the Minutes

Motion

To approve the minutes.

Moved by Trustee Joe Dillsworth, seconded by Mayor Nicole Pieterse.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Consent Agenda

Payment of the Bills

Mayor Nicole Pieterse gives summary of Rico Trails Alliance upcoming disbursement check from the Town for RGS River Trail assessment work, in the amount of \$11,250, which is comprised of Town match (\$3,750) and Basin Electric (\$2,500) and SMPA (\$5,000) grant funding received by the Town for RGS assessment work

Motion

To approve the minutes.

Moved by Mayor Pro Tem Pat Fallon, seconded by Trustee Benn Vernadakis.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Public Comment:

Moment of Silence for Michael Enriquez.

Mayor Pro Tem Pat Fallon airs frustration on the timeline of the packet for this meeting. To add an item on the agenda for the expectations of the Board as well as staff on the February meeting. Skip Zeller: Thanks Chauncey for the commitment and time to the Town.

Allyn Svoboda: There is no video of the courtroom.

Mayor Nicole Pieterse: the Grooming on the local trails to be used by all users. If not on fat bike or Nordic skis please stay in the middle.

Action Items:

Swearing in of the recently reelected Trustee of the Rico Board of Trustees

Mayor Nicole Pieterse swears in Mayor Pro Tem Patrick Fallon.

Appointment of vacant Board of Trustees seat

Board of Trustees has discussion.

Motion

Move to appoint Joe Croke to the vacant seat

Moved by Mayor Pro Tem Pat Fallon, seconded by Mayor Nicole Pieterse.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Appointment of vacant Planning Commission seats

Board of Trustees has discussion.

Motion

To appoint Gerrish Willis, Kiplynn Smith, and Andrew Romanyshyn to the Planning Commission

Moved by Trustee Benn Vernadakis, seconded by Mayor Pro Tem Patrick Fallon.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Consideration of a liquor license renewal, Rico High Inc DBA Prospector, applicant.

Motion

To approve liquor license renewal, Rico High Inc DBA Prospector, applicant

Moved by Trustee Benn Vernadakis, seconded by Mayor Nicole Pieterse.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Consideration of first reading of Ordinance 2023-06, an ordinance of the Town of Rico, Colorado amending the short-term rental restrictions and licensing requirements in the Rico Land Use Code.

Town Manager Chauncey McCarthy gives Summary.

Board discussion was had

Public Comment was taken from Scott Smith and others.

More Board Discussion was had.

Motion

To approve the amendments to the short-term rental ordinance as written. Ordinance 2023-06.

Moved by Trustee Joe Dillsworth, seconded by Trustee Benn Vernadakis.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Consideration of letter of support for the Rico Geothermal Coalition grant application

Town Manager Chauncey McCarthy gives introduction. Teal Stetson-Lee gives summary.
Board discussion was had.
Public Comment was taken.

Motion

To submit a letter of support for the Rico Geothermal Coalition's grant application.
Moved by Mayor Nicole Pieterse, seconded by Trustee Joe Dillsworth.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Consideration of waiver and modification of certain Rico Land Use Code subdivision provisions for condominium application for Bedrock subdivision Lot 6, BRD LLC applicant

Town Manager Chauncey McCarthy gives summary and presents staff's proposed motion.
Presentation by Applicant.
Board Discussion was had.
Public comment was taken.

Motion

To deny Bedrock's request to treat the Bedrock condominium subdivision application as a Minor subdivision; waive conceptual Major Subdivision review (LUC section 520, 526, and 528); to defer to staff to determine what submittals are required for Preliminary Review under LUC section 534, including but not limited to an Improvement Survey under LUC Section 534. C.a; to expedite the timing for application materials under LUC Section 562.1 as determined by staff; with a minimum 20 day review period; to waive the bonding requirement of LUC Section 554 as there are no new subdivision improvements, they were bonded, completed and approved already; and to waive the 10% land dedication requirement under LUC Section 556 based on the fact that a land dedication already occurred when the underlying Bedrock Subdivision was approved. And with the condition that both the Board and the Planning Commission receive all correspondence as Town receives it.

Moved by Mayor Tem Pat Fallon, seconded by Trustee Benn Vernadakis.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Staff Report

Clerk's report:

Preparing for the audit.
The new paperless and autopay has been a success.

Manager's report

Sewer works session meeting on February 15, 2024.
EV charger. Leasing fee of \$2500 Town to terminate the contract.
Working on the updated floodplain mapping.

Discussion Items

Dark Sky Association presentation

Aaron Watson gives presentation

Voluntary lead soils clean up ("VCUP") update

Mayor Nicole Pieterse gives summary.
New public forum date set to March 7, 2024. Board work session on 2023 road testing results March 6, 2024.

2024 and beyond work plan

Board discussion was had.

Construction impact mitigation rules and regulations definitions review

Board has discussion. Ordinance to be written by legal.

Water rates

Town Manager Chauncey McCarthy gives summary.

Board gives staff direction.

2023 year-end financial review

Town Manager Chauncey McCarthy gives summary.

Colorado Municipal League annual conference

Interest was expressed by multiple board members.

Anna Wolf
Rico Town Clerk

Nicole Pieterse
Mayor

NEW Town of Rico - General Fund
Check Register
 For the Period From Feb 1, 2024 to Feb 29, 2024

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
18009	2/15/24	Patrick W. Drew	10000	91.90
18010	2/15/24	Chauncey P. McCarthy	10000	2,373.20
18011	2/15/24	Stephen C. Roberts	10000	1,772.55
18012	2/15/24	Dennis E. Swank	10000	1,525.10
18013	2/15/24	Anna C. Wolf	10000	1,354.77
18014	2/15/24	Karp Neu Hanlon, PC	10000	1,144.00
18015	2/15/24	Kuboske Construction LL	10000	54,325.25
18016	2/15/24	Region 9 EDD	10000	938.00
18017	2/15/24	WM Corporate Services, I	10000	64.51
18018	2/15/24	Orkin	10000	120.98
18019	2/15/24	Century Link	10000	52.41
18020	2/15/24	Janet Wiley Architects, P.	10000	840.00
18021	2/15/24	San Miguel Power Associ	10000	129.00
18022	2/15/24	Xerox Corporation	10000	145.39
18023	2/15/24	Kaplan Kirsch Rockwell	10000	15,267.17
18024	2/15/24	Rico Telephone Company	10000	250.00
18025	2/15/24	Jon Kelly	10000	375.00
18026	2/15/24	Fraley and Company, Inc	10000	1,204.00
Total				<u><u>81,973.23</u></u>

NEW Town of Rico - Water Fund
Check Register
For the Period From Feb 1, 2024 to Feb 29, 2024

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
4587	2/15/24	UPS	10000	5.00
4588	2/15/24	UPS	10000	22.70
4589	2/15/24	San Miguel Power Associ	10000	497.00
4590	2/15/24	RVS Software	10000	1,295.00
4591	2/15/24	AT&T Mobility	10000	222.98
4592	2/15/24	Filtersource	10000	64.80
4593	2/15/24	Nexbillpay	10000	1.60
4594	2/15/24	Fralely and Company Inc	10000	808.00
4595	2/15/24	Rico Telephone Company	10000	115.00
Total				<u>3,032.08</u>

NEW Town of Rico - Open Park Fund
Check Register
For the Period From Feb 1, 2024 to Feb 29, 2024

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
1763	2/15/24	San Miguel Power Associ	11000	27.00
Total				27.00

2018 NEW Town of Rico - Street Fund
Check Register
For the Period From Feb 1, 2024 to Feb 29, 2024

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
2919	2/15/24	Rico Telephone Company	10000	46.00
2920	2/15/24	WM Corporate Services, I	10000	161.67
2921	2/15/24	San Miguel Power Associ	10000	306.00
2922	2/15/24	Slavens, Inc	10000	34.98
2923	2/15/24	Senergy Petroleum, LLC	10000	3,290.15
Total				<u>3,838.80</u>



Town of Rico, Colorado
February 28, 2024

Water Impact Fee Study

GovRates

Utility, Financial, Rate, and Management
Consultants for Governments

www.govrates.com





Background on Impact Fees

- **Support Policy of "Growth Paying for Growth"**
 - Help to Reduce Need for Monthly User Rate Increases

- **Common in Utility Industry**
 - Used to Pay for Growth-Related Capital Projects and Growth-Related Debt Service

- **Rational Nexus Requirements Established Through Case Law**
 - Must Relate Capital Expenditures to Growth
 - Fee Must Be Proportionate to Benefit Received

Water Impact Fee Calculation Methodology



- **Considered Costs of Existing Capacity Available to Serve Growth**
 - No Grant-Funded, Contributed, or "Cost-Free" Infrastructure Included in Calculations

- **Considered Costs Reflected in Most Recent Multi-Year Capital Improvement Program**
 - Primarily Related to Reactivation of Silver Creek Surface Water Treatment Plant to Accommodate Growth in Town Service Area

- **Level of Service Standard for One Equivalent Residential Unit (EQR) in Calculations = 328 Gallons Per Day**
 - Based on Historical Water Produced and Customer Statistics
 - Similar to Amount Implied in Water System Preliminary Engineering Report Prepared in 2018 By City's Consulting Engineers

Proposed Water Impact Fee Per EQR



Proposed Water Impact Fee Treatment and Transmission Components Per EQR

System	Level of Service (gallons per day)	Treatment Component	Transmission Component	Combined
Water	328	\$3,796	\$2,314	\$6,110
		\$11.57/gal	\$7.05/gal	\$18.63/gal

EQR = Equivalent Residential Unit

Recommend Meter Equivalent Basis for Determining Fees for All Customers



- **Common Among Colorado Utilities**
- **Widely Referenced in American Water Works Association (AWWA) Manuals of Practice**
- **Reflects Service Capacity Based on Meter Size**
- **Easy to Calculate and Administer**
- **Rarely Challenged**

Proposed Water Impact Fee Schedule



Line No.	Description	Meter Size Rated Maximum Capacity (Gallons Per Minute) [1]	Meter Equivalent Factor [2]	Amount
All Customer Classes				
<u>Meter Size (Inches)</u>				
1	3/4"	30	1.00	\$6,110
2	1"	50	1.67	10,183
3	1.5"	100	3.33	20,367
4	2"	160	5.33	32,587
5	3"	320	10.67	65,173
6	4"	500	16.67	101,833
7	6"	1,000	33.33	203,667
8	8"	1,600	53.33	325,867
9	10"	2,300	76.67	468,433

[1] Based on meter capacity by size as published by the American Water Works Association in *Manual of Practice 6: Water Meters - Selection, Installation, Testing, and Maintenance*.

[2] Reflects rated maximum capacity of meter size divided by the 30 gallons-per-minute rated maximum capacity of the smallest meter size in the utility system (3/4" meter).

Water Impact Fee Per EQR Comparison



Line No.	Description	Fee Terminology	Amount Per EQR [1]
Town of Rico, Colorado			
1	Proposed Impact Fee Per EQR		\$6,110
Other Colorado Utilities			
2	Town of Basalt	Tap Charge; System Improvement Fee	\$5,217
3	City of Cortez	Tap Fee; Development Fee; Includes Cost of Tap	6,444
4	City of Creede	System Development Fee	2,750
5	City of Durango	Plant Investment Fee	5,320
6	Town of Mancos	Tap Fee; Includes Cost of Tap	7,422
7	Town of Minturn [2]	System Impact or Improvement Fee	36,300
8	Town of Mountain Village	Tap Fee	10,000
9	Town of Silverton	Investment Fee	4,651
10	Town of Telluride [3]	Tap Fee	32,566
11	Other Colorado Utilities' Average		\$12,297
12	Minimum		2,750
13	Maximum		36,300

Footnotes:

- [1] EQR = Equivalent Residential Unit.
- [2] Assumes 2,500 square foot residential home.
- [3] Reflects fee to become effective on January 1, 2024. Amounts reflect single family dwelling unit up to 2,500 square feet

Comparison Not a "Report Card" on How Well Utility Is Performing



■ Some Reasons Why Water Impact Fees Differ Among Utilities

- Source of Supply and Proximity to Source of Supply
- Type / Complexity of Treatment
- Historical Grant Funding of Infrastructure
- Availability of Grant Funding for Capital Program
- Time Elapsed Since Last Impact Fee Review
- Impact Fee Calculation Approach (Many Accepted Methods)
- Density Within Service Area / Size of System
- Utility Life Cycle (Growth-Oriented vs. Mature)
- Level of Service Per EQR Standards
- Administrative Policies



Recommendations

- **Recommendation to Adopt Proposed Water Impact Fees and Associated Policies**
 - Town Management Preference for Nomenclature: "System Improvement Fees"
 - Support "Growth Paying for Growth"
 - Based on Most Recent and Local Data
 - Help to Reduce Need for Future User Rate Adjustments
 - Help to Reduce Need to Finance Capital Improvements (Lower Interest and Issuance Costs)
 - Could Help Meet Debt Service Coverage Requirements on Utility's Future Debt

- **Update Water Impact Fees Whenever Capital Plans, Costs, or Funding Change Significantly**

QUESTIONS AND DISCUSSION



**TOWN OF RICO
ORDINANCE NO. 2024-01**

**AN ORDINANCE OF THE TOWN OF RICO, COLORADO AMENDING
THE RICO WATER OPERATIONS RULES AND REGULATIONS TO
PROVIDE FOR PAYMENT OF WATER SYSTEM IMPACT FEES.**

WHEREAS, the Town of Rico, Colorado (the “Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Rico Home Rule Charter (the “Charter”); and

WHEREAS, pursuant to C.R.S. § 29-20-101 *et seq.*, 31-15-101 *et seq.*, and 31-23-101 *et seq.*, the Town has broad authority to ensure the health, safety and welfare of the community and its residents; and

WHEREAS, the Town has the authority to assess water system impact fees pursuant to C.R.S. § 29-20-104.5; and

WHEREAS, the Charter, Article III § 3.1 provides that enactments of the Board imposing fees shall be made by ordinance; and

WHEREAS, the Board of Trustees requested that GovRates, Inc. prepare a study of the industry standard rational nexus of classifications for the payment of water system impact fees and reviewed the recommendations in the Water Impact Fee Study, dated February 9, 2024, and determined a policy change was necessary; and

WHEREAS, the Board adopted Ordinance No. 2019-06 together with the Water Operations Rules and Regulations (the “Water Rules”) attached thereto as Exhibit A on November 20, 2019; and

WHEREAS, the Board desires to amend the Water Rules, Article VIII, by adding Section 8.10 to set the water system impact fees to better reflect actual costs to the Town in providing water services to new developments in the Town, and to pay for the capital improvements, maintenance, and indebtedness of the Town’s water system; and

WHEREAS, the Board finds and declares that it is necessary to amend the Water Rules as set forth herein and it is proper in light of the needs and desires of the Town and in the promotion of the public health, safety, and welfare of the Town’s residents.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO THAT:

Section 1. The recitals above are hereby adopted as findings and incorporated herein.

Section 2. The Water Rules, Article VIII shall be and are hereby amended as set forth in **Exhibit A** to this Ordinance, which is incorporated by this reference.

Section 3. Any ordinances or resolutions or parts thereof, which are in conflict with this ordinance, are hereby repealed to the extent of such conflict only.

Section 4. This Ordinance shall take effect immediately on final adoption.

THIS ORDINANCE WAS, FOLLOWING PUBLIC NOTICE, INTRODUCED, READ, AND APPROVED ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY ON FEBRUARY 28, 2024.

TOWN OF RICO, COLORADO

Nicole Pieterse, Mayor

ATTEST:

Anna Wolf, Town Clerk

THIS ORDINANCE WAS, FOLLOWING PUBLIC NOTICE, INTRODUCED, READ ON SECOND READING, PASSED AND ORDERED PUBLISHED BY TITLE ONLY TO BE EFFECTIVE IMMEDIATELY ON MARCH 20 2024.

TOWN OF RICO, COLORADO

Nicole Pieterse, Mayor

ATTEST:

Anna Wolf, Town Clerk

Effective Date: March 20, 2024

EXHIBIT A
TOWN OF RICO
ORDINANCE NO. 2024-01

The Town of Rico Water Operations Rules and Regulations, Article VIII, is amended to add Section 8.10 as follows:

8.10 Water System Impact Fees. In order to help offset the financial impacts of new development on the residents of the Town, all new development shall pay a water system impact fee as provided for in this section.

8.10.1 Water system impact fees shall be due and payable to the Town upon the earlier of the Town's approval of any land use application, or any building permit application, that requires a Permit to connect to the Water System. Payment of the water system impact fee shall be a condition of approval for any such land use or building permit application.

8.10.2 The amount of the water system impact fee shall be set by resolution of the Board of Trustees.

8.10.3 The water system impact fee shall be based on meter size and calculated as set forth below. One (1) EQR is the equivalent of one single family dwelling unit.

Meter Size (Inches)	EQR
0.75"	1.00
1.00"	1.67
1.50"	3.33
2.00"	5.33
3.00"	10.67
4.00"	16.67
6.00"	33.33

**TOWN OF RICO
RESOLUTION NO. 2024-01**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO, SETTING THE WATER SYSTEM IMPACT FEE FOR THE PERIOD BEGINNING _____, 2024 AND ENDING DECEMBER 31, 2024, AND PROVIDING FOR THE ANNUAL ADJUSTMENT OF WATER SYSTEM IMPACT FEES.

WHEREAS, the Town of Rico Water Operations Rules and Regulations, Article VIII Section 8.10 establishes the calculation of water system impact fees and authorizes the Board of Trustees (the “Board”) to set the amount of water system impact by resolution; and

WHEREAS, the Board authorized a study of the industry standard rational nexus of classifications for the payment of water system impact fees and determined a policy change was necessary; and

WHEREAS, the Board desires to set water system impact fees to better reflect actual costs to the Town in providing these services to new developments in the Town; and

WHEREAS, Board further desires to establish annual adjustments of water system impact fees based on the prior years’ average inflation.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO:

1. The above recitals are hereby incorporated as findings by the Board of Trustees of the Town of Rico, Colorado.
2. The water system impact fee established in the Water Operations Rules and Regulations, Article VIII Section 8.10.3 shall be \$6,110.00 for one (1) EQR during the period beginning _____, 2024, and ending December 31, 2024.
3. Unless otherwise adjusted by the resolution of the Rico Board of Trustees, the water system impact fee set herein shall, beginning in 2025, be adjusted annually based on the prior years’ average inflation as established by the Engineering News Record McGraw-Hill Construction Weekly Building Cost Index for Denver, Colorado, to be effective January 1 of each year.

APPROVED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO
This ___ day of _____, 2024.

By: _____
Nicole Y. Pieterse, Mayor

Attest: _____
Chauncey McCarthy, Town Manager



Rico Fire Protection District
P.O. Box 39/119 S. Glasgow Ave., Rico, CO 81332
Phone/ Fax: 970-967-2222
E-mail: rico_yfd@yahoo.com; Website: ricofpd.colorado.gov
EIN 84-1186375 / CO Tax Exempt Certificate 98-12208-0000 / D&B 96-372-5291

February 16, 2024

Rico Board of Trustees
2 N Commercial
Rico, CO 81332

Dear Board of Trustees,

The Rico Fire Protection District will be hosting the 86th annual Tri-State Firemen's Association Convention and Training from August 1 -3 2024. This event is expected to bring an estimated crowd of 300 firefighters and family members to our community. The three-day event will start with a Chief's dinner on Thursday the 1st. August 2-3 will consist of training for all firefighters in attendance along with friendly competition in the afternoons. The event will conclude on the night of the 3rd with an awards banquet and music.

The district is requesting use of the Town Park from August 1 – 4 2024. The Town Park will provide the necessary space required to host different training courses, competitions, and the banquet. The Rico Fire Protection District hosted this event in 2017 with help from the Town and use of the park. The event was beyond successful and is commonly referred to as one of the best tri-state conventions held. Along with providing valuable training, networking and relationship building between departments, this event will also create an uptick in our economy and help support local businesses.

Thank you for your consideration and continued support.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Jones". The signature is fluid and cursive.

Todd Jones
Chief, Rico Fire Department



TOWN OF RICO
INCORPORATED OCTOBER 11, 1879
2 North Commercial Street
Post Office Box 9
Rico, Colorado 81332
Office # 970.967.2861
Fax # 970.967.2862
www.ricocolorado.gov

To: Rico Board of Trustees

11.9.2023

From: Chauncey McCarthy, Town Manager

Subject: Application for Amendments to the Rico Land Use Code (RLUC) - Short Term Rentals, Ordinance No. 2023-06, an ordinance of the Town of Rico, Colorado amending the short-term rental restrictions and licensing requirements in the Rico Land Use Code.

Included in your packet is a draft of Ordinance No. 2023-06, which would amend the short-term rental restriction and licensing requirements in the Rico Land Use Code.

This amendment addresses deficiencies in the current STR regulations identified during the August 16, 2023 regular Board meeting and other issues identified by Town Staff.

Pursuant to the RLUC § 456.4, new STR license applicants, and prior licensees whose two-year license has expired, are placed in a lottery. This creates practical difficulties for the Town, current property owners, and potential purchasers including, without limitation, the following:

- Resulting uncertainty regarding revenue from application fees, renewal fees and lodging taxes unnecessarily complicates the Town's budget process.
- Cannot reasonably predict the amount of initial or renewal application fees that the Town may collect in any given year to the extent that all the lottery winners could be new licensees, renewing licensees, or a mix of both.
- Cannot anticipate the Town's future lodging tax revenue when it does not know how many STR units will be in operation or the maximum occupancy of such units.
- Current licensees and potential purchasers cannot rely on the continued effectiveness of an STR license, or the related rental income, while pursuing loan alternatives. Any limitation on financing alternatives may be detrimental to the value and marketability of real estate.
- Town residents that use STRs to house visitors may also be affected to the extent that the regular turnover of STR licenses could make it more difficult to know what properties are currently available for their guests.

The proposed draft ordinance will amend the STR Regulations as follows:

- Replaces the lottery system with open enrollment. Allow STR license applications to be submitted at any time and issue licenses on a first come first serve basis. If there are no STR licenses available within a quadrant, applicants will be placed on a waiting list.
- Revises the application fee structure. Add a nonrefundable application fee of \$100 and \$75 for renewals, and make the current application fee a “license fee” to be paid when a license is available.
- Revises the license term and renewal provisions. The initial term of each STR license will begin on the date it is issued and end on the next renewal date. In order to simplify administration, there will be one annual renewal date per year applicable to all STR licenses, regardless of when they were issued. In conjunction with changing to annual renewal, the renewal fee has been reduced from \$1,500 to \$750.

In addition to the forgoing, the draft Ordinance proposes an increase to the penalties for violation of the STR regulations. Based on the current fine amounts, an individual could violate the STR Regulations three times before they were fined an amount equal to the application fee. The amendment would increase penalties as follows: \$2,500 for first offense, \$3,000 for second offense, \$4,000 for third offense, and \$5,000 for fourth and all subsequent offenses.

Please review these proposed changes for compliance with the RLUC amendment standards provided in Section 418 of the RLUC.

Discussion of RLUC Amendment Requirements and Standards

Section 414: Application for Amendment Requirements

- 414.1: Applicant is the Town of Rico Staff (and the Rico Planning Commission if these changes are recommended to the Town Board)
- 414.2: The requested changes are summarized in this cover letter and shown in Exhibit A to Ordinance 2022-05. These changes are general in nature and apply to all properties in the Town.
- 414.3: Not applicable.
- 414.4: Not applicable.
- 414.5: Not applicable.
- 414.6: Not applicable.
- 414.7: Not applicable.
- 414.8: This letter provides the applicable application information.

- 414.9: See above for an explanation of the rationale for the amendment request and see below for additional explanation.
- 414.10: Not applicable.

Section 418: Standards for Review of Amendment Applications

The Planning Commission shall find that either standard 418.1 is met or that standards 418.2 through 418.4 are met prior to recommending approval of the amendment.

418.1. The existing Zone District classification or desired Master Plan land use was adopted in error; or,

- *Not applicable.*

418.2. the proposed Amendment is compatible with the land uses in the surrounding area; and,

- *The proposed amendments will allow the Town to more effectively regulate short-term rentals and ensure that the operation of short-term rentals is consistent with surrounding land uses in the Town.*

418.3. the proposed Amendment will serve a community need and thereby promote the public health, safety, or welfare of the Rico community and the public services and infrastructure are adequate to meet the needs of the proposed Amendment; and,

- *The proposed amendments serve the needs of the Town. The amendments will update the regulation of short-term rentals in the Town to address the issues raised in a recent work session and by town staff. The amendments will also provide additional structure and clarity regarding the issuances of short-term rentals licenses in the Town and will help ensure that violation of the short-term rentals regulations penalties offset the cost of enforcement.*

418.4. the proposed Amendment is consistent with the purposes of the RLUC and the goals and objectives of the Rico Regional Master Plan.

- *The proposed amendments support the purposes of the RLUC, including to “preserve and enhance the integrity, stability and livability of residential neighborhoods.”*

**TOWN OF RICO
ORDINANCE NO. 2023-06**

**AN ORDINANCE OF THE TOWN OF RICO, COLORADO AMENDING
THE SHORT-TERM RENTAL RESTRICTIONS AND LICENSING
REQUIREMENTS IN THE RICO LAND USE CODE .**

WHEREAS, the Town of Rico, Colorado (the “Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Rico Home Rule Charter (the “Charter”); and

WHEREAS, by Ordinance No. 2022-05, the Town amended the Rico Land Use Code to impose a license requirement for short-term rentals and remove short-term rentals from special use permit review; and

WHEREAS, on November 8, 2023, the Rico Planning & Zoning Commission considered the amendments to the RLUC contained in this Ordinance at a duly noticed public hearing, and recommended the Board adopt the amendments; and

WHEREAS, the Town desires to preserve small town character while maintaining livability in accordance with the Rico Regional Master Plan by minimizing the adverse effects of short-term rentals on residential neighborhoods and the Town’s housing supply; and

WHEREAS, the Board desires to amend the RLUC §§ 456 and 457 to allow for submission of applications at any time, creation and maintenance of a waitlist, shortening the permit duration to one year, amending the fee schedule and increasing fine amounts; and

WHEREAS, the Board finds and declares that the amendments to the RLUC regarding short-term rentals set forth herein are proper in light of the needs and desires of the Town and in the promotion of the public health, safety, and welfare of the Town’s residents.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO THAT:

Section 1. The recitals above are hereby adopted as findings and incorporated herein.

Section 2. The Rico Land Use Code shall be and is hereby amended as set forth in **Exhibit A** to this Ordinance, incorporated by reference hereto.

Section 3. This Ordinance shall take effect immediately on final adoption.

THIS ORDINANCE WAS, FOLLOWING PUBLIC NOTICE, INTRODUCED, READ, AND APPROVED ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY ON NOVEMBER 15, 2023.

TOWN OF RICO, COLORADO

Nicole Pieterse, Mayor

ATTEST:

Anna Wolf, Town Clerk

THIS ORDINANCE WAS, FOLLOWING PUBLIC NOTICE, INTRODUCED, READ ON SECOND READING, PASSED AND ORDERED PUBLISHED BY TITLE ONLY TO BE EFFECTIVE IMMEDIATELY ON DECEMBER 20, 2023.

TOWN OF RICO, COLORADO

ATTEST:

Nicole Pieterse, Mayor

Anna Wolf, Town Clerk

Effective Date: December 20, 2023

EXHIBIT A

AMENDMENTS TO THE RICO LAND USE CODE

Additions shown in double underline; deletions shown in ~~strikethrough~~.

456. LICENSE PROCEDURES

456.1 Application Requirements. The owner shall submit the application on the form provided by the Town and shall pay the application fee. The nonrefundable application fee shall be ~~\$2500~~100 for an initial application and ~~\$1500~~75 for an annual renewal application (~~including renewals pursuant to the lottery system~~). Prior to issuance or renewal of a short-term rental license, the applicant shall pay the licensing fee. The licensing fee for a new short-term rental license shall be \$2500 and \$750 for renewal of an existing short-term rental license. Applications for renewal of a short-term rental license starting on January 1 shall be submitted to the Town no later than August 1 of the year preceding calendar year the renewal term.

456.2 Available Licenses, Waitlist. In the event that there are no short-term rental licenses available within the quadrant, as established by Section 454.3(a) above, in which the applicant's proposed short-term rental property is located, the applicant shall be added to a short-term rental license wait list. The Town shall create and maintain a wait list for this purpose for each quadrant.

(a) Priority for issuing a short-term rental license, when available in the applicable quadrant, shall be based on application date such that the applicant that has been on the wait list the longest shall be entitled to receive the next available license upon payment of the licensing fee.

(b) An applicant shall remain on the wait list until a license is issued to the applicant, or the applicant is otherwise removed from the wait list, whichever occurs first. An applicant shall be removed from the wait list for violation of the Short-Term Rental Regulations, or upon transfer of the applicant's proposed short-term rental property to a new owner.

456.3 Application Review, Referral, and Appeal. The Town Manager, in consultation with the Town Planner, shall review applications for short-term rental licenses for compliance with these regulations. The Town shall review applications during the month of August and shall issue license decisions no later than September 15. If the application is in conformity with the Short-Term Rental Regulations, the Town Manager shall issue a short-term rental license, if available, or add the applicant to the waitlist pursuant to Section 456.2 above, within thirty (30) days of submission. The Town Manager may, in his or her sole discretion, refer an application to the Board of Trustees if the application raises issues

on which the Board's input is necessary or desirable. If the application is not approved and the license is not issued, the Town Manager shall state in writing the reason(s) for the denial of the license. The applicant may appeal the Town's denial to the Board of Trustees within thirty (30) calendar days of issuance of the written denial decision.

~~456.4~~ Issuance and Term of License, Initial Term and Renewal. All short-term rental units, except short-term rental dwelling units for which the Town has issued a special use permit as of the date of the ordinance adopting these regulations, shall require a license from the Town. Such license shall only be issued after the short-term rental application has been approved in accordance with the Municipal Code. The short-term rental license shall specify any terms and conditions of the license. All licenses shall be issued to the owner of the property. No natural person or business entity shall be issued more than one short-term rental license, nor shall the owner of an existing short-term rental dwelling unit as of the date of adoption of these regulations be issued a license for an additional short-term rental. Licenses shall not transfer with the transfer of property to a new owner: a change in ownership of the property shall necessitate a new application and issuance of a new license.

(a) Licenses shall be issued for an initial period of ~~two (2) years starting on January 1~~ commencing on the approval date and shall automatically expire on December 31 of the ~~second~~ same year.

(b) The renewal period for each license shall be one (1) year starting on January 1 and shall automatically expire on December 31 of the same year.

~~456.4 Lottery System. If the number of new or renewal license applications submitted for an application cycle would lead to a total number of short term rental units in excess of the number allowed in Section 454.4 (including the total number allowed for any quadrant of the Town), the Town Manager shall issue licenses by random lottery. Such lottery shall not provide a preference to renewal applications over new applications. The Town shall refund the application fees, except for an administrative fee of \$50 which shall be retained by the Town, for applications not issued pursuant to a lottery.~~

456.5 Neighborhood Notification. Upon issuance of a short-term rental license, the property owner shall be responsible for mailing public notification of the license to owners of all real property within two hundred fifty (250) feet of any boundary or edge of the subject property or parcel. The property owner shall provide certification to the Town Manager that proper notice has been provided, including a signed affidavit.

456.6 Revocation of License. A short-term rental license may be revoked at any time by the Board following a hearing if the Town determines that the property is not being operated in compliance with this Short-Term Rental Regulations or any other Town ordinance. A short-term rental license shall be revoked automatically upon the property owner's third conviction in Rico Municipal Court of a violation of any provision in these

Short-Term Rental Regulations with respect to the short-term rental. An applicant whose short-term rental license has been revoked within the last two years shall not be allowed to apply for a new or renewal short-term rental license.

456.7 Tax Collection. A license holder who fails to collect any applicable taxes on a short-term rental, including but not limited to lodging tax, during the license period shall not be allowed to renew the license for the next two-year license cycle. Owners shall present documentation demonstrating the collection and remittance of taxes to the Town as part of the license renewal application.

457. PENALTIES AND ENFORCEMENT

457.1 Penalties for Violations. Any violation of the Short-Term Rental Regulations shall be subject to a fine of ~~two thousand two~~ two ~~five hundred fifty~~ five hundred dollars (\$~~2,500~~2,500.00) for the first offense, ~~three thousand five hundred~~ three thousand ~~five hundred~~ five hundred dollars (\$~~3,050~~3,050.00) for the second offense, ~~seven~~ seven ~~four thousand hundred fifty~~ four thousand ~~hundred fifty~~ hundred dollars (\$~~7504,000~~7,504,000.00) for the third offense, and ~~one~~ one ~~Five~~ Five thousand dollars (\$~~51,000~~51,000.00) for the fourth offense and all subsequent offenses. Each day's continuing violation shall be a separate and distinct offense.

STR Rezoning

External Inbox ×



Darrall Huber <huberhaus1@gmail.com>

Dec 17, 2023, 12:13 PM



to me ▾

Hi:

The idea of gerrymandering the existing four quadrants will set a future president for others, who are personally dissatisfied with the current layout. Density in a particular quadrant is a double edged sword in the sense that the STR's will be closer to residences and therefore, the probability of disruption will be higher. It is inevitable that the guests at STR's will, at some point cause a disturbance and so it is imperative that accountability on the short term and long term be solidly in place. There are countless cities towns and resorts all over the world, trying to come to an agreeable solution onto the idea of business being conducted in a residential environment. I have operated five STR's over the course of 20 years, one of which was nine bedrooms. I am not in favor of changing the quadrants.

Sincerely

Darrall Huber

Public Comment on Amending STR Boundaries External Inbox x



Alex Wing <alexwing88@gmail.com>

Jan 8, 2024, 12:23 PM ☆ ↶ ⋮

to me, npieterse, pfallon, jcroke, jdillsworth, ccondon, bvernadakis, jcarr

Dear Trustees,

Thank you very much for volunteering so much time and energy to steer the future of Rico for the better. We all appreciate what it takes of you.

I am writing to provide comment *against* amending the STR quadrant boundaries, which is proposed in the December Town of Rico newsletter to be changed to fit more STR permits into the northeast (NE) quadrant. I apologize for not being able to attend the in-person December meeting. I am a full time resident who has lived in the middle of the Atlantic Cable subdivision of the NE quadrant since my wife and I purchased our first home in 2018. Per the STR packet provided in the December Newsletter, "Currently the northeast quadrant is close to fully developed and has the largest number of homes and bedrooms."

At the face of it, adjusting the boundaries to even the number of houses in each quadrant seems sensible. However, this approach does not account for the lesser privacy and increased interaction between neighbors that comes with increased housing density. Here in the NE quadrant, houses are very dense which means neighbors can see into my house from all 4 directions. We keep the blinds shuttered most of the time despite the want for natural light and views of the mountains. In fact, there is a view into my bedroom and living room from the inside of a permitted STR. As another example of the effects of tight housing density on privacy, on multiple occasions I have glanced out of my own window to check the weather and inadvertently seen guests toweling themselves in the bathroom. Areas of increased housing density have drastically less residential privacy. This should not be ignored by the trustees.

The original quadrant system was designed with the NE quadrant in mind, with the intention of preventing too many STRs from being concentrated in a single area. The existing density of housing and STRs in this part of town was the reason for spreading out the permits by area instead of number of houses. By adjusting these boundaries by number of houses instead of area, the purpose of a quadrant system is completely lost. In fact, the adjusted quadrant will serve to increase the asymmetric density of STRs by concentrating more units into a smaller area. This is the opposite of the intention of the original ordinance.

Finally, the information provided in the December Newsletter does not provide any case of need for adjusting the boundaries, nor does it state a purpose for doing so. It simply presents the proposed change. With the availability of the Mineshaft Inn, 9 unfilled STR slots across Rico, and availability at existing STRs on AirBnB, I do not understand why there is a proposal to change the boundaries. The northeast quadrant also maintains a number of important long-term rental units, which are exceedingly scarce in our area. The lack of housing causes hardship for many individuals as well as businesses and services who cant find employees. Additional permits here could provide incentive to convert these existing long-term units to STRs. I believe this proposed boundary adjustment is a negative change to a working system with no demonstrated benefit.

Sincerely,
Alex Wing

Submit to Local Licensing Authority

**GARDEN BAR LLC
 PO BOX 155
 Rico CO 81332**

Fees Due	
Renewal Fee	625.00
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$ 625 ⁰⁰

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Colorado Beer and Wine License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name GARDEN BAR LLC		Doing Business As Name (DBA) GARDEN BAR LLC	
Liquor License # 03-14629	License Type Tavern (city)		
Sales Tax License Number 94620133	Expiration Date 04/15/2024	Due Date 03/01/2024	
Business Address 20 SOUTH GLASGOW AVENUE Rico CO 81332			Phone Number 9707081810
Mailing Address PO BOX 155 Rico CO 81332		Email	
Operating Manager	Date of Birth	Home Address	Phone Number
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Rented* *If rented, expiration date of lease _____			
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3b. If so, which are you renewing? <input type="checkbox"/> Delivery <input type="checkbox"/> Takeout <input type="checkbox"/> Both Takeout and Delivery			
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes No

8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes No

Affirmation & Consent		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business	Title	
Andrew Romanyshyn	Owner	
Signature	Date	
<i>Andrew Romanyshyn</i>	1-17-2024	
Report & Approval of City or County Licensing Authority		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.		
Therefore this application is approved.		
Local Licensing Authority For	Date	
Signature	Title	Attest

Tax Check Authorization, Waiver, and Request to Release Information

I, Andrew Romanyshyn am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Golden Bar LLC / Andrew Romanyshyn (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Andrew Romanyshyn / Golden Bar LLC</u>		Social Security Number/Tax Identification Number 	
Address <u>20 S. Glasgow Ave / PO Box 155</u>			
City <u>Rico</u>		State <u>CO</u>	Zip <u>81332</u>
Home Phone Number		Business/Work Phone Number <u>970 708-1810</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Andrew Romanyshyn</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>Andrew Romanyshyn</u>			Date signed <u>11/17/2024</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).



TOWN OF RICO
INCORPORATED OCTOBER 11, 1879
2 North Commercial Street
Post Office Box 9
Rico, Colorado 81332
Office # 970.967.2861
Fax # 970.967.2862
www.ricocolorado.gov

To: Rico Board of Trustees
 From: Chauncey McCarthy, Town Manager
 Subject: Bedrock Lot 6 Condo Conversion Preliminary Plat Review

02/10/2024

Below is a review of the application to the submittal requirements and standards of the Rico Land Use Code.

534. PRELIMINARY PLAT, MAPS AND OTHER REQUIRED MATERIALS

Preliminary plat phase of a subdivision application shall contain the following materials and information in addition to a completed subdivision application form provided by Town.

534.1 Required Materials and Copies: The Applicant shall submit copies of the Preliminary Plat and Improvements Survey of a scale sufficient to be clearly legible and useful for review purposes, and copies of other required materials;

Standard met

534.2 Preliminary Plat Requirements: The accuracy of location of alignments, boundaries, and monuments on the Preliminary Plat shall be certified by a registered land surveyor licensed to do such work in the State of Colorado. All plats and maps shall indicate true north line, name of subdivision, name of applicant, USGA township, range, section and quarter section, block, and lot number. A workman like execution of the plan shall be made in every detail. A poorly drawn or illegible plan shall be a sufficient cause for its rejection.

The Preliminary Plat shall contain the following data:

- A.** Contour intervals at 2 feet if the slope is less than 10 percent or contour intervals of 5 feet if the slope is equal to or greater than 10 percent.

N/A

- B.** Block, lot, and street layout with consecutive numbering of lots and blocks, and dimensions of all lots, street rights-of-way, roadways, and street drainages.

Standard met

- C.** Location, identification, and dimensions of all existing and proposed public and private easements.

Standard met

- D.** Existing and proposed street names.

Standard met

- E. Abutting property lines and the respective owners' name.

Standard met

- F. Designation of zoning or uses other than detached single family residential on and adjacent to the proposed subdivision.

N/A

- G. Additional information as determined at the Conceptual Plan Approval stage.

N/A

534.3 Improvements Survey and Engineering Plans: The Applicant shall submit an Improvements Survey and any Engineering Plans if any improvements are proposed, or engineering plans are required for review of proposed mitigation, as determined at the Conceptual Plan Approval stage. The Improvements Survey and Engineering Plans shall meet the following specifications and contain the following information:

- A. The Improvements Survey shall be signed and sealed by a registered land surveyor and shall be at the same scale as the Preliminary Plat, depicting existing and recorded section lines, streets, easements, utilities, watercourses, improvements, and any other major feature in and adjacent to the proposed subdivision area.

Standard met

- B. Any Engineering Plans shall provide sufficient detail for review by the Town Engineer and shall meet the minimum standards of certified engineers in the State of Colorado.

N/A

534.5 Other Materials: The Applicant shall submit other materials associated with the Preliminary Plat Approval application including, but not limited to:

- A. Background studies and reports supporting the Preliminary Plat Approval application or addressing anticipated concerns from other agencies; and,

Waived

- B. Revised Location Map, Slope Study Map, Features Map, and Subdivision Information Report if changes have been made; and,

Waived

- C. Additional information as determined at the Conceptual Plan Approval stage.

Waived

538. PRELIMINARY PLAT REVIEW

538.1 Planning Commission Review and Board of Trustees Approval: The Rico Planning Commission shall review the Preliminary Plat and all supporting documents and information at a public hearing and shall review all comments taken at the public hearing and all comments taken from other reviewing agencies. The Planning Commission Board shall recommend that the Board of Trustees approve, approve with conditions, or deny the Preliminary Plat Application based upon compliance with standards in this Section and other applicable laws of the Town of Rico, State of Colorado, or United States of America.

538.3 Standards: This paragraph sets forth the standards for Preliminary Plat Review. The Planning Commission and Board of Trustees shall cite specific standards when recommending or imposing conditions on approval, or denying, a Preliminary Plat application.

- A. The Preliminary Plat shall conform in all major respects to the Conceptual Plan as previously reviewed and approved by the Planning Commission and shall address any conditions imposed at the Conceptual Plan stage.

N/A

- B. The Preliminary Plat and other engineering related materials, including proposed mitigation plans, are reviewed, and approved, or approved with reasonable modifications by the Town Engineer.

N/A

- C. The Preliminary Plat Shall meet the Minimum Subdivision Standards for subdivision design in Section 550, including standards for landscape preservation (550.1), Lots (550.2) and streets (552.1).

550.1 Preservation of Landscape: The design and development of subdivisions shall preserve, insofar as it is technically and economically feasible, the natural terrain, natural drainage, existing topsoil, trees, and vegetation.

Horizontal and vertical development are close to completion.

550.2 Lots: All lots shall meet each of the following standards:

- A. Access routes for vehicles, utilities, and trails should avoid hazardous areas, wetlands and waterways, and wildlife habitat areas.

Standard met

- B. All building lots shall abut a public dedicated roadway. Each lot in the R, MU, RPUD Zone Districts shall have a minimum of fifty (50) feet of street frontage. Each lot in the HC, CM, or CPUD Zone Districts shall have a minimum of twenty- five (25) feet of street frontage. All non-building lots shall abut a public right of way with a minimum frontage of twenty (20) feet.

Standard met

- C. All building lots shall meet the minimum size requirements for the permitted use.

Standard met

- D. All building lots shall be arranged to accommodate the permitted use within the setbacks required by the zoning district.

Standard met

- E. Each building lot shall provide at least one feasible building site that is suitable for the permitted use which is not in an avoidable or un-mitigatable hazardous area.

Standard met

- F. All building lots shall have adequate space for off-street parking with a maximum 4% grade and driveway access with a maximum 12% grade.

Standard not met Parking space 1, 6, and 14 exceed maximum grade as depicted on existing conditions as-built survey

550.3 Streets: All streets and roadways shall meet the Road Design Standards in 478

N/A

- D. All comments from other reviewing agencies have been reviewed by appropriate Town Staff, Planning Commission, and the Board of Trustees. All comments are addressed and resolved by the Planning Commission and the Board of Trustees.

554. IMPROVEMENTS

N/A

556. LAND DEDICATIONS AND DEVELOPMENT CHARGES

Waived

558. OWNERS' ASSOCIATIONS

558.2 Approval. If the establishment and creation of a mandatory owners association is required by the Town, a copy of the agreements, covenants and restrictions establishing and creating the association must be approved by the Town Attorney and Board of Trustees prior to the approval of the final plat of the subdivision and must be filed of record with said final plat in the Map and Plat Records of Dolores County, Colorado. Said final plat shall clearly identify all facilities, structures, improvements, systems, areas, or grounds that are to be operated, maintained and/or supervised by said association.

Legal is in the process of reviewing and will provide a memo. All materials need to be reviewed and approved before the final plat is recorded. Review and approval of these materials should not delay the preliminary plat process.

Staff Concerns:

- *Large retaining walls with no veneer have been constructed. The site plan shows veneer on the foundation walls but not the drive isle wall. Staff are uncertain if the applicant intends to finish the veneer as depicted in the site plan. The intent of the Rico Land Use Code captured in section 104.6 is to preserve the historic, small-town character of the community by minimizing visual impacts of development upon important view sheds. Additionally, the Rico Mater Plan places emphasis on “preserving the historic mountain hamlet scale and appearance of town”, promoting mountain compatible design, and preserving the historic character of Rico.*
- *This development is on one master water meter since the applicant’s original intent was to operate the property as long-term affordable apartments. During the plan review phase and water tap application, had the applicant stated they would be condominiums, staff would have required them to be individually meters. It is recommended that the applicant install individual meters and be required to pay the additional EQR for each condominium unit. The total additional cost is estimated at \$49,000.*



Subdivision Application

Applicant Name _Bedrock Rico, LLC_

Phone Number _(970) 708-3919_

Address _140 N. Glasgow Ave_

Cell Phone Number _(970) 708-3919_

Email _dchew@bedrockrico.com_

Fax Number _____

Street Address of Subject Property _140 N. Glasgow Ave._

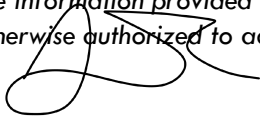
Legal Description of Subject Property _140 N. Glasgow Ave. Lot 6 Bedrock Subdivision,

According to the Bedrock Subdivision Plat, Town of Rico, Dolores County, CO, Recorded at Reception Number 171981, Dolores County Clerk and Recorders Office

Zone District of Subject Property _CPUD_____

- Statement from County Treasurer showing the status of current taxes due on affected property
- Letter of agency if applicant is other than the owner of the property
- An application fee in the amount of \$1800.00
- A Certificate of Mailing with names, addresses, and property owned of property owners within 200 feet of subject property.
- A copy of the deed for the property.

I swear that the information provided in this application is true and correct and that I am the owner of the property or otherwise authorized to act on behalf of the owner of the property.

Signature:  Date _1/23/24_

Date Application Received _____

Application Reviewed by _____

Application Fee Received _____

Date of Hearing _____

Application Complete _____

Rico Planning Commission Action _____

Mailing Notice Complete _____

Approval Subject to Conditions _____



Sent via email: townmanager@ricocolorado.gov; wea@mountainlawfirm.com

Town of Rico
Board of Trustees
Planning Commission
P.O. Box 9
2 Commercial Street
Rico, Colorado 81332

Re: Application for Creation of 10 Condominium Units on Bedrock Subdivision Lot 6:

Dear Board of Trustees and Planning Commission Members:

I represent BRD, LLC, the owner and developer of the affordable housing units on Lot 6 of the Bedrock Subdivision (Lot 6), Town of Rico. Thank you for your consideration of waivers regarding the subdivision process and as a result of those determinations we are submitting this preliminary plan application for the approved and nearly completed ten (10) condominium units on Lot 6. We have included the following information with this cover letter:

1. Rico Subdivision Form Application
2. Statement from County Treasurer showing status of taxes on Lot 6
3. Copy of the Deed for the Property – Note that the legal is a larger meets and bounds legal for all property purchased but includes what was subdivided pursuant to the Bedrock Subdivision creating Lot 6.
4. Draft Condo Map – Note the condo map also covers all elements of an improvements survey as it shows all as built improvements with elevations on Lot 6. The Condo Map also includes all elements required by C.R.S. 38-33.3-209 to create a condominium regime, all certified by a registered land surveyor.
5. Draft Declarations and Bylaws for the Bedrock Condominium Master Association
6. Draft Declarations and Bylaws for each Sub Association, Bedrock 1 & 2 and Bedrock 3 & 4 (the reasoning for the creation of sub-associations is explained below).
7. A check for the application fee dropped off at Rico's town hall on January 24, 2024.
8. 4 copies of large format Condo Map.

As noted above the Condo Map also covers the elements of an as built survey. If this is not sufficient and a separate as built is required, we can prepare and would have prepared with this submittal; however, our surveyor Dave Bulson has been traveling and unavailable and will be back on January 28th. He has all the data already surveyed and can prepare a separate as built very quickly. We would request that if the Condo Map is not sufficient then we can still notice for the February Planning Commission and Board of Trustees meeting and have the as built as a condition and a condition to update the as built as we move forward.

PO Box 1902
Telluride, Colorado 81435

970.708.5070
jmahoney@telluriderlaw.com



Some other items I would like to address are that the Condo Map and Declarations create a Master Association and two separate Sub-Associations. This was done for a several different reasons. The most important is that BRD is attempting to accommodate easier financing for buyers which two sub-associations assist with. Also, buildings 1 & 2 are more self-contained than buildings 3 & 4 with buildings 3 & 4 also needing the allocation of the outdoor parking spaces, so the separate sub-associations with a master association governing all other common elements was the best way to proceed for this project.

You will also see that the remainder of the land area on Lot 6 has been hashed and marked as a Future Development Area as we wanted to preserve the right to develop the remaining permitted bedrooms (13) on Lot 6 should such development be possible in the future, but also note that in the Declarations we are very explicit that such future development is subject to the Town of Rico laws and development approvals for Lot 6. This is very common in condominium communities that have even a remote possibility of additional development within such communities.

I have included a draft notice letter, address list and certificate of mailing to property owners within 200 feet of Lot 6; however, this has not been sent yet as we need verification that the letter is sufficient along with confirmation of noticing for the February dates for those meetings. We would like to notice for the February 14th Planning Commission Meeting and the February 28th Board of Trustees meeting and in order to comply with the 10-day notice for preliminary meetings as required by LUC section 562.3 we would need to notice by February 2, 2024. Submission today would give staff 20 days from submission to review and comment on the application.

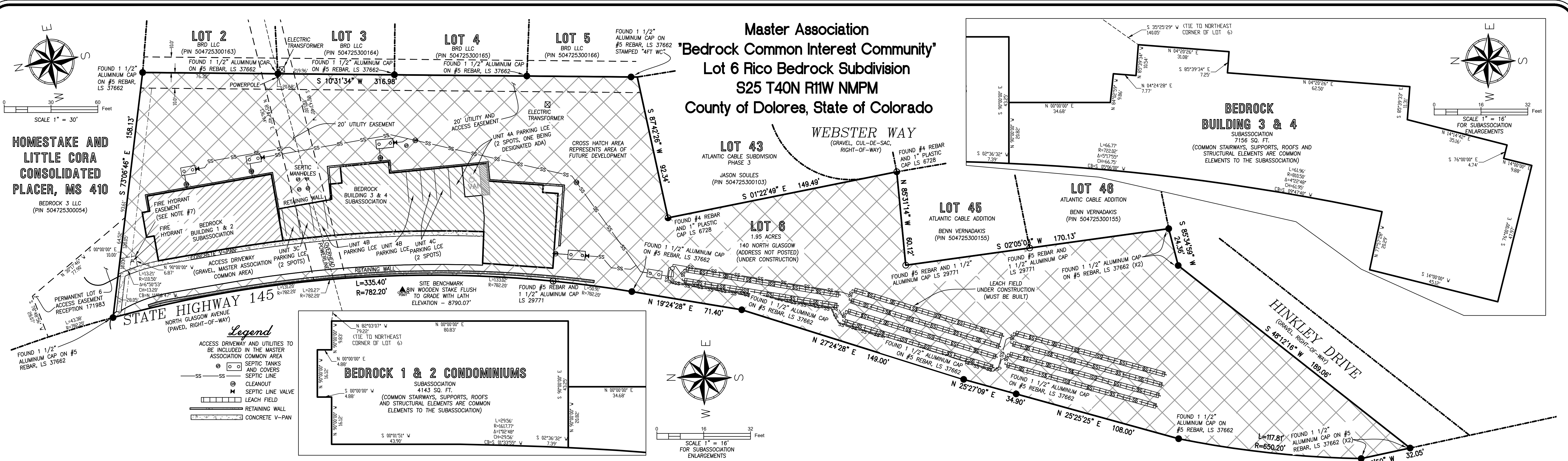
We send out the notice as soon as we are given the go ahead. We await your direction on this item.

We would also like to discuss the timing of the April 2024 Planning Commission and Board of Trustees meetings for a possible final hearing given the offseason and what those meetings dates will look like.

Again, we thank you for your assistance in reviewing the submitted application and we can be available to discuss as needed.

Sincerely,

James Mahoney



HOMESTAKE AND LITTLE CORA CONSOLIDATED PLACER, MS 410
 BEDROCK 3 LLC
 (PIN 504725300054)

Legend
 ACCESS DRIVEWAY AND UTILITIES TO BE INCLUDED IN THE MASTER ASSOCIATION COMMON AREA
 SEPTIC TANKS AND COVERS
 SEPTIC LINE
 CLEANOUT
 SEPTIC LINE VALVE
 LEACH FIELD
 RETAINING WALL
 CONCRETE V-PAN

CERTIFICATE OF CREATION OF COMMON INTEREST OWNERSHIP COMMUNITY:
 Effective Date: 2024

BRD LLC, a Colorado limited liability company ("Declarant") does hereby certify as follows:

Formation of the Community.

Declarant is the current fee simple owner of that certain property ("Property") described herein. The term "Property" shall be deemed to include the rights, duties and obligations under those certain easements that benefit and burden the Property and shall further include all improvements, consisting of buildings and other structures on the Property ("Improvements").

Declarant, as the fee simple title owner of the Property, does hereby submit the Property, including the Improvements constructed thereon, to separate and common condominium ownership and use in accordance with (i) the Declaration, (ii) the Colorado Common Interest Ownership Act, Colorado Revised Statutes Title 38, Article 33.3, as amended, and (m) the Colorado Revised Nonprofit Corporation Act, Colorado Revised Statutes Title 7, Articles 121--137, as amended, for the purpose of exercising the functions of the condominium owners' association and creating a condominium common interest ownership community for the Property and the Improvements, under the name of "The Bedrock Condominiums" (the "Master Community").

Declarant has executed a certain Master Condominium Declaration for the Bedrock Condominiums which was recorded on _____, 2024 at Reception No. _____ ("Master Declaration") further evidencing the creation of the Community. This is the same Property and the same Map that was defined, described and referred to in the Declaration. The Master Declaration and this Map along with the Articles of Incorporation and Bylaws for the Association and any rules, regulations and policies adopted by the Association are referred to as the "Master Association Governing Documents." Capitalized terms used herein, unless otherwise defined, shall have the same meaning assigned to the term in the Master Declaration.

Declarant executes this Map and has executed the Master Declaration and Sub-Association Declarations (defined below) to define the character, duration, rights, duties, obligations and limitations of condominium common interest ownership.

The Community consists of certain Buildings together with Master Association General Common Elements "G.C.E." and "L.C.E." and as further defined or described in the Master Declaration.

The Declarant has also established two Subordinate condominium communities on this map, the "Bedrock 1 & 2 Condominiums" and the "Bedrock 3 & 4 Condominiums" and the Declarant has executed the Bedrock 1 & 2 Condominium Declaration which was recorded on _____, 2024 at Reception No. _____ (the "Bedrock 1 & 2 Declaration") and the Bedrock 3 & 4 Declaration which was recorded on _____, 2024 at Reception No. _____ (the "Bedrock 3 & 4 Declaration"), collectively the Sub-Associations.

The Bedrock 1 & 2 Declaration and the Bedrock 3 & 4 Declaration and this Map along with the Articles of Incorporation and Bylaws for the Sub Associations and any rules, regulations, and policies adopted by Sub Associations are referred to as the "Sub Associations Governing Documents".

The Master Community also includes the "Future Development Areas", and the Declarant reserves the right to annex into the Master Community and create additional subordinate associations for certain additional improvements consisting of Buildings, Units and other improvements which may be constructed within the Future Development Areas and may utilize the Master Association Common Elements. Declarant has reserved the right to supplement and amend this Map, the Master Declaration and the Declarations to each Subordinate Association to exercise such reserved

rights as further detailed in the Master Declaration and Sub Association's Declarations.

The Improvements are as depicted and described on this Map. The area of each Unit is depicted and described hereon and as is further defined in the Master Declaration and Sub Association Declarations. All areas not defined, described or depicted as a Unit or part of a Unit are Common Elements.

Compliance with Laws. Use and development of the Property is further subject to applicable provisions of the Rico Land Use Code ("LUC"), Rico Design Guidelines and Rico Municipal Code (collectively "Town Laws") and certain site-specific reviews, approvals, deed restrictions and agreements by and with the Town of Rico ("Town") concerning the use and development of the Property ("Town Approvals").

Reserved Rights. The Declarant has reserved certain declarant rights, special declarant rights and development rights as provided for in Article of the Declaration ("Reserved Rights") that may be exercised by Declarant, its successors and assigns, for the period and in the manner described in the Declaration. The Reserved Rights are subject to the Town Laws and the Town Approvals. The entirety of the Property is subject to the exercise of the Reserved Rights by the Declarant or its assigns or designees.

Unit Boundaries. The boundaries of the Units are as depicted on this Map, including any supplements to the Map recorded from time to time. Unit sizes and Allocated Interests in each Subordinate Association n are indicated on Exhibit _____ of each Subordinate Associations Declaration. Allocated interests in the Master Association are indicated on Exhibit _____ of the Master Declaration. The boundaries of the Units are as depicted on this Map and further defined in the Master Declaration and Subordinate Association Declarations. In the event of any conflict between any provisions of the Declarations and depictions contained on the Map, with respect to any Unit boundary, the depictions on the Map shall control. It is intended that the definitions of the Unit boundaries indicated in the Declarations and on this Map shall be conclusive and determinative of the Unit boundaries and calculations of Unit sizes for purposes of the administration of the Community pursuant to the Master Community and Subordinate Communities Governing Documents, as well as for calculating Unit size for property tax assessments, appraisals and other purposes. To avoid inconsistencies and confusion, any attempt to measure a Unit using different calculations or measurements which result in Unit boundaries, Unit sizes or other variances from the calculations contained in the Declarations and Map are hereby specifically rejected and deemed ineffective.

IN WITNESS WHEREOF, Declarant executes this Map as of the Effective Date:

BRD LLC, a Colorado limited liability company

By: _____ Date: _____
 JASON SOULES, Manager

State of Colorado)
 County of _____)

Subscribed and sworn to before me this _____ day of 2024, by Jason Soules, as Manager of BRD LLC, a Colorado limited liability company.

Witness my hand and official seal.

My Commission Expires: _____

TOWN OF RICO:
 This CONDOMINIUM MAP FOR BEDROCK CONDOMINIUMS ("Map") is hereby approved as conforming to all applicable laws of the Town of Rico.

Mayor: _____ Date: _____

Planning Chair: _____ Date: _____

COUNTY TREASURER'S CERTIFICATE:
 I certify that according to the records in the Dolores County Treasurer's office, there are no liens against the property included in the subdivision, or any part thereof, for unpaid State, county or municipal ad valorem taxes or special assessments certified to the County Treasurer for collection.

County Treasurer: _____
 Date: _____

SURVEYOR'S CERTIFICATE:
 I, David R. Bulson, being a Registered Land Surveyor in the State of Colorado, do hereby certify that this map and survey titled as CONDOMINIUM MAP FOR BEDROCK CONDOMINIUMS ("Map") (i) was made under my direct supervision, responsibility and checking; (ii) is true and accurate to the best of my knowledge and belief; (iii) is clear and legible; (iv) contains all the information required by C.R.S. 38--33.3--209; and (v) that all monuments and markers were set as required by Articles 50 and 51 of Title 38, C.R.S.

Dated this _____ day of _____, 2024

David R. Bulson _____ PLS 37662

NOTES:
 1. All abbreviations and terms as set forth in the Condominium Declaration.
 2. Benchmark: 8" wooden stake, marked with lath, as shown hereon, with an elevation of 8790.07 feet.
 3. Dimensions shown hereon are to face of stud wall or face of concrete. Areas shown hereon are to the same.
 4. Easement research from Alpine Title Company, Order Number _____ at 5:00 P.M.
 5. BASIS OF BEARINGS: Bearings from brass cap monument at the intersection of Mantz/Glasgow. to the brass cap monument at the intersection of King/Glasgow. assumed as the historic bearing of South 02 degrees 06 minutes 00 seconds East.
 6. Mortgagee consent is not applicable.
 7. Fire Hydrant Easement dedicated to the Town of Rico.

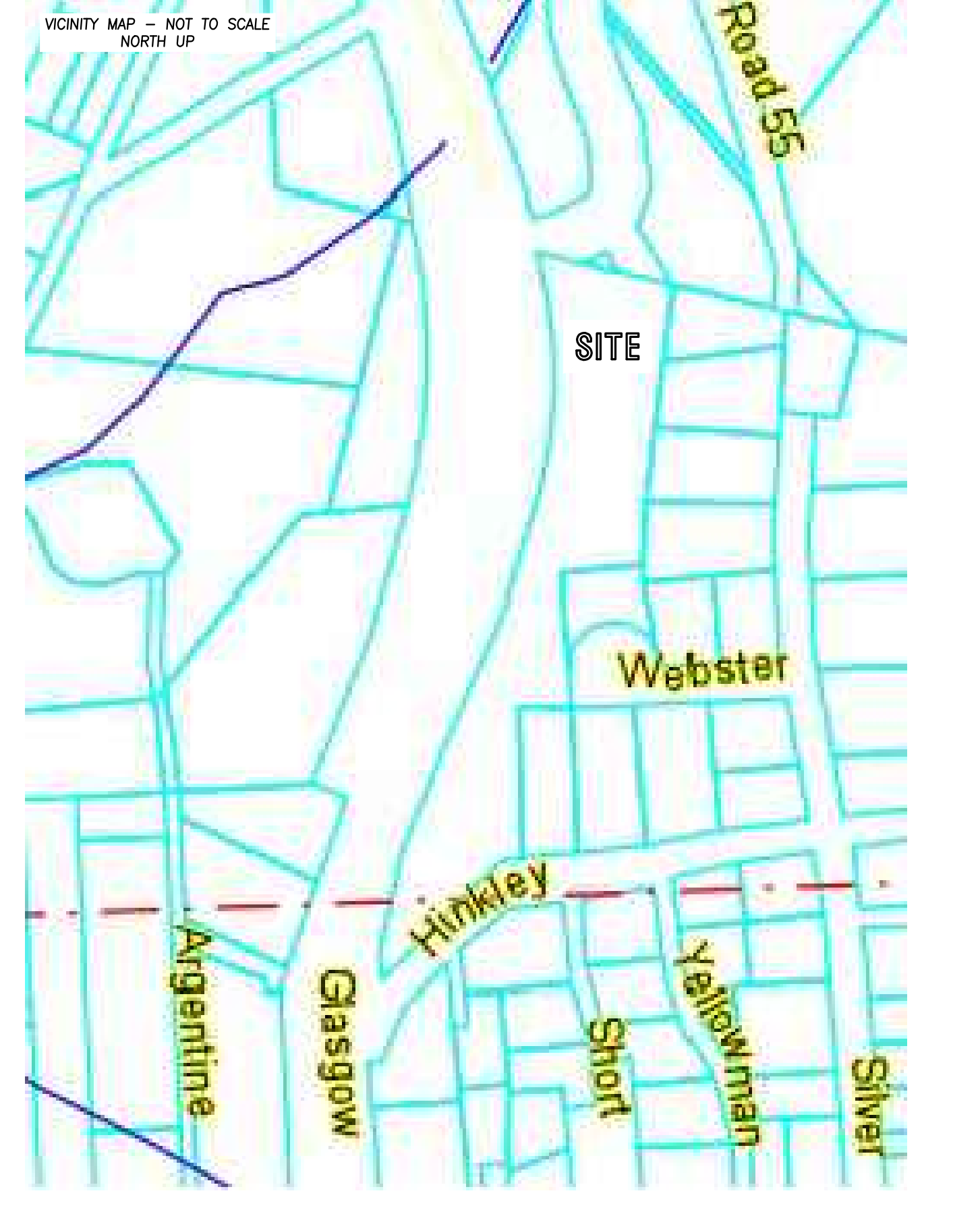
NOTICE: According to Colorado law, you must commence any legal action based upon defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

CERTIFICATE OF SUBSTANTIAL COMPLETION:
 The undersigned, a licensed _____ in the State of Colorado, states and affirms that all structural components of all Buildings containing or comprising any Units thereby created are substantially completed.

By: _____
 Date: _____
 Printed Name: _____
 Title: _____

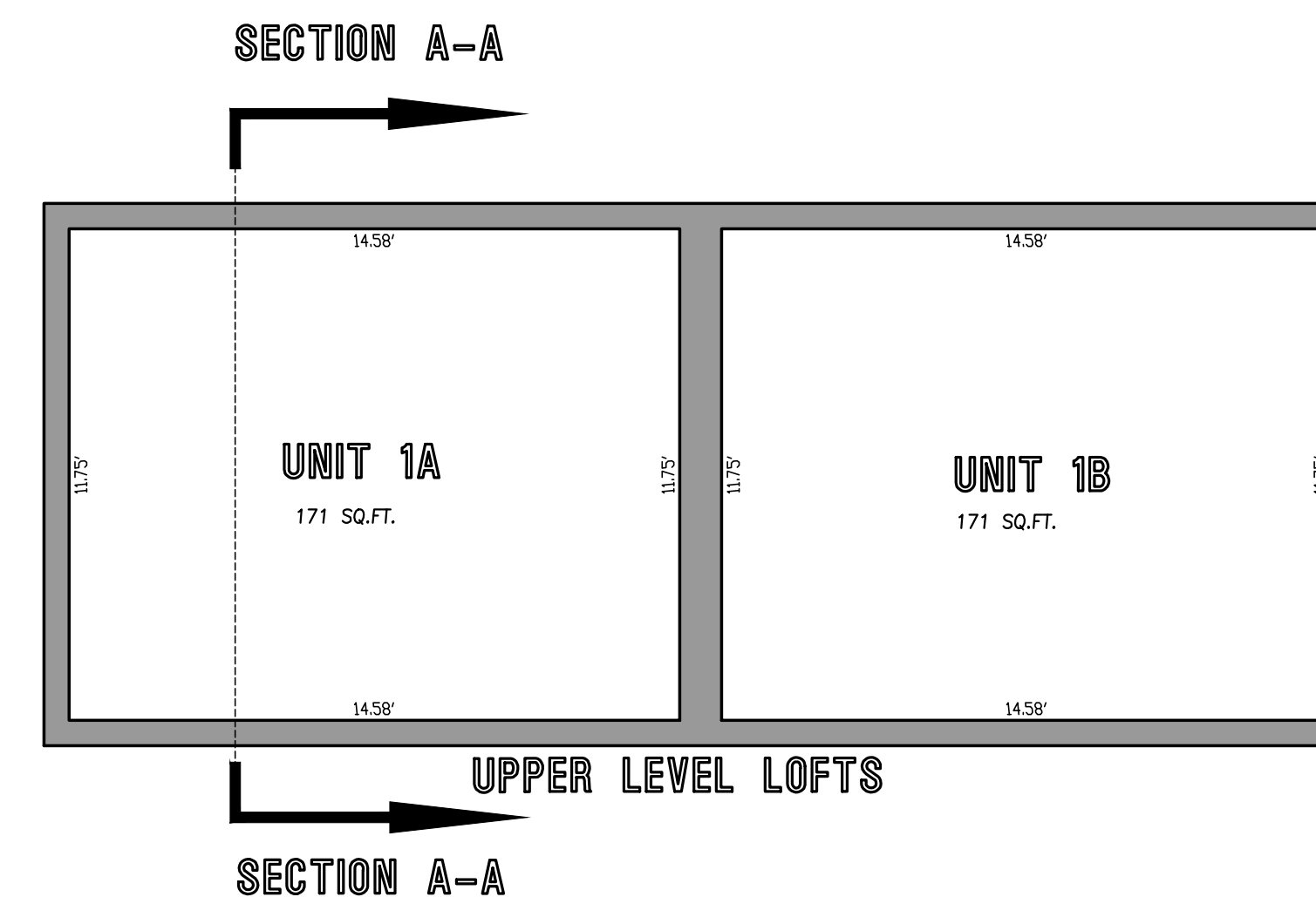
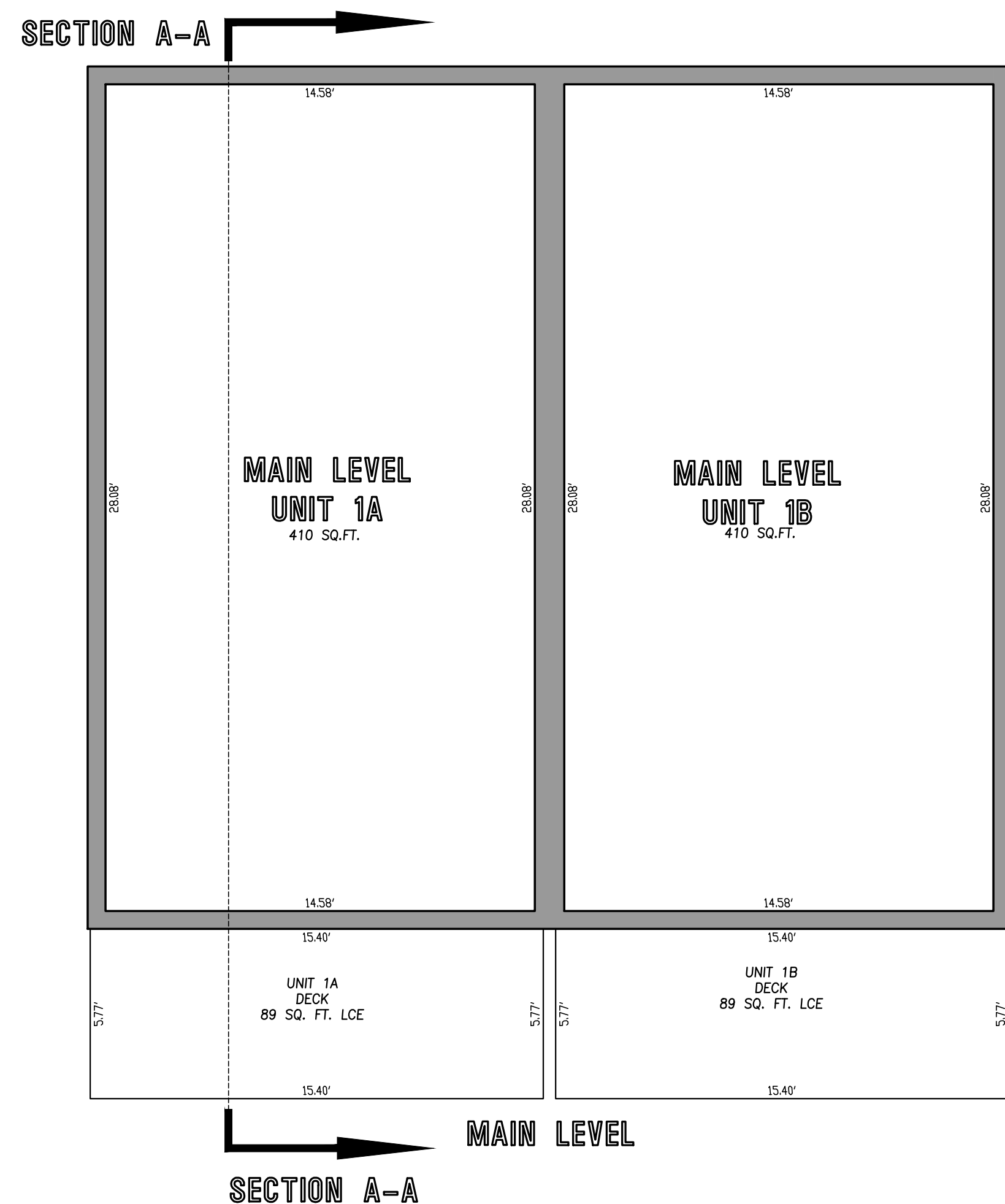
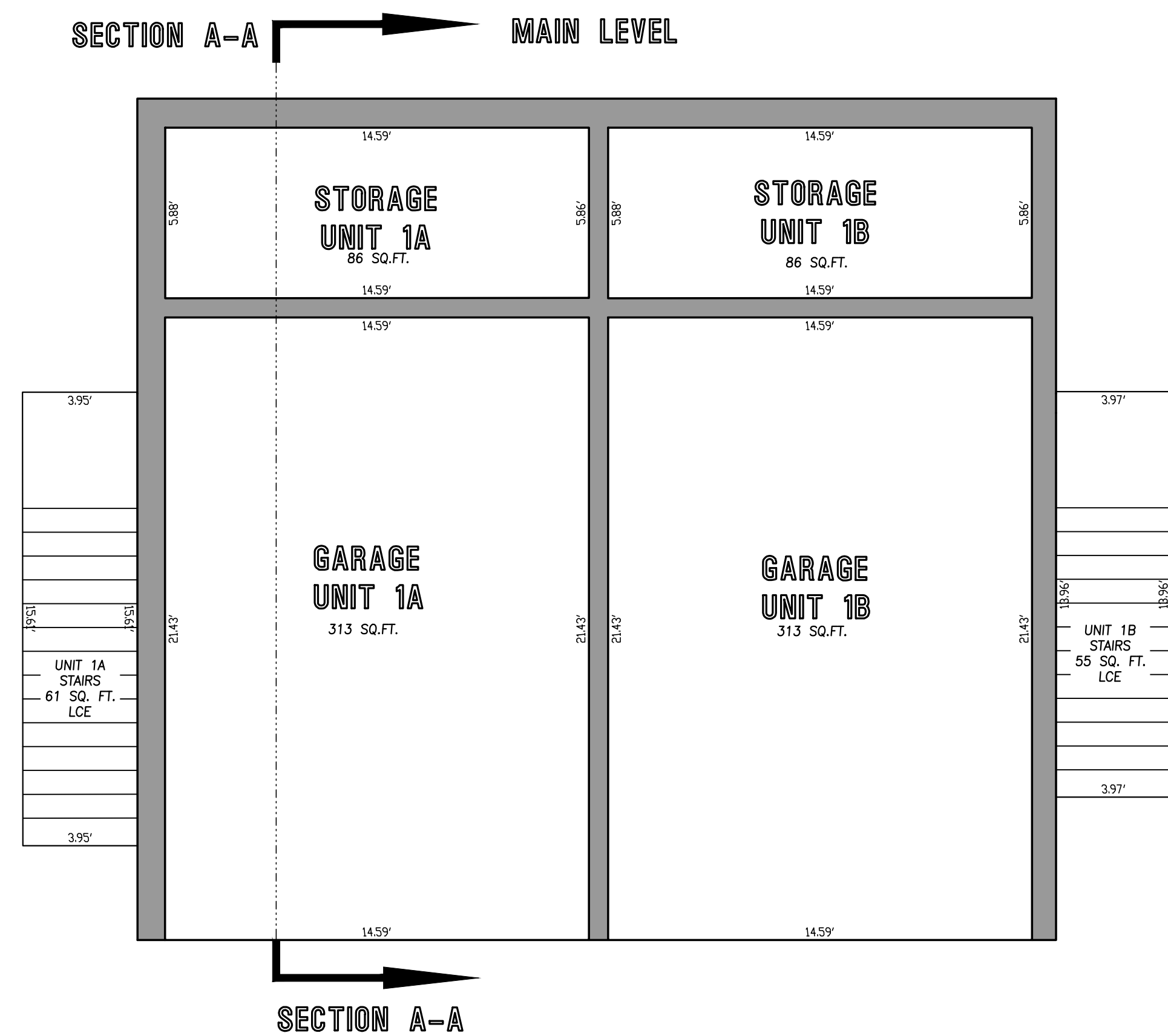
RECORDER'S CERTIFICATE:
 This plat was filed for record in the office of the Dolores County Clerk and Recorder on this _____ day of _____, 20____, at Plat Book _____, Page _____, Reception No. _____, Time _____.

Dolores County Clerk

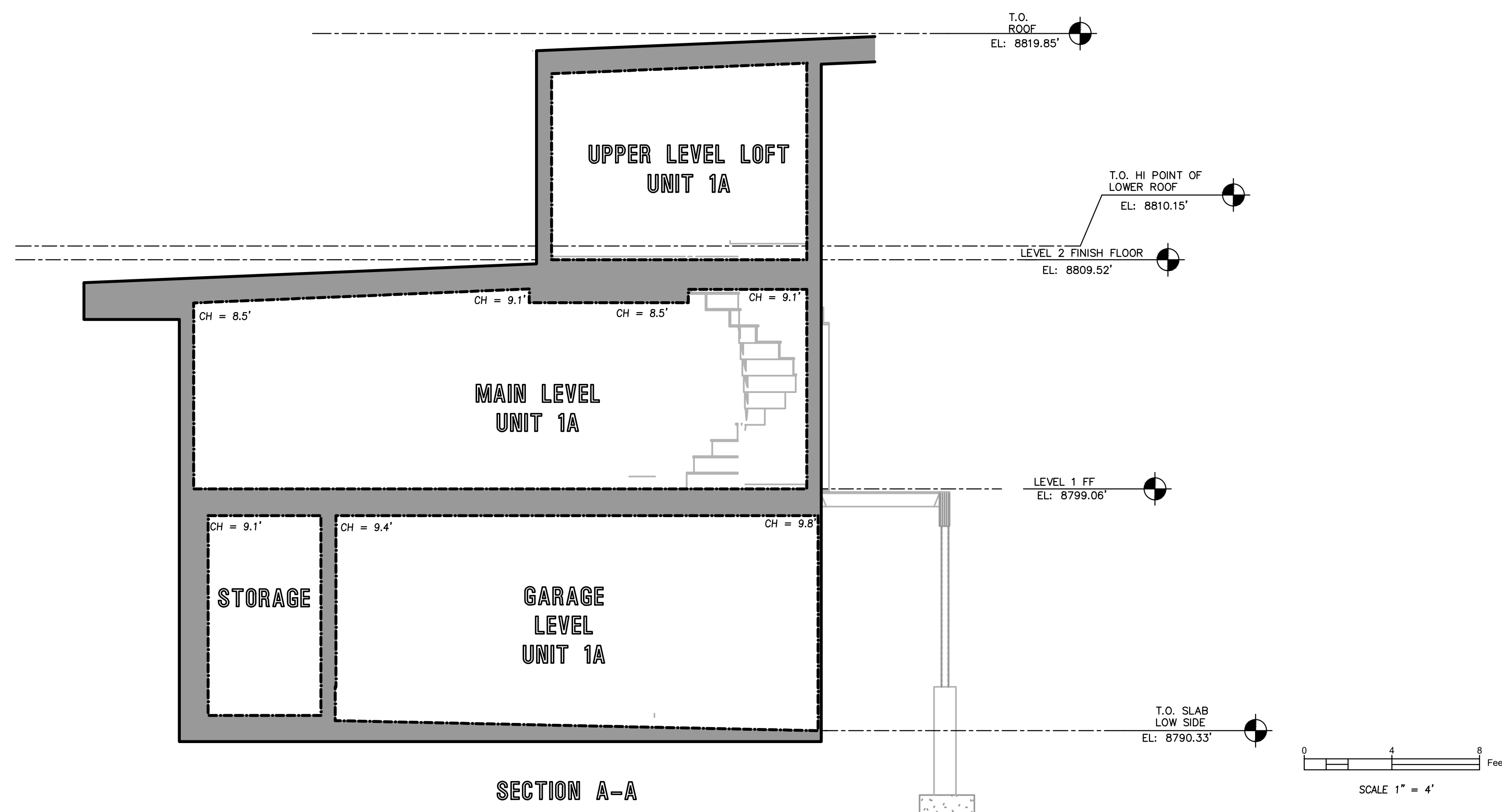


BRD LLC PO BOX 1746 Telluride, CO 81435	Lot 6 Rico Bedrock Subdivision S25 T40N R11W NMPM
1-10-2024	BULSON SURVEYING
PROJECT NUMBER	

Subassociation
 "Bedrock Building 1"
 Lot 6 Rico Bedrock Subdivision
 S25 T40N R11W NMPM
 County of Dolores, State of Colorado

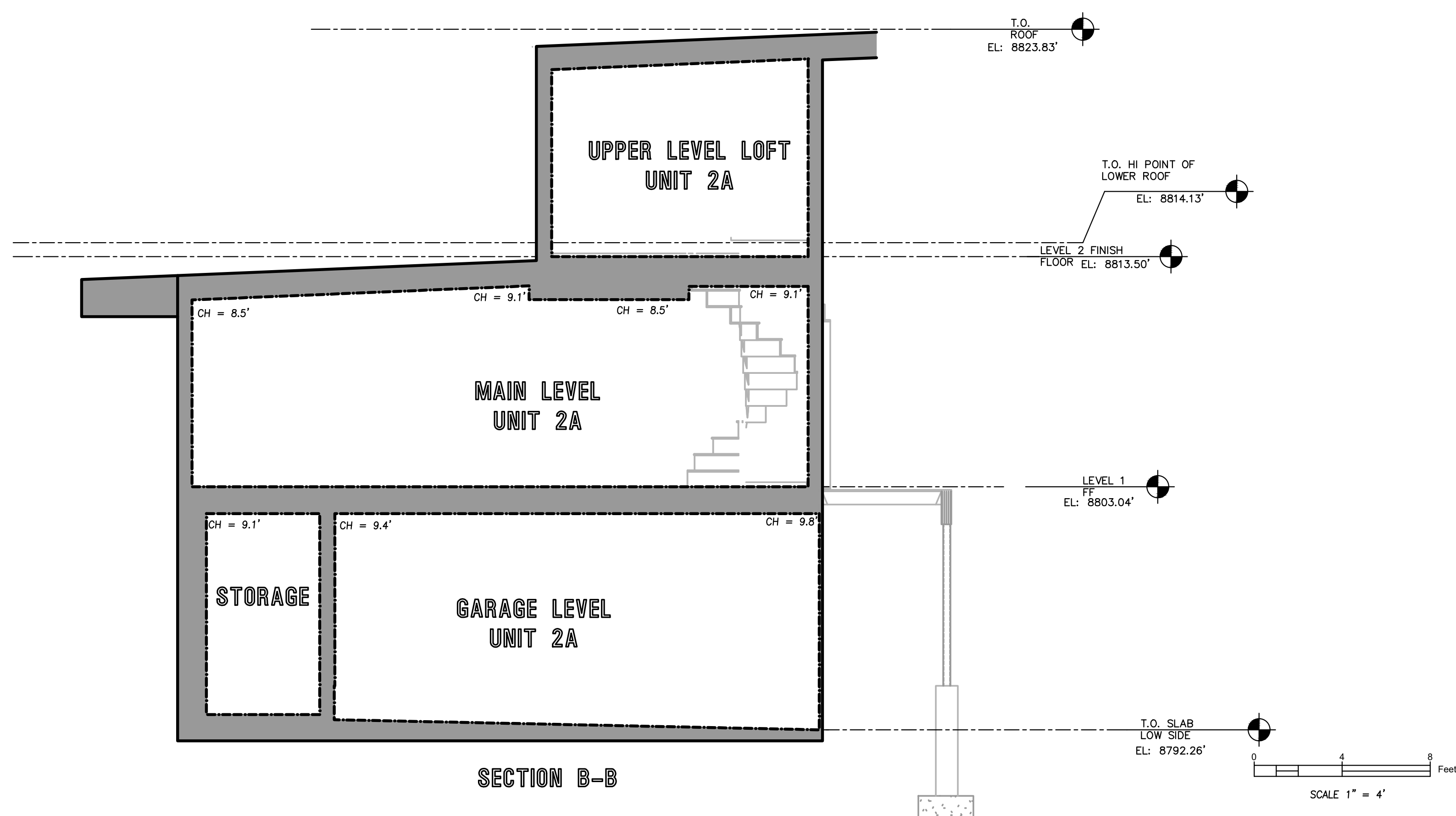
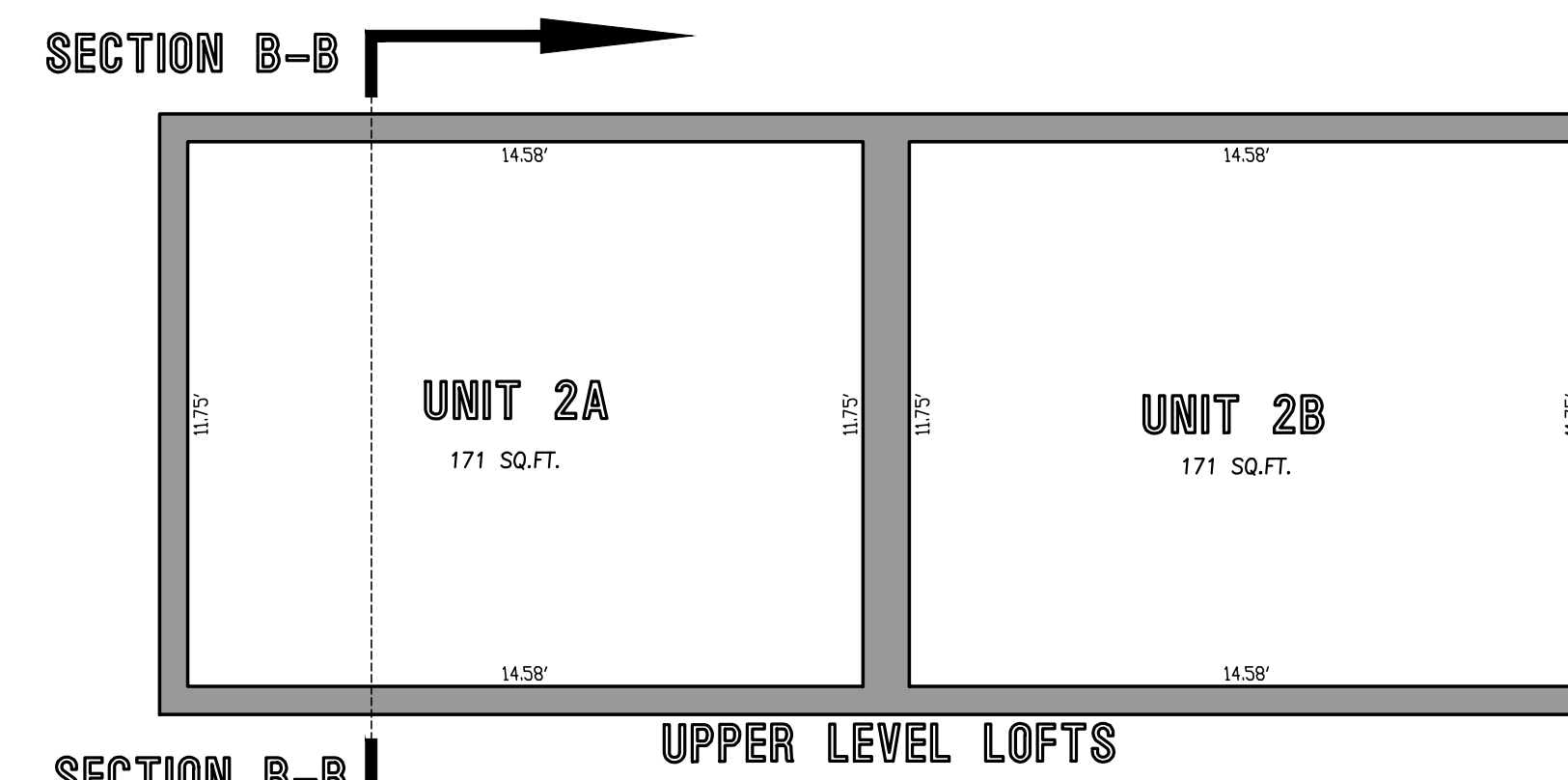
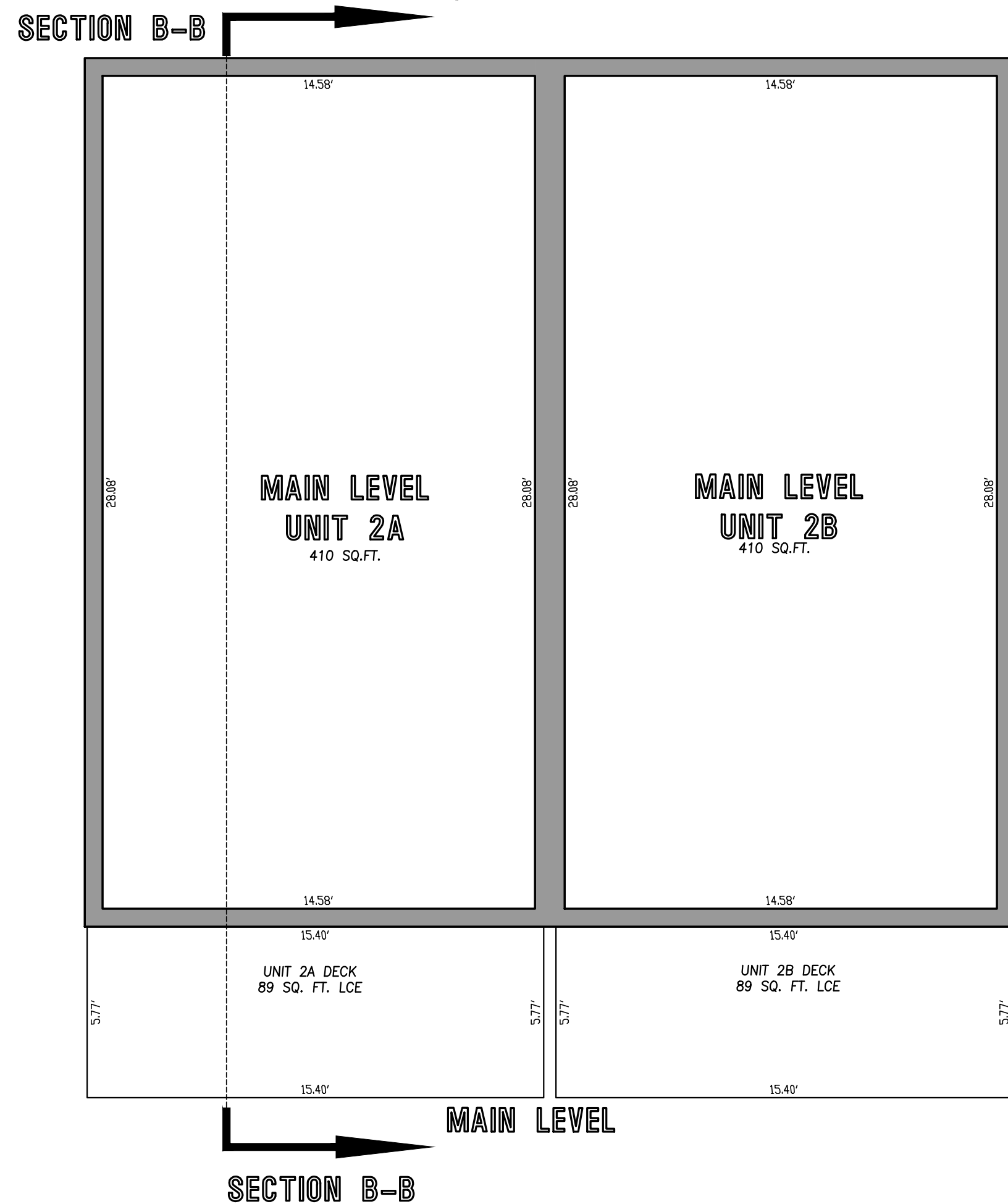
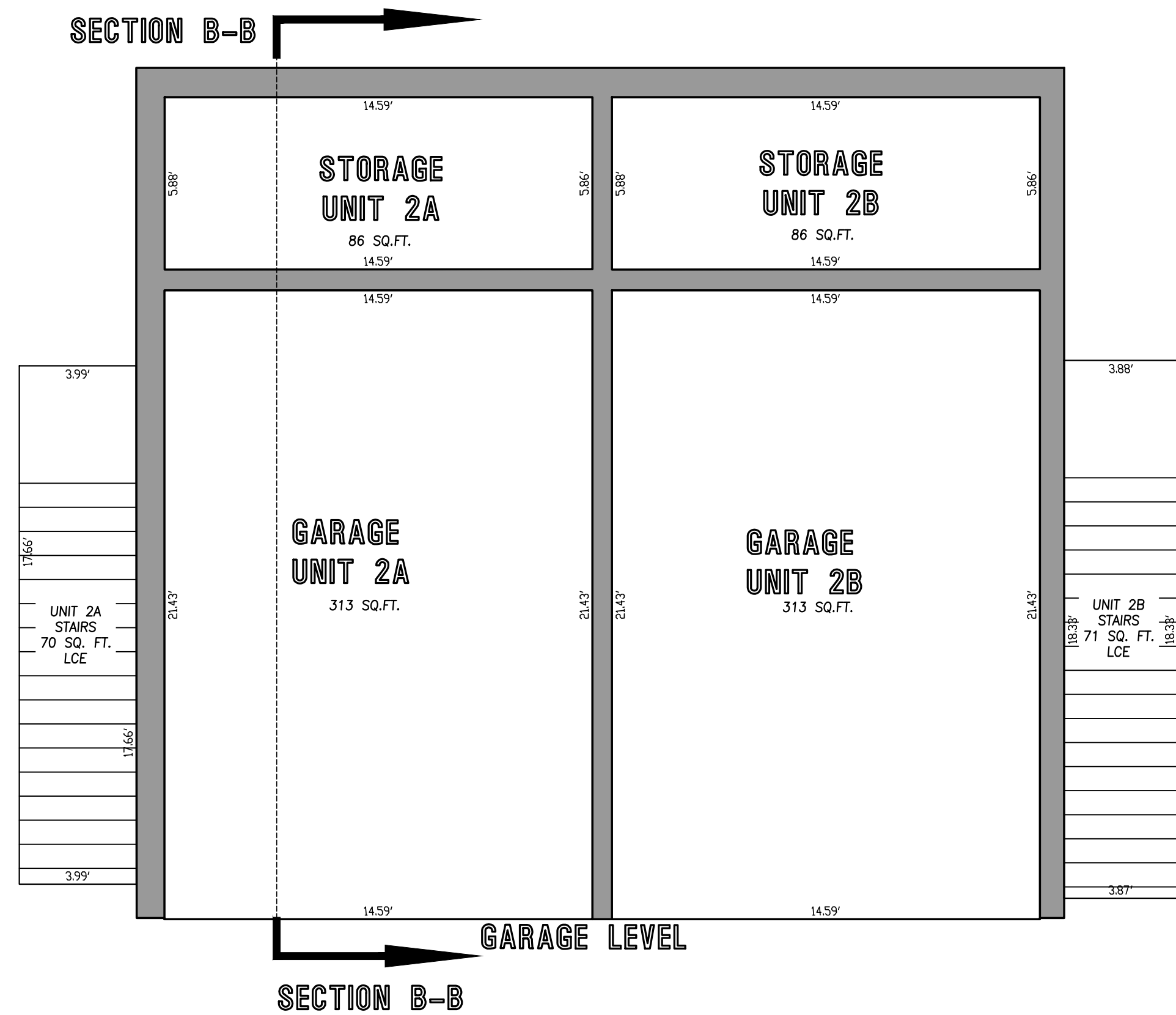


GARAGE LEVEL



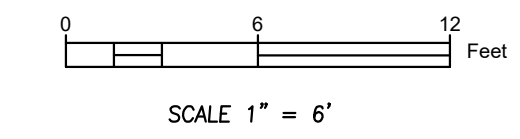
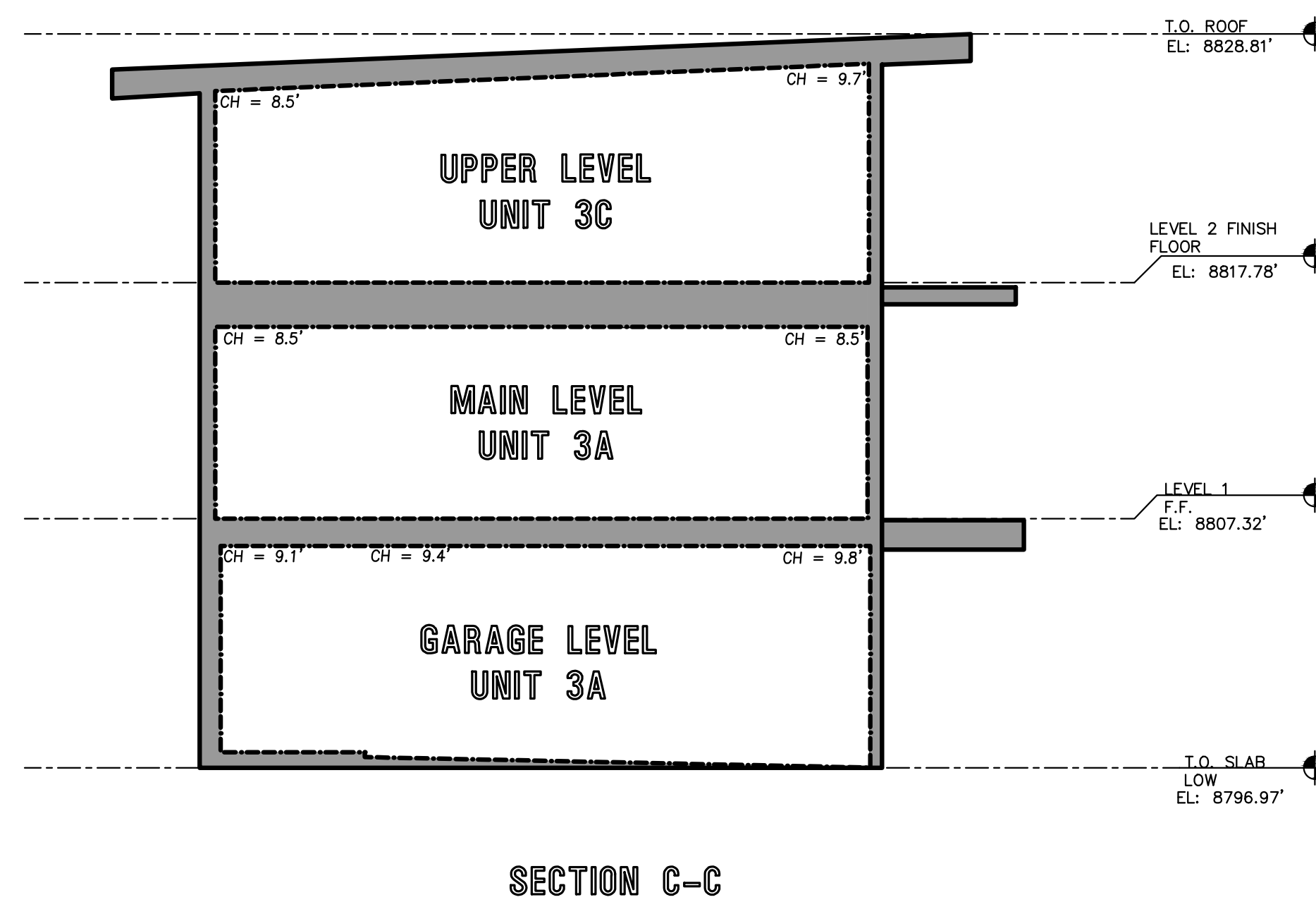
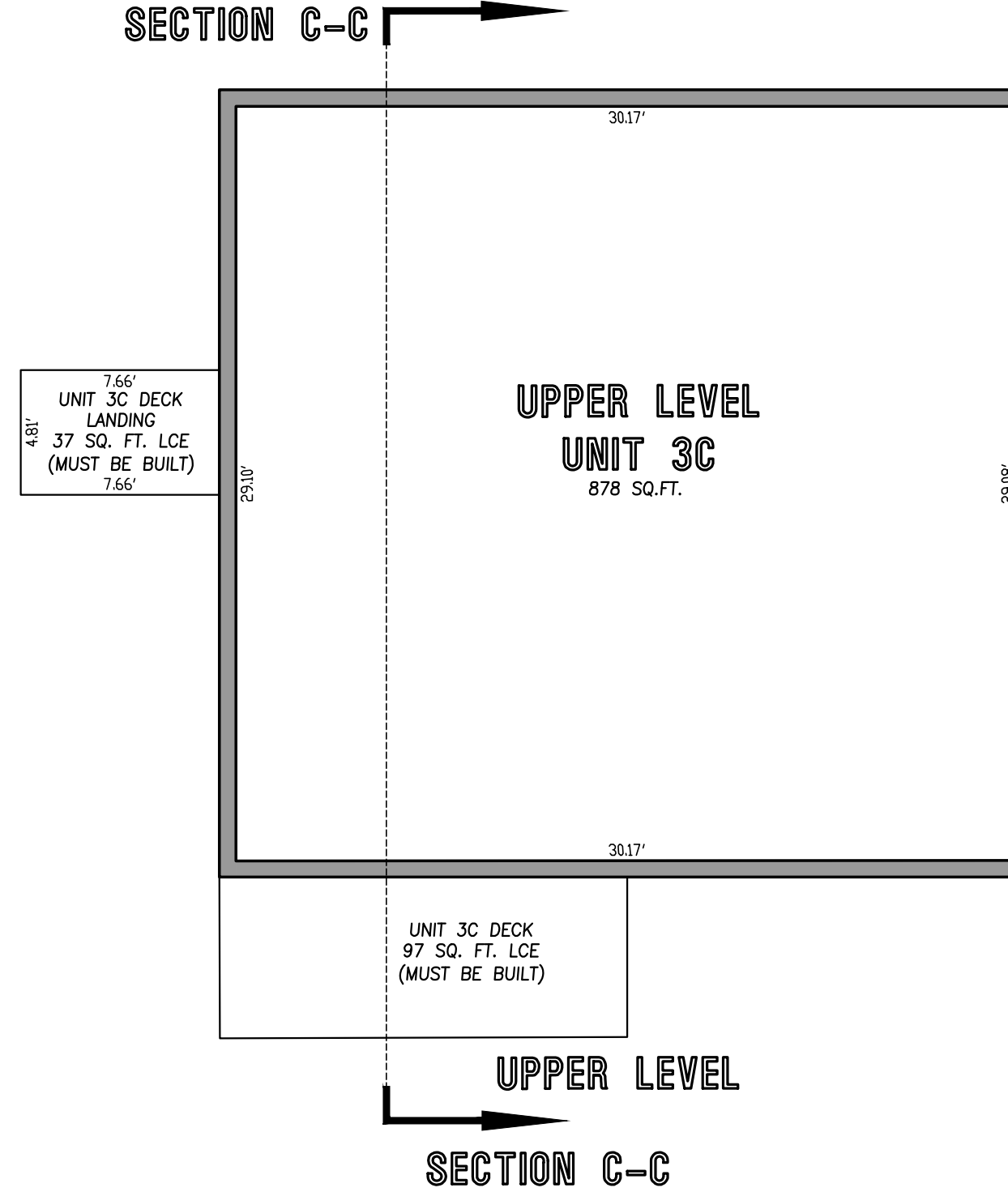
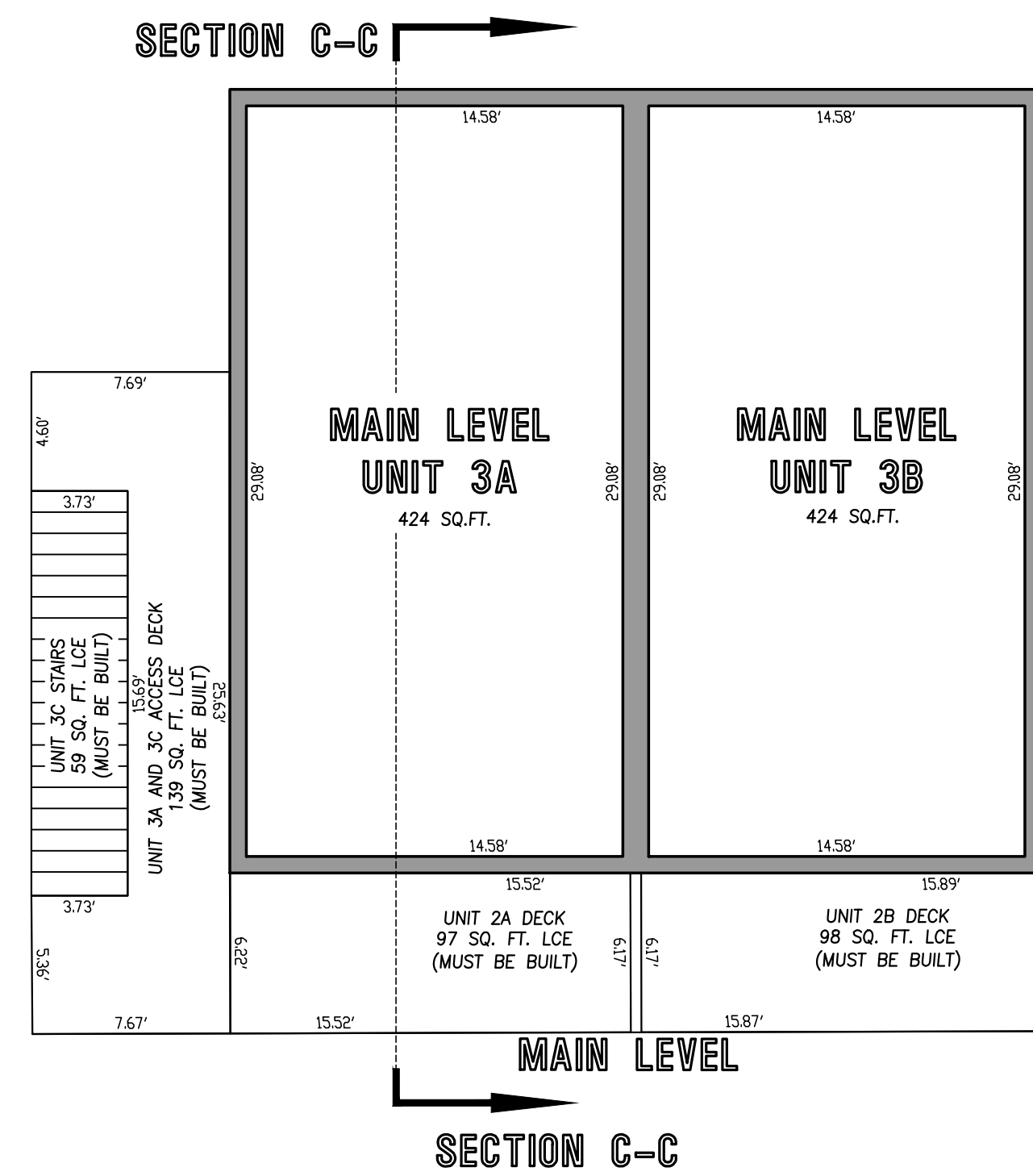
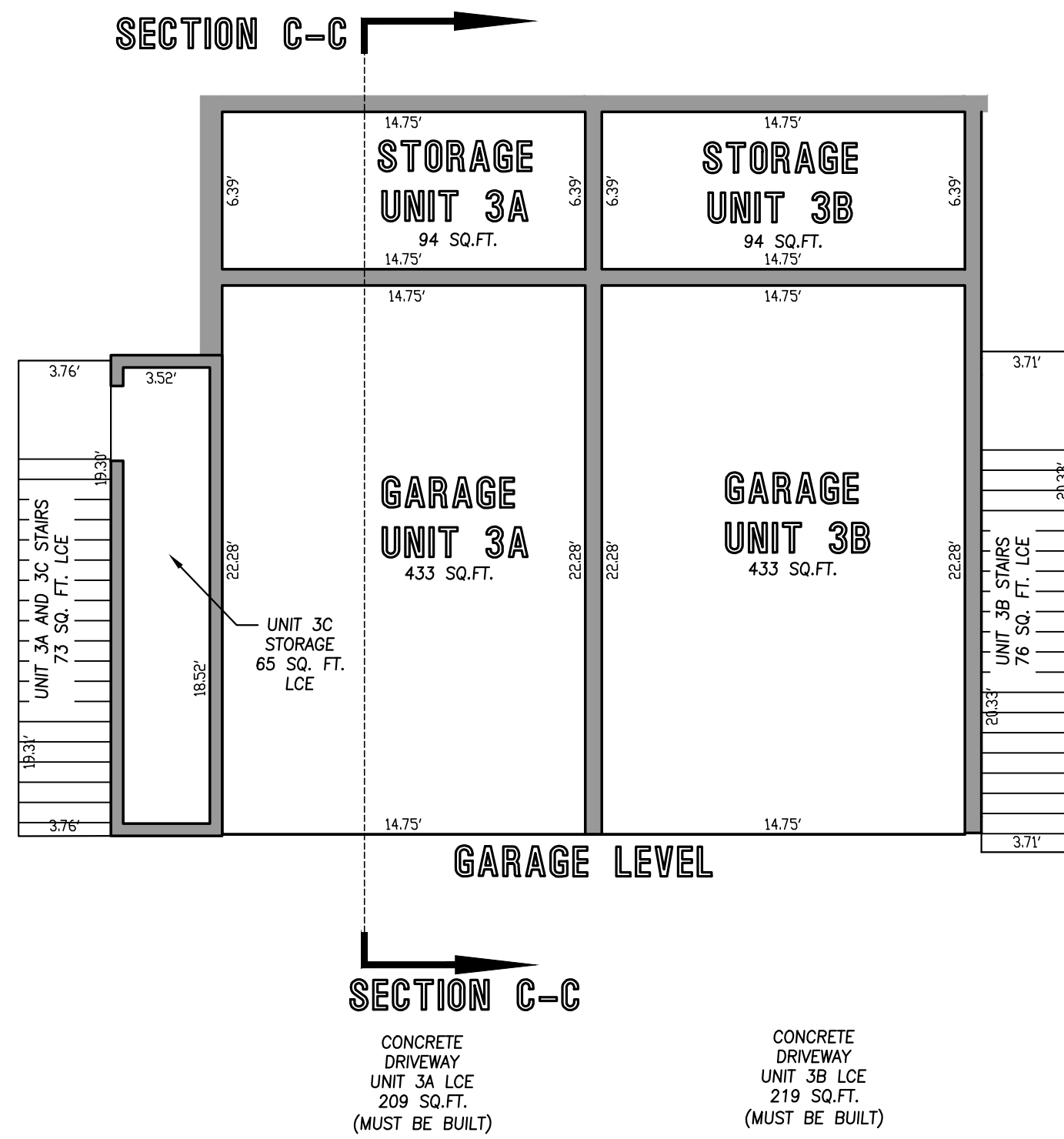
BRD LLC PO BOX 1746 Telluride, CO 81435	Bedrock Building 1 Subassociation S25 T40N R11W NMPM
1-10-2024	BULSON SURVEYING
PROJECT NUMBER	

Subassociation
 "Bedrock Building 2"
 Lot 6 Rico Bedrock Subdivision
 S25 T40N R11W NMPM
 County of Dolores, State of Colorado



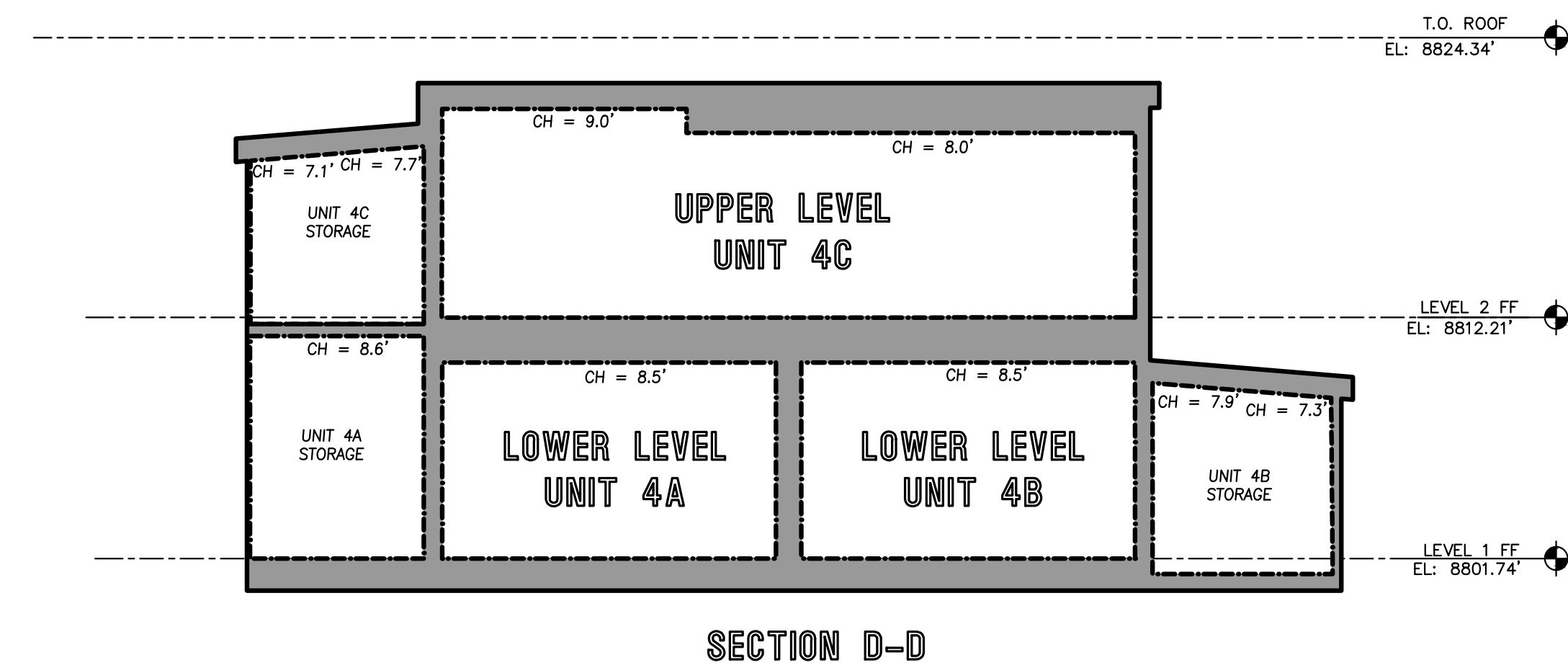
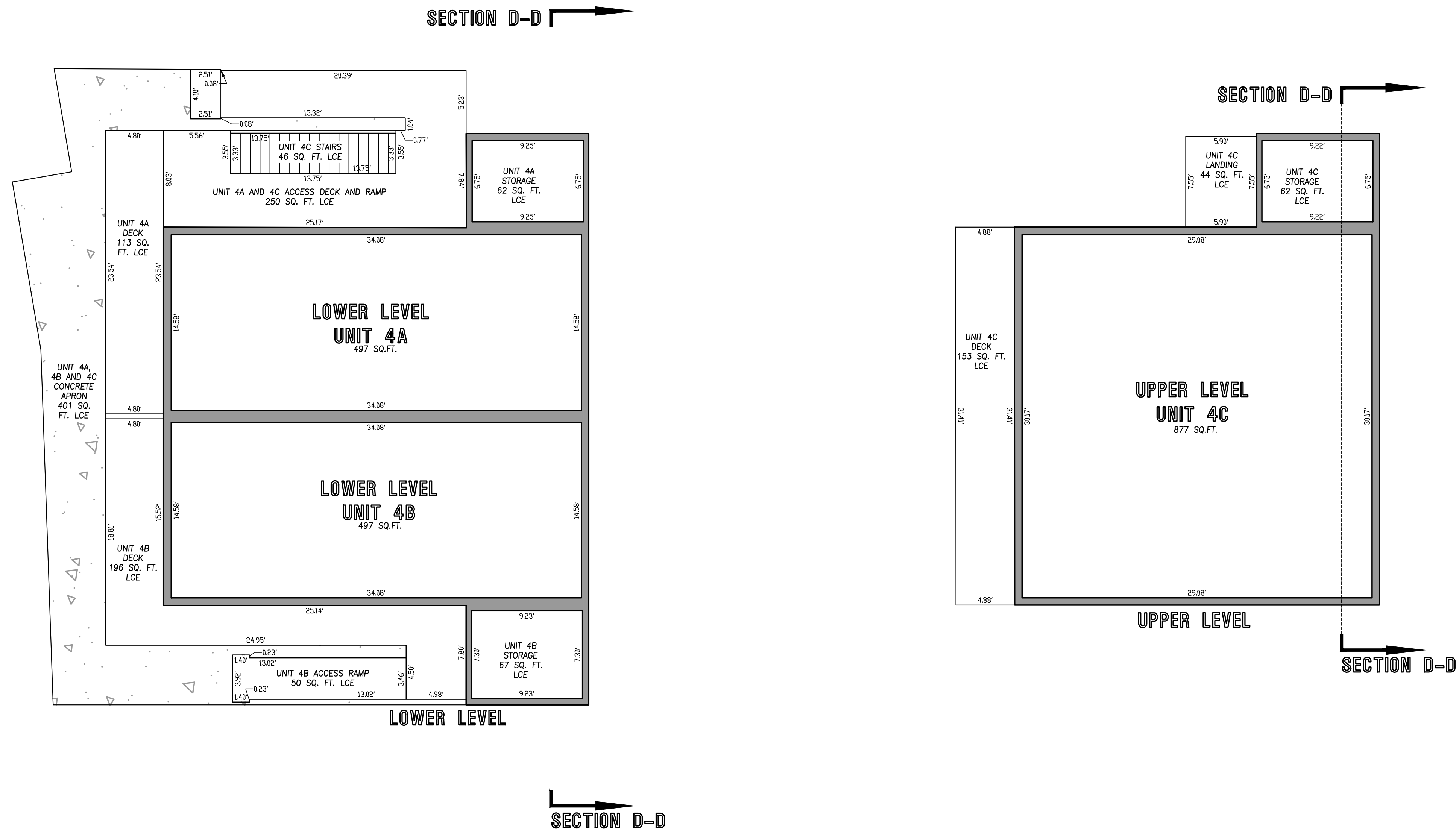
BRD LLC PO BOX 1746 Telluride, CO 81435	Bedrock Building 2 Subassociation S25 T40N R11W NMPM
1-10-2024	BULSON SURVEYING
PROJECT NUMBER	

Subassociation
 "Bedrock Building 3"
 Lot 6 Rico Bedrock Subdivision
 S25 T40N R11W NMPM
 County of Dolores, State of Colorado

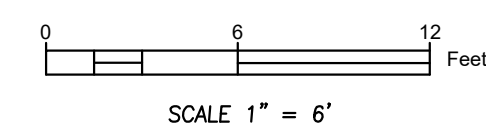



BRD LLC PO BOX 1746 Telluride, CO 81435	Bedrock Building 3 Subassociation S25 T40N R11W NMPM
1-10-2024	
PROJECT NUMBER	

Subassociation
 "Bedrock Building 4"
 Lot 6 Rico Bedrock Subdivision
 S25 T40N R11W NMPM
 County of Dolores, State of Colorado

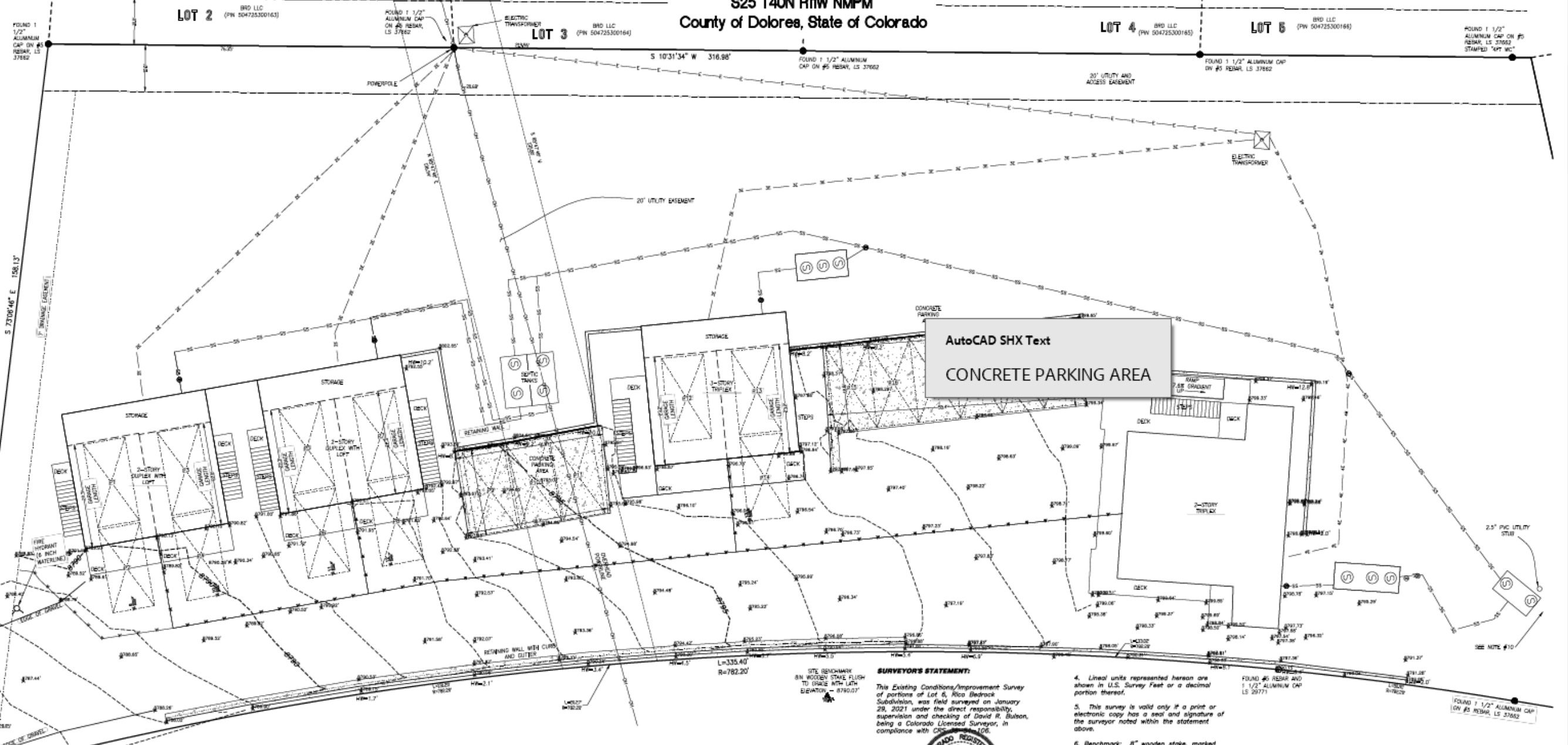


SECTION D-D

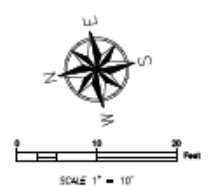


BRD LLC PO BOX 1746 Telluride, CO 81435	Bedrock Building 4 Subassociation S25 T40N R11W NMPM
1-10-2024	 BULSON SURVEYING
PROJECT NUMBER	

Existing Conditions As-Built Survey
Lot 6 Rico Bedrock Subdivision
S25 T40N R11W NMPM
County of Dolores, State of Colorado



STATE HIGHWAY 145
NORTH GLASGOW AVENUE
(HWY. 145-01-145)



Legend

- 8'x18' PARKING SPACE (PARKING SPACE NUMBER IDENTIFIED, SEE GRADES AT RIGHT)
- SEPTIC TANKS AND COVERS (SEE NOTE #9)
- SEPTIC LINE (SEE NOTE #9)
- SEPTIC LINE WITH CLEANOUT (SEE NOTE #9)
- CONCRETE RETAINING WALL
- BURIED ELECTRIC LINE (SEE NOTE #4)
- OVERHEAD ELECTRIC LINE
- WATER LINE (SEE NOTE #4)
- 2 BURIED ELECTRIC SERVICE LINES (SEE NOTE #4)
- 3 BURIED ELECTRIC SERVICE LINES (SEE NOTE #4)
- 4 BURIED ELECTRIC SERVICE LINES (SEE NOTE #4)

PARKING SPACE	GRADE
P1	INTERIOR
P2	7.2%
P3	INTERIOR
P4	1.4%
P5	INTERIOR
P6	6.0%
P7	INTERIOR
P8	3.2%
P9	3.2%
P10	3.4%
P11	3.8%
P12	INTERIOR
P13	INTERIOR
P14	6.8%
P15	2.2%
P16	1.5%
P17	1.5%
P18	1.0%
P19	1.7%
P20	1.0%

NOTE: GRADE CALCULATED ALONG 18' AXIS OF PARKING SPACE

SURVEYOR'S STATEMENT:

This Existing Conditions/Improvement Survey of portions of Lot 6, Rico Bedrock Subdivision, was field surveyed on January 29, 2021 under the direct responsibility, supervision and checking of David R. Bulson, being a Colorado Licensed Surveyor, in compliance with C.R.S. 24-106.

David R. Bulson
David R. Bulson
2024.01.12:00.23
07:00
37662

NOTES:

- This survey does not constitute a title search by Bulson Surveying Inc.
- This as-built survey represents site conditions as of January 29, 2024. At this time, property was under construction and conditions may have changed subsequent to this survey. Visible evidence of buried utility lines are shown according to this survey; buried lines are shown schematically according to the installation notes of the general contractor.
- Bearings from brass cap monument at the intersection of Mantz/Glasgow to the brass cap monument at the intersection of King/Glasgow, assumed as the historic bearing of South 02 degrees 05 minutes 00 seconds East.
- Lineal units represented hereon are shown in U.S. Survey Feet or a decimal portion thereof.
- This survey is valid only if a print or electronic copy has a seal and signature of the surveyor noted within the statement above.
- Benchmark: 8" wooden stake, marked with lath, as shown hereon, with an elevation of 8790.07 feet.
- Contour interval is one foot.
- The word certify as used hereon means an expression of professional opinion regarding the facts of this survey and does not constitute a warranty or guarantee, expressed or implied.
- According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.
- Septic system components complete to this location. The septic leach field lying southerly of this point has been graded but is not complete at the time of this survey.

BRO LLC PO BOX 1748 Telluride, CO 81435	Lot 6, Rico Bedrock Subdivision S25 T40N R11W NMPM
1-31-2024	BULSON SURVEYING
PROJECT NUMBER	

AFFIDAVIT OF MAILING PUBLIC NOTICE LETTER

February 5th, 2024
Town of Rico
Board of Trustees
Planning Commission
P.O. Box 9
2 Commercial Street
Rico, Colorado 81332


Sent by email to: townmanager@ricocolorado.gov; wea@mountainlawfirm.com

Re: Certification and Affidavit of Mailing Public Notice Letter for Lot 6 Bedrock Subdivision,
Subdivision/Condo Map Application.

I hereby declare that I, Joshua St. Peter, mailed a copy of the Town of Rico approved, enclosed public notice letter via U.S. First Class Mail, postage prepaid thereon on February 2nd, 2024, to the attached list of property owners. The public notice letter was prepared and mailed in accordance with the public noticing requirements of the Rico Land Use Code ("RLUC"). The public notice letter was placed in the mail on February 2nd, 2024 which was at least 10 days prior to the public hearing(s) to be held on 2/14/24 and 2/28/2024. The list of property owners includes all lot and condominium property owners located within 200 feet of the boundary of Lot 6. The adjacent property owner list was compiled from the Dolores County GIS. Attached is a copy of the noticing letter, list of all property owners noticed, including their lot number and mailing address.

I declare that under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.

Sincerely,



Joshua St. Peter, Agent for Applicant

NOTICE OF PENDING DEVELOPMENT APPLICATION

January 31, 2024

RE: Public Hearings on Subdivision Application for: Preliminary Approval of Subdivision/Condo Map Application for Lot 6 Bedrock Subdivision.

Dear Property Owner,

You are receiving this public notice as required by the Town of Rico Land Use Code because you own property within 200 feet of the subject property. The Planning Commission Preliminary Meeting is to be held both in person and remotely via the ZOOM web- conferencing platform in a hybrid format on February 14, 2024 at approximately 6:00 p.m. or sometime thereafter. Details on how to access this meeting will be found at <https://townofrico.colorado.gov>

The Board of Trustees Meeting is to be held both in person and remotely via the Zoom web- conferencing platform in a hybrid format on February 28th, 2024 at approximately 7:00 p.m. or sometime thereafter. Details on how to access this meeting will be found at <https://townofrico.colorado.gov>

Name of Applicant: BRD, LLC

Type of Development Application(s): Preliminary subdivision approval for 10 condominium units under construction on Lot 6, Bedrock Subdivision.

Legal Description: Lot 6 Bedrock Subdivision, According to the Bedrock Subdivision Plat, Town of Rico, Dolores County, State of Colorado, Recorded at Reception Number 171981, Dolores County Clerk and Records Office.

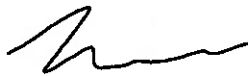
Address: 140 N. Glasgow, Rico, CO 81332

Detailed Summary of Development Application(s): The applicant is seeking to create 10 separate legal condominium units via the subdivision process for the under-construction condominium units nearing completion on Lot 6 of the Bedrock Subdivision.

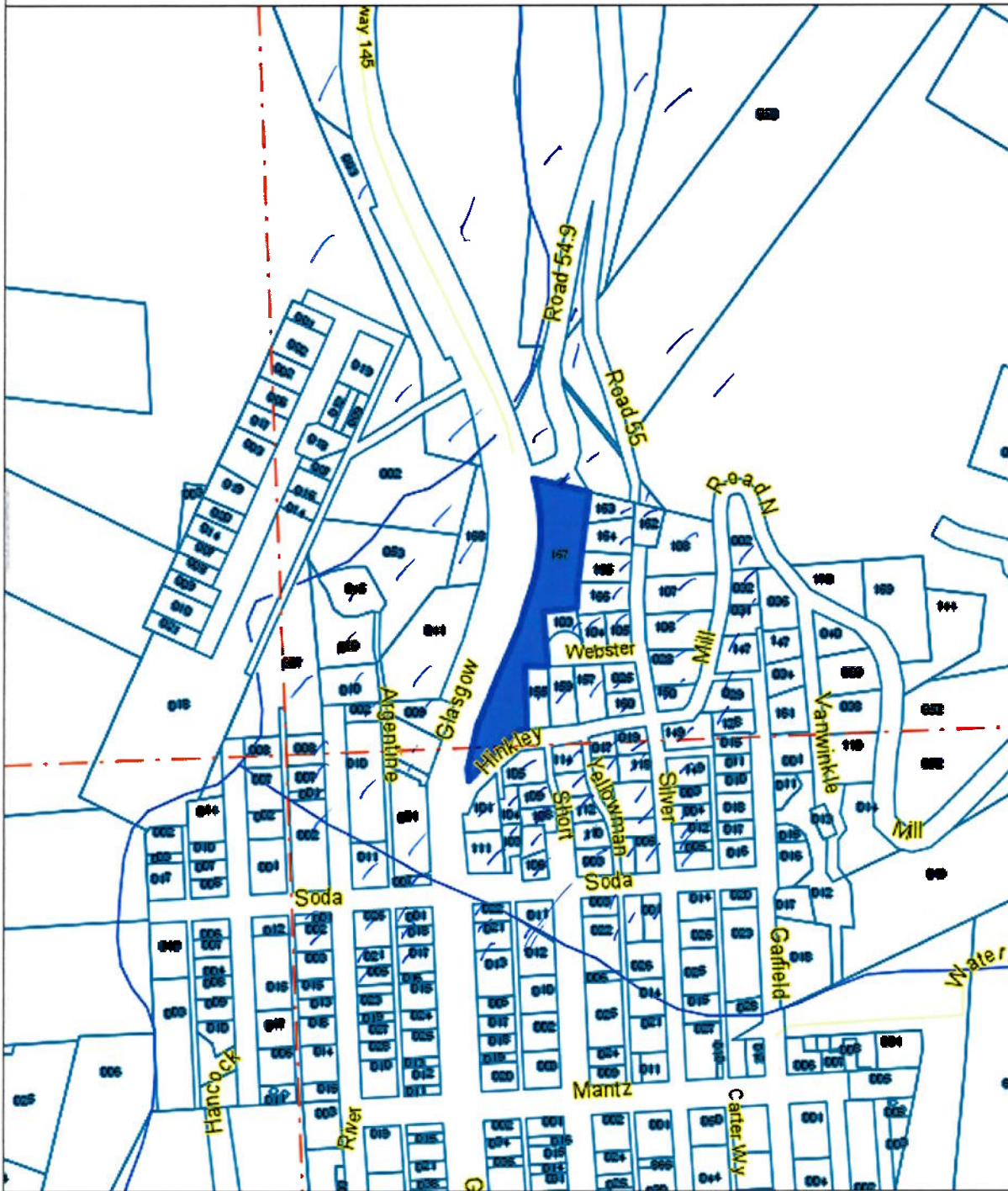
For a copy of the application please email: townmanager@ricocolorado.gov

To submit comments on the application please email: townmanager@ricocolorado.gov prior to each hearing date.

Sincerely,



James Mahoney, Attorney for Applicant



No certification or accuracy of information is made or implied. Information may be changed without notice. This map is for informational purposes only and is not a legal map. Call 970-677-2385 with any questions.

First Name	Last Name	Address	City	State	Zipcode	Lot Number	Subdivision
Jason	BRD LLC	PO Box 1746	Telluride	CO	81435	Lots 1-6	Bedrock
Taylor	Glaze	PO Box 1746	Telluride	CO	81435	Lot 43	Atlantic Cable
Scott	Keating	9928 Pineaire Drive	Sun City	AZ	85351	Lot 44	Atlantic Cable
Benn	Vernadakis	PO Box 1712	Telluride	CO	81435	Lot 45	Atlantic Cable
Paul Ruud and Stacy	Mother Lode Enterprises LLC	PO Box 37	Rico	CO	81332	Lots 45-46	Atlantic Cable
Gregory and Alexander	Sheridan	3370 Chatla Drive	Prescott	AZ	86305	Lots 20-23	Atlantic Cable
Roark and Lindsay	Knecl	PO Box 35	Rico	CO	81332	Lot 25	Atlantic Cable
Jill and Andrew	Lanning	PO Box 381	Rico	CO	81332	Lot 24	Atlantic Cable
Patricia	Engel	2132 Kincaid Place	Boulder	CO	80304	Tract 48	Atlantic Cable
San Juan National Forest	Jordan	3418 Ridgeline Drive	Montrose	CO	81401	Tracts 46-47	Atlantic Cable
Darrall	Dept. of Agriculture	143 Parkside Circle	Decatur	GA	30030	Tract 28	Atlantic Cable
Tracy and Jennifer	Huber	PO Box 62	Rico	CO	81332	Tract 27, Lot 26A-B	Atlantic Cable
Curran Family Trust	Taylor	15 Burnette Court	Durango	CO	81301	Unknown	
Ronald	C/O Mike Curran	PO Box 134	Rico	CO	81332	Lots 31-32	Atlantic Cable
Carole	Evers	PO Box 24	Rico	CO	81332	Tracts 30 & 35	Atlantic Cable
Anne	Rychanik	PO Box 313	Rico	CO	81332	Tract 29	Atlantic Cable
James	Hot Rod Lincoln LLC	PO Box 94	Rico	CO	81332	Lot 5C, 26A-C	Atlantic Cable
Dennis	Baron	502 Dartmoor Drive	Celina	TX	75009	Lots 28-29	Rico
Luke Brown and	Swank	300 W. Corsicana Street	Athens	TX	75751	Lots 26-27, 23	Rico
Nathaniel and Angela	Seeley	PO Box 264	Rico	CO	81332	Lots 24-25	Rico
Dylan	Sloan	4038 Hayhurst Lane	Tucson	AZ	85712	Lots 21-22	Rico
Lynne	Town of Rico	PO Box 131	Rico	CO	81332	Lots 17-20 East	Rico
Daniel	Sandoval	PO Box 2913	Telluride	CO	81435	Lots 17-20 West	Rico
Patricia	Vandermaast	201 County Road 3697	Springtown	TX	76082	Lots 15-16	Rico
Kalin	Cone	PO Box 1086	Cortez	CO	81321	Lots 11-14	Rico
Elizabeth	Grigg	PO Box 758	Ophir	CO	81426	Tract 18	Atlantic Cable
Crystal Hibbard and Alexandre	Baker	PO Box 9	Rico	CO	81332	Tract 15, Lots 39-40	Atlantic Cable, Rico, Bedrock
Gretchen	Wing	PO Box 177	Rico	CO	81332	Lot 16	Atlantic Cable
Gary and Debra	Treadwell	PO Box 61	Rico	CO	81332	Tract 19	Atlantic Cable
David	Vandergriff	PO Box 142	Rico	CO	81332	Tract 17	Atlantic Cable
Jude	Berry	1029 W. 7th Street	Cortez	CO	81321	Tract 14	Atlantic Cable
	Guthridge	PO Box 305	Rico	CO	81332	Tract 14	Atlantic Cable
		203 4th Street	Chugwater	WY	82210	Tract 13	Atlantic Cable
		PO Box 85	Rico	CO	81332	Lot 12	Atlantic Cable
		PO Box 142	Rico	CO	81332	Tract 11	Atlantic Cable
		1303 Lawson Avenue	Midland	TX	79701	Lots 21-23	Rico
		PO Box 21	Rico	CO	81332	Lots 39-40	Rico
		PO Box 325	Rico	CO	81332	Lots 33-38	Rico

First Name	Last Name	Address	City	State	Zipcode	Lot Number	Subdivision
Jay and Mary Lou	Millstead	1420 South 6th Avenue	Yuma	AZ	85364	Lots 1-5 West	Rico
Mackenzie	Ostrom-Jondrow Family Trust	182 W. Simpson Street	Tucson	AZ	85701	Lots 1-5 East	Rico
Jessica and Florentina	Turrin	PO Box 55	Rico	CO	81332	Tracts 5 and 10	Atlantic Cable
Bryant and Jessica	Hart	3004 Little Mill	The Colony	TX	75056	Tract 9	Atlantic Cable
Paul	Bernardo	3004 Little Mill	The Colony	TX	75056	Tract 4	Atlantic Cable
Julia Prejs and Joseph	Jacobsen	167 Coffey Street	Brooklyn	NY	11231	Lot 8	Atlantic Cable
Julie	Dillsworth	PO Box 965	Telluride	CO	81435	Tract 3	Atlantic Cable
Garan	Hodson	PO Box 2829	Telluride	CO	81435	Tract 7	Atlantic Cable
Katelyn and Michael	Mangan-Dinizio	PO Box 122	Rico	CO	81332	Tract 6	Atlantic Cable
Catherine and Lloyd	Contillo	PO Box 115	Rico	CO	81332	Lot 1A	Atlantic Cable
	Hershey	3048 Tam Oshanter	Flagstaff	AZ	86004	Lot 1B	Atlantic Cable
	Lyons Den Construction INC	PO Box 265	Rico	CO	81332	Lots 36-38	Rico
Sarah	Call-CO Properties	PO Box 1401	Telluride	CO	81435	Lots 1-5 North	Rico
Jimmy	Floyd	19 Normandy Road	Ashville	NC	28803	Lots 2-8	Rico
	Stewart	614 Hawkins Avenue	Sanford	NC	27330	Lots 1-3 North	Rico
	Tio Rico LLC	3624 W. Pecos Road	Chandler	AZ	85226	Lots 3-4 South	Rico
Carma Moore, Jack Fahion and Janet Walker		25150 Road G 15	Cortez	CO	81321	Lots 5-7	Rico
Gregory Perkins and Dan	Shenck	1375 S.E. Deer Creek Drive	Cadareidge	CO	81413	Lots 33-34	Rico
Nora Belasco and Michael	Lesem	PO Box 43	Rico	CO	81332	Lots 35-36	Rico
Gary and Christine	Gass	PO Box 102	Rico	CO	81332	Lots 37-40	Rico
	Endless Possibilities LLC	PO Box 215	Rico	CO	81332	Mining Claim	Atlantic Cable
Mark	Brickhaus Holding Company LLC	PO Box 1616	Telluride	CO	81435	Lots 5-9	Rico
Gary and Yolanda	Allen	PO Box 172	Rico	CO	81332	Lots 1-4	Rico
Chauncey McCarthy and Devon	Davis	PO Box 86	Rico	CO	81332	Mining Claim	Rico
James and Kevin	Petersen	PO Box 161	Rico	CO	81332	Lot 3	Homestake Little Cora
Nicholas and Catherine	Ferrando	4721 Sarasola Street, N.E.	Albuquerque	NM	87111	Tract C	Rico
Robert Cummings and Nicole	Kelly	2407 Quarry Road	Austin	TX	78703	Lots 1-3, 38-41	Rico
Mike and Mary	Pieterse	PO Box 25	Rico	CO	81332	Lot 2	Farando
Lynn	Hagan	PO Box 101	Rico	CO	81332	Lots 26-38	Rico
Cassandra and Daniel	Randall	5480 Cordoba Way	Farmington	NM	87402	Lots 21-25	Rico
Cornelius and Barbara	Day	1565 Park Avenue	Canon City	CO	81212	Lot 1	Rico
Justin and Julie	Muldoon	6536 South Robins Way	Chandler	AZ	85249	Lots 2-4	Rico
State Department of Highways	Bain	3418 Ridgeline Drive	Montrose	CO	81401	Lots 11-12	Rico
Homestake Little Cora LLC and	Bedrock 3 LLC	PO Box 3107	Telluride	CO	81435	Lots 4-6	Rico
		PO Box 2507	Durango	CO	00000	CDOT Maintenance Yard	Rico
		166 Alexander Overlook	Telluride	CO	81435	South Foot	Homestake Little Cora

First Name	Last Name	Address	City	State	Zipcode	Lot Number	Subdivision
Atlantic Richfield Company	c/o BP America INC Attn: Property Tax Dept.	PO Box 941709	Houston	TX	77094	Homestake Little Cora East	Homestake Little Cora
Cornelius and Barbara	Muldoon	PO Box 1511	Idaho Springs	CO	80452	Mining Claim	Rico
María	Roberts	17013 6450 Road	Montrose	CO	81403	Lot 10	Rico
		2900 S. Palo Verde Lane, Unit 18	Yuma	AZ	85365	Lots 7-9	Rico

State Documentary Fee
\$75.00 03-02-2022

SPECIAL WARRANTY DEED

THIS DEED, made this 1st day of March, 2022
between **Bedrock 3 LLC, a Colorado limited liability company**, of the County of **Dolores** and State of **Colorado**, grantor(s),
AND
BRD, LLC, a Colorado limited liability company whose legal address is **P.O. Box 1746, Telluride, CO 81435**
of the County of **San Miguel** and State of **Colorado**, grantee(s):

WITNESS, that the grantor(s), for and in consideration of the sum of **SEVEN HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$750,000.00)**, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee(s), his/her heirs, and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of **Dolores** and State of Colorado, described as follows:

FOR LEGAL DESCRIPTION SEE EXHIBIT A

also known by street and number as: **TBD Bedrock 3.54, Rico, CO 81332**

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances except for taxes for the current year, a lien but not yet due and payable, subject to statutory exceptions as defined in CRS 38-30-113, revised.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee(s), his heirs, and assigns forever. The grantor(s), for himself, his heirs and personal representatives or successors, does covenant and agree that he shall and will **WARRANT AND FOREVER DEFEND** the above-bargained premises in the quiet and peaceable possession of the grantee(s), his heirs and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the grantor(s).

The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.

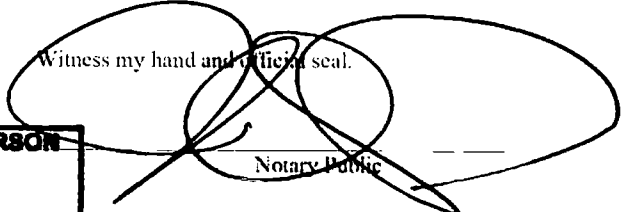
Bedrock 3 LLC, a Colorado limited liability company


By: **Michelle Haynes, Manager**

STATE OF COLORADO }
COUNTY OF San Miguel } ss.

The foregoing instrument was acknowledged before me this March 1, 2022, by **Michelle Haynes, Manager of Bedrock 3 LLC, a Colorado limited liability company**.

My Commission expires: June 8, 2025

Witness my hand and official seal.

Notary Public

**JAMES O'CALLAGHAN PATTERSON
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214022305
MY COMMISSION EXPIRES JUNE 8, 2025**

Escrow File No.: 3345CEA

EXHIBIT "A"

Portions of the Columbia Millsite - MS 365B, Elliot Lode - MS 1536A, Aztec Lode - MS 367B and Tract 2 Atlantic Cable Subdivision Phase 1 all located within Section 25, Township 40 North, Range 11 West, N.M.P.M., Town of Rico, Dolores County, Colorado further described as follows;

Beginning at Corner 2 of said Columbia Millsite MS 365B being the POINT OF BEGINNING;

THENCE S 16°50' W along the line between Corner 2 and Corner 1 of said Columbia Millsite a distance of 108 feet more or less to the intersection with the northern boundary of Phase 3 of the Atlantic Cable Subdivision according to the plat recorded May 6, 1993 in Plat Book 1 at page 4, in the records of the Dolores County Clerk and Recorder;

THENCE N 80° W a distance of 70.30 feet more or less to a point on the western boundary of the Silver Street Right of Way as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 08° 54' 53" W a distance of 146.36 feet to an angle point on the western boundary of the Silver Street Right of Way as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 00° 42' 32" E a distance of 32.91 feet to the northeast corner of Lot 45 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 87° 53' 26" W a distance of 145 feet to the northwest corner of Lot 44 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE N 00° 42' 32" W a distance of 20.00 feet to the northeast corner of Lot 43 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 87° 53' 26" W a distance of 92.27 feet to the northwest corner of Lot 43 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 00° 42' 32" E a distance of 149.98 feet to the northwest corner of Lot 21 of Phase 1 of the Atlantic Cable Subdivision according to the plat recorded September 10, 1979 in Plat Book 2 at page 7, in the records of the Dolores County Clerk and Recorder;

THENCE N 83°08'42" W a distance of 60.45 feet to the northeast corner of Tract 2 of said Phase 1 of the Atlantic Cable Subdivision;

THENCE S 02°07'00" W a distance of 170.00 feet to the northern Right of Way boundary of Hinkley Drive as the same is depicted on said Phase 1 of Atlantic Cable Subdivision;

THENCE S 85°47'00" W a distance of 24.56 feet to an angle point on the northern Right of Way boundary of Hinkley Drive as the same is depicted on said Phase 1 of Atlantic Cable Subdivision;

THENCE S 48°11'36" W a distance of 171.23 feet more or less along said northern Right of

Way boundary of Hinkley Drive to a point on the eastern boundary of the Right of Way for State Highway 145 as was conveyed to the Colorado Department of Transportation by Quit Claim Deed recorded 1/27/1967 at Reception Number 81067 County of Dolores, State of Colorado;

THENCE along said eastern boundary of State Highway 145 Right of Way 136.13 feet on a nontangential curve, concave to the southeast, having a radius of 650.2 feet, an included angle of 11° 59' 44", and a chord of 135.88 feet which bears N 14°16'40" E;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 24°19'30" E a distance of 108.00 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 24°21'14" E a distance of 34.90 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 26°18'33" E a distance of 149.00 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 18°18'33" E a distance of 71.40 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way 336.39 feet on a nontangential curve, concave to the northwest, having a radius of 782.2 feet, an included angle of 24° 38' 25", and a chord of 333.80 feet which bears N 05°59'03" E to a point on the northern boundary of said Columbia Millsite MS 365B;

THENCE S 73°10' E along the boundary of said Columbia Millsite MS 365B a distance of 377.21 feet more or less to Corner 2 of said Columbia Millsite MS 365B being the POINT OF BEGINNING;

COUNTY OF DOLORES, STATE OF COLORADO

TOGETHER WITH:

That portion of the Columbia Millsite - MS 365B, Pioneer Mining District lying west of the Right of Way for State Highway 145 as was conveyed to the Colorado Department of Transportation by Quit Claim Deed recorded 1/27/1967 at Reception Number 81067,

County of Dolores, State of Colorado.

jmahoney@telluriderlaw.com

From: jmahoney@telluriderlaw.com
Sent: Wednesday, January 24, 2024 9:35 AM
To: jmahoney@telluriderlaw.com
Subject: FW: Property Tax

James Mahoney P.C.
James Mahoney
Attorney
970-708-5070
jmahoney@telluriderlaw.com

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From: dctreas@fone.net <dctreas@fone.net>
Sent: Wednesday, January 24, 2024 9:33 AM
To: jmahoney@telluriderlaw.com
Subject: RE: Property Tax

Good morning Jim,

Sorry for the delayed response. I would be more than happy to assist you with this. Parcel #504725300167 is showing \$3050.02 due for the 2023 taxes which are payable this year. My office is currently in the process of mailing these notices out this week. The due date on this amount is April is paid in full. If paid in half payments the due dates will be February 29th and June 15th. Please let me know if you have any additional questions or if I can help in any way.

Have a great day,



Taylor Funk
Dolores County
Treasurer & Public Trustee

409 North Main St / P.O. Box 421
Dove Creek, Colorado 81324
P: 970.677.2386
F: 970.677.2946

From: jmahoney@telluriderlaw.com <jmahoney@telluriderlaw.com>
Sent: Tuesday, January 23, 2024 2:59 PM
To: dctreas@fone.net

DECLARATION FOR BEDROCK 1 & 2 CONDOMINIUMS

THIS CONDOMINIUM DECLARATION FOR BEDROCK 1 & 2 CONDOMINIUMS

(“**Declaration**”), is made effective as of _____, 2024 (“**Effective Date**”) and is made, adopted and published by BRD, LLC, a Colorado limited liability company (“**Declarant**”). Capitalized terms used in this Declaration and not defined elsewhere in this Declaration have the meanings given those terms in Article 2.

ARTICLE ONE IMPOSITION OF COVENANTS

1.1. Condominiums and Master Community.

1.1.1. Declarant is the owner of Lot 6, Bedrock Subdivision, Town of Rico, and has established thereon, certain condominiums known as the Bedrock Condominiums (the “**Master Community**”) featuring 4 buildings comprising two separate condominium communities, Bedrock 1 & 2 Condominiums and Bedrock 3 & 4 Condominiums each with their own declarations and the Future Development Area reserved for future development by the Declarant, its successors and assigns.

1.1.2. The Master Community was formed in accordance with the “**Master Condominium Declaration**” recorded on _____, at Reception No. _____ and the “**Master Community Map**”, which also includes the Map for the Bedrock 1 & 2 Condominiums. The Master Community Declaration and Master Community Map are hereinafter referred to as the Master Community Governing Documents.

1.1.3. The Master Community was formed for the purposes stated in the Master Community Governing Documents including the purpose of creating the condominium buildings, Future Development Areas and for the purpose of administering and managing the Master Condominium Property (as defined in the Master Community Governing Documents).

1.2. General Purposes.

1.2.1. Declarant is the current, fee simple owner of certain improved real estate situate in the Town of Rico, Dolores County, Colorado, more particularly described on attached **Exhibit “A”**, together with the beneficial rights and burdens arising from any agreement, covenants, easements and rights-of-way as well as any appurtenances affecting such land and any improvements constructed on the land now and in the future (together such interests are collectively referred to as the “**Real Estate**”).

1.2.2. Declarant desires by this Declaration to create a common interest community under the name and style of “**Bedrock 1 & 2 Condominiums**” (the “**Community**”) in which the Real Estate will be designated for separate ownership with portions designated as Common Expense Areas allocated solely amongst the owners of the separate ownership portions.

1.2.3. This Declaration is executed and recorded subject to the terms and conditions of all easements, agreements, covenants and instrument of record affecting the Real Estate and Community.

1.3. Submission of Real Estate.

1.3.1. Declarant hereby submits the Real Estate to condominium ownership under and pursuant to the provisions of the Colorado Common Interest Ownership Act, Section 38-33.3-101, et seq. of the Colorado Revised Statutes, as it may be amended from time to time (“**Act**”), to this Declaration for

the Community (“**Declaration**”) as set forth in the Master Community Map which contains the Condominium Map for Bedrock 1 & 2 Condominiums (as defined below).

1.3.2. This is the Declaration for the areas designated in the Condominium Map recorded on _____, 2024, Reception No. _____ in the Official Records (“**Condominium Map**” or “**Map**”) as Bedrock Building 1 & 2 Subassociation and as Bedrock Building 1 and Bedrock Building 2 within the Map. By this reference, the Condominium Map is incorporated in this Declaration.

1.3.3. The Community shall be deemed to be subject to any and all applicable terms and conditions contained in the Act, including amendments to the Act made subsequent to the recordation of this Declaration.

1.3.4. The Community is formed subject to all easements, agreements, covenants and instruments of record affecting the Real Estate and Community.

1.4. **Real Estate Made Subject to Condominium Declaration.**

1.4.1. To further accomplish the purposes and intentions recited above, the Real Estate has been further subjected to the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration.

1.4.2. This Declaration is recorded subject to all easements, agreements, covenants and instruments of record affecting the Real Estate.

1.5. **Covenants Running With the Land.** All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of all Unit Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns. All of the Real Estate shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved, subject to the provisions of this Declaration.

1.6. **Governmental Approvals; Subject to the Town of Rico Laws and Regulations.**

1.6.1. The Community will be developed in accordance with any and all site specific approvals granted to Declarant for the Real Estate by the Town of Rico (“**Town**”) as well as the applicable and effective laws, regulations, charters and codes properly made applicable to the Real Estate (collectively, the “**Town Development Approvals and Requirements**”).

1.6.2. In all instances where this Declarations provides for the right of Declarant to exercise Reserved Rights, including rights to modify elements of this Declaration, the Map, the Units and the Common Expense Areas, the exercise of such rights is made expressly subject to any and all applicable terms, conditions, requirements and restrictions contained in the Town of Rico laws, codes and regulations (collectively “**Town Laws**”).

1.6.3. Nothing herein is intended to relieve a Person from complying with applicable provisions of the Town Laws, whether or not this requirement is expressly stated herein.

1.6.4. In the event of a conflict between the Condominium Governing Documents and the Town Development Approvals and Requirements, the applicable Town Development Approvals and Requirements shall control.

1.7. **Other Buildings and Future Phases.** There currently exists other buildings with similar condominium regimes within the Master Community and further improvements are contemplated and as they are completed within the Master Community other similar condominium regimes may be established. The Community may but need not merge with such future communities within the Master Community and operate under one managing authority or enter into cooperation agreements to jointly share in the management and administration of their separate individual communities. The Declarant reserves the right to undertake such mergers in accordance with the Reserved Rights of Declarant as provided for in Article Eleven.

1.8. **Effect of Bedrock 3 & 4 Condominiums.** The Bedrock 3 & 4 Condominiums were established pursuant to its condominium declaration recorded on _____ at Reception No. _____ and the areas designated for the Bedrock 3 & 4 Subassociation on the Condominium Map (the “**Bedrock 3 & 4 Condominiums Governing Documents**”). The units and common elements in the Bedrock 3 & 4 Condominiums exist in accordance with their respective governing documents and are not intended to be burdened or otherwise affected by this Declaration or Condominium Map. Similarly, the Bedrock 3 & 4 Condominiums Governing Documents are not intended to burden or otherwise affect the Units created in this Community.

ARTICLE TWO **DEFINITIONS**

Capitalized terms used in this Declaration and not defined elsewhere in this Declaration have the meanings given those terms in Article 2. The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

2.1. “**Act**” means the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, as amended and supplemented from time to time. In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable to this Declaration.

2.2. “**Affiliates of Declarant**” mean any designee or assignee of Declarant and shall also mean any agent, contractor, architect, attorney or other consultant retained by Declarant in connection with the development of the Community.

2.3. “**Allocated Interests**” means: (a) the Common Expenses Liability attributable to the Common Expense Areas; and (b) the Voting Rights in the Association attributable to and allocated to each of the Units as provided for in the Condominium Governing Documents. The initial Allocated Interests for each of the Units are set forth on **Exhibit “B”**. The initial Allocated Interests for each Unit may change as a result of the Declarant’s (or its assignee’s) exercise of the Reserved Rights.

2.4. “**Articles of Incorporation**” or “**Articles**” means the Articles of the Association, which have been filed with the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

2.5. “**Assessments**” means the Regular Assessments, including Common Expenses Liabilities, Special Assessments and Reimbursement Assessments duly assessed pursuant to this Declaration.

2.6. “**Association**” means Bedrock 1 & 2 Condominiums Association, a Colorado nonprofit corporation.

2.7. “**Association Property**” means, to the extent of the Association’s interest therein: (a) all real and personal property, including Improvements, now or hereafter owned or leased by the Association, (b) all easements, property rights or other interests created or reserved on the Maps or this Declaration, or in any separate agreement, for the use and benefit of the Association and/or the Owners, and (d) any development plans, permits and approvals, water and sewer taps and the like (or interests therein) that may be owned, leased or maintained by the Association or which the Association is entitled to use. Association Property may be located within or outside the Community. With the exception of easements which are Association Property, Association Property does not include the Units or the Improvements constructed therein.

2.8. “**Board**” means the governing body of the Association, as provided for in this Declaration and as further empowered by the Act, the Articles of Incorporation and the Bylaws for the Association.

2.9. “**Budget**” means a written itemized estimate of the Common Expenses to be incurred by the Association in performing its functions under this Declaration and adopted by the Board pursuant to the Declaration and Bylaws.

2.10. “**Building**” means each building or structure situated on the Real Estate and containing the Units, together with (i) any additions or modifications or replacements that may hereafter be made thereto, and (ii) all improvements and fixtures contained therein.

2.11. “**Bylaws**” means any instruments, however denominated, which are adopted by the Association for the regulation and management of the internal affairs of the Association, including the amendments thereto.

2.12. “**Common Expense Areas**” means all portions of the Community designated on the Map as a Common Expense Area. Without limiting the foregoing, the Common Expense Areas include the roof, common walls and equipment in the Buildings and within each Unit which exist for the common use and/or benefit of the Owners or necessary or convenient to the Community’s existence, maintenance or safety. The Common Expense Areas also include the rights, duties and obligations arising from and under any and all easements benefiting the Real Estate. The rights of the Association under easements that benefit the Community including those stated in Article Four hereunder.

2.13. “**Common Expenses**” means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including all expenses incurred by the Association for any reason whatsoever in connection with Association Property, or the costs of any other item or service provided or performed by the Association pursuant to this Declaration, the Articles, the Bylaws, the Rules and Regulations, any Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association. Any fees and charges imposed by the Managing Agent pursuant to the Management Agreement and/or by the Services Provider pursuant to the Services Agreement for services provided to the Community as a whole or to all of the Units. In the event that any common services furnished to the Community are part of services that are provided to or benefit property in addition to the Community, Common Expenses shall only include the cost of such services reasonably allocated to the services provided to the Community.

2.14. “**Common Expenses Liability**” means the liability for a share of the Common Expenses, including any Limited Common Expenses, attributable to and allocated to each Unit in accordance with the Allocated Interests assigned to the Unit and/or as otherwise provided for in this Declaration.

2.15. “**Community**” means the Bedrock 1 & 2 Condominiums, including each of the Units and all of the Association Property, together with all Improvements and other amenities now or hereafter located thereon, and together with all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. If any property is subsequently withdrawn from the Community pursuant to the provisions of this Declaration, the term “Community” shall thereafter not include said withdrawn property.

2.16. “**Condominium Governing Documents**” means the basic documents creating and governing the Community, including, but not limited to, this Declaration, the Map, the Articles of Incorporation and the Bylaws of the Association, any Rules promulgated by the Association and any other documents, policies and procedures relating to the Community adopted by the Association or the Board pursuant to this Declaration or the Act, as the same may be supplemented or amended from time to time.

2.17. “**Condominium Map**” or “**Map**” means the Condominium Map, which shall also be deemed to be that part of this Declaration that depicts all or any portion of the Community and is recorded in the Official Records.

2.18. “**Declarant**” means BRD, LLC, a Colorado limited liability company, its successors, assigns and affiliates. A Person shall be deemed to be a “successor and assign” of Declarant if specifically designated in a duly recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in that written instrument.

2.19. “**Declaration**” means this Declaration for the Community, together with any supplement or amendment to this Declaration and recorded in the Official Records. The term Declaration includes all Maps and any Plats recorded with or prior to this Declaration and all amendments to this Declaration and supplements to the Maps and any Plats without specific reference thereto.

2.20. “**Deed of Trust**” means a Mortgage.

2.21. “**Eligible First Mortgagee**” means a First Mortgagee which has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for herein.

2.22. “**First Mortgagee**” means a holder of a Security Interest in a Unit which has priority over all other Security Interests in the Unit.

2.23. “**General Common Expenses**” means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, for the general benefit of all or substantially all of the Units.

2.24. “**Improvement(s)**” means any construction of Buildings, improvements, alterations, additions, repairs to any Building, structural or otherwise, any excavation, grading, landscaping or other work which in any way alter the Real Estate or the improvements located thereon, from its natural or improved state existing on the date this Declaration was first recorded, including, but not limited to, dwelling units, buildings, outbuildings, additions, patio covers, awnings, the painting, staining or other change of any exterior surfaces of any visible structure, walkways, outdoor sculptures or artwork, sprinkler or irrigation systems, garages, carports, roads, driveways, parking areas, ponds, ditches, fences, screening walls, retaining walls, stairs, decks, flag poles, fixtures, landscaping (including the addition, alteration or removal of any tree, shrub or other vegetation), hedges, windbreaks, plantings, planted trees

and shrubs, gardens, poles, signs, tanks, solar equipment, wind harnessing or other energy generating equipment, exterior air conditioning, water softener fixtures, utilities, antennae and satellite dishes or receivers. Once an Improvement has been constructed or accomplished on a property within the Community, any subsequent alteration of or addition to or removal of that Improvement shall also constitute an "Improvement" hereunder.

2.25. "**Lease**" means and refers to any agreement for the leasing, rental, use or occupancy of a Unit within the Community for a period of thirty days or longer.

2.26. "**Limited Common Expenses**" means any Common Expenses which are attributable solely to a Limited Common Element and are billed to the Unit to which the Limited Common Element is to be used exclusively for.

2.27. "**Limited Common Element**" means any portion of the Common Expense Areas designed as limited common elements for the exclusive use of one or fewer than all the Units on the Map.

2.28. "**Majority of Owners**" means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

2.29. "**Management Agreement**" means any contract or arrangement entered into for purposes of administering the performance of the responsibilities of a Board relative to the operation, maintenance, and management of the Community or particular portions or aspects thereof.

2.30. "**Managing Agent**" means a person, firm, corporation, or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

2.31. "**Member**" means each Unit Owner. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

2.32. "**Mortgage**" means any mortgage, deed of trust or other security instrument, given voluntarily by the Owner of a Unit, creating a real property security interest in a Unit and recorded in the Official Records. "**First Mortgage**" means a mortgage which is the first and most senior of the Mortgages on the same Unit. The term "**Mortgage**" does not mean a statutory, tax or judicial lien. The term "**Deed of Trust**" when used herein shall be synonymous with the term "**Mortgage**."

2.33. "**Mortgagee**" means a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee.

2.34. "**Mortgagor**" means the maker, obligor or grantor of a Mortgage. The term "**Mortgagor**" includes a trustor or grantor under a Deed of Trust.

2.35. "**Notice and Hearing**" means a written notice and public hearing before the Board, or a panel appointed by the Board, as set forth in the Bylaws.

2.36. "**Occupant**" means: (a) an Owner while occupying the Unit, (b) any Person who is a tenant in a residence on a Unit pursuant to a Lease with the Owner thereof; (c) any Person who is present within the Community as a family member, guest or invitee of an Owner, an Occupant or the Association; (d) any person who is a guest, invitee, servant, tenant, employee, or licensee of Owner who is occupying a Unit for any period of time; or (e) any Person who is otherwise occupying a Unit.

2.37. “**Official Records**” means the Office of the Clerk and Recorder of Dolores County, Colorado.

2.38. “**Parking Space Limited Common Elements**” means the parking spaces designated as limited common elements appurtenant to the Units within the community if any.

2.39. “**Person**” means an individual, Association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision, or any other legally established entity and/or any combination thereof.

2.40. “**Plat**” means that Bedrock Subdivision Plat recorded at Reception No 171981, in the official records which creates Lot 6 which is subject to the Master Community Governing Documents.

2.41. “**Property**” means the real property described in the Maps.

2.42. “**Records**” means the Office of the Clerk and Recorder of Dolores County.

2.43. “**Regular Assessment**” means a charge against an Owner and the Owner’s Unit for purposes of covering the annual costs of operating and administering the Association and all other Common Expenses. Regular Assessments are based on a Budget adopted by the Board in accordance with this Declaration and are allocated to the Units in accordance with the Allocated Interests designated to that Unit, except that Common Expenses that in the judgment of the Board benefit fewer than all of the Units may be allocated exclusively to the Units benefited as Limited Common Expenses, as provided for herein.

2.44. “**Reimbursement Assessment**” means a charge determined by the Board, in its sole and reasonable discretion, assessed against a particular Owner or Occupants of Owner’s Unit and against the Owner’s Unit for the purpose of: (a) imposing fines and penalties and/or reimbursing the Association for costs and expenses incurred by the Association in connection with the enforcement of any provision of the Condominium Governing Documents; (b) imposing fines and penalties and/or reimbursing the Association for costs and expenses incurred by the Association in connection with the remedying of any violation of the Condominium Governing Documents by the Owner or by an Occupant, (c) imposing fines and penalties and/or reimbursing the Association for costs and expenses incurred by the Association in connection with correcting or repairing damage caused to any Association Property or any other Unit attributable to the misconduct and/or the actions or the inactions of the Owner or Occupant; or (d) for such other purposes set forth in the Condominium Governing Documents providing for the imposition of fines or the collection of costs, expenses and the like, together with late charges and interest and attorney fees and costs, as provided for in the Condominium Governing Documents. Reimbursement Assessments shall also include each of those fees and costs for goods and services requested by and/or otherwise provided to an Owner or Occupant by the Association or the Managing Agent or Services Provider.

2.45. “**Rules**” means any Rules and Regulations, policies and procedures or any approvals granted by any committee, or for other purposes set forth in this Declaration, pursuant to this Declaration, together with late charges and interest as provided for herein. Reimbursement Assessment shall include without limitation any Common Expense caused by the misconduct of any Unit Owner or of such Owner’s Occupants.

2.46. “**Rules and Regulations**” means the Rules and Regulations, if any, promulgated by the Board for the management, preservation, safety, control, and orderly operation of Stones Throw II Duplex

in order to effectuate the intent and to enforce the obligations set forth in the Condominium Governing Documents, as amended and supplemented from time to time.

2.47. “**Security Interest**” means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest. Any such holder of a Security Interest on the Real Estate which has priority over all other Security Interests on the Real Estate shall become a First Mortgagee on such Units.

2.48. “**Services Agreement**” means any services agreement, if any, that may be executed between the Association, the Declarant and such other third party Service Provider providing such services to and on behalf of the Association and the Unit Owners, which services may be undertaken within the Real Estate or off-site on any other property.

2.49. “**Services Provider**” means the party providing services to and on behalf of the Association and the Unit Owners in accordance with the Services Agreement.

2.50. “**Shared Structural Elements**” means those structural elements, if any, serving or benefitting another Unit in the Community, located within a portion of a Unit. The Shared Structural Elements consist of improvements, elements or components serving Units in the Community, including, without limitation, structural elements, shared utilities and foundation. Shared Structural Elements are intended to Common Elements of the Community. An Owner shall not do work or make any changes to the portion of their Unit which may negatively and unreasonably impact any Shared Structural Elements.

2.51. “**Short-Term Rental**” means the leasing or rental of a Unit for a period of less than thirty (30) consecutive days, except to a relative of the Owner, which is strictly prohibited by this Declaration and the Town Development Approvals and Requirements.

2.52. “**Special Assessment**” means a charge against an Owner and the Owner’s Unit for purposes of reimbursing the Association for costs and expenses incurred or to be incurred by the Association for the purpose of paying for the construction, reconstruction, repair, maintenance or replacement of capital improvements to or upon or serving the Community or any part thereof, the costs of which were not included in a Regular Assessment, or for excess reconstruction costs or other extraordinary expenses, or to acquire Association Property, or for funding any operating or reserve deficit of the Association, as authorized by the Board from time to time as provided herein. Special Assessments shall be based on a Budget adopted by the Board in accordance with the Declaration.

2.53. “**Unit**” means a Unit, which is a physical portion of the Community designated for separate ownership or occupancy and the boundaries of which are depicted, described or otherwise determined by this Declaration and the Map. Each Unit includes an appurtenant undivided interest in the Common Expense Areas corresponding with the Allocated Interest assigned to each Unit as set forth on attached **Exhibit “B”**. Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Community as more specifically set forth on **Exhibit “B”** and depicted on the Map.

2.54. “**Unit Owner**” or “**Owner**” means any person who owns record title to a Unit or an undivided interest therein. The term includes a contract seller but excludes a contract purchaser and excludes any Person having a Security Interest in a Unit or an undivided interest therein, unless such

Person has acquired record title to such Unit or undivided interest pursuant to a foreclosure or any proceedings in lieu of foreclosure. The term “**Owner**” shall be analogous to the term “**Unit Owner**”, as that term is defined in the Act.

ARTICLE THREE
GENERAL PROVISIONS AND RESTRICTIONS

3.1. **Division into Units. Maximum Number of Units.** The Real Estate and the Building are hereby initially divided into 4 Units each consisting of a separate fee simple estate in a Unit and an appurtenant undivided fee simple interest in the Common Expense Areas. Said undivided interest has been computed as twenty-five percent (25%) for each Unit, which represents the Allocated Interest as set forth on **Exhibit “B”**.

3.2. **Inseparability of a Unit.** Each Unit and its appurtenant undivided interest in the Common Expense Areas shall be inseparable and may be conveyed, leased, encumbered, devised or inherited only as a Unit.

3.3. **Description of Units.** Every contract for sale, deed, lease, security interest and every other legal document or instrument shall legally describe a Unit as follows:

Unit _____, Bedrock 1 & 2 Condominiums, according to the Condominium Map thereof recorded on _____, 2024 at Reception No. _____ and the Declaration for Bedrock 1 & 2 Condominiums recorded on _____, 2024 at Reception No. _____, all in the Office of the Clerk and Recorder of Dolores County, Colorado.

Such description shall be legally sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit and its appurtenant undivided interest in the Common Expense Areas, and to incorporate all of the rights, interests, obligations, restrictions and burdens appurtenant or incident to ownership of a Unit as set forth in this Declaration and on the Condominium Map.

3.4. **Unit Boundaries.** The boundaries of each Unit are as designated on the Map. In the event of any conflict between any provisions of this Declaration and depictions contained on the Map, with respect to any Unit boundary, the depictions on the Map shall control. The boundaries of each Unit shall be the following boundaries extended to their planar intersections with the perimeter boundaries: Need to discuss boundaries with Dave.

3.4.1. **Upper Boundaries.** The upper horizontal boundaries of each Unit shall be the horizontal planes of the bottom surfaces of the dropped ceiling, if any, or, if none, the unfinished joists, extended to their planar intersections with the vertical perimeter boundaries.

3.4.2. **Lower Boundaries.** The lower horizontal boundaries of the Unit shall be the horizontal planes of the unfinished surfaces of the concrete, gypcrete or plywood subflooring, extended to their planar intersections with the vertical perimeter boundaries.

3.4.3. **Vertical Boundaries.** The vertical boundaries of each Unit shall be (i) with respect to the exterior perimeter walls, the vertical planes of the finished exterior surfaces of the external Building walls bounding the Unit extended to their planar intersections with the upper and lower boundaries; and (ii) with respect to internal walls common to a Unit and General Common Element, the vertical planes of the unfinished exterior surfaces of the walls bounding the Unit, extending to their planar intersections with the upper and lower boundaries; and (iii) with respect to the internal walls separating

Units, the center of the separation wall, extending to the planar intersections with the upper and lower boundaries.

3.4.4. **Doors and Windows.** The area of a door and window for a Unit is deemed to be part of the Unit.

3.5. **Separate Assessments and Taxation - Notice to Assessor.** The Association, to the extent necessary, shall give written notice to the Assessor of Dolores County, Colorado, of the creation of condominium ownership of this Community, as provided by the Act, so that each Unit shall be deemed a separate parcel and subject to separate assessment and taxation.

3.6. **Relocation of Unit Boundaries.** Except as hereinafter specifically provided with respect to Declarant, no Owner or Owners may relocate the boundaries of any Unit(s) except by amendment to this Declaration in accordance with the applicable requirements hereof. In addition, any relocation of boundaries shall be done in accordance with the procedures set forth in the Act, in particular Sections 212 and 213. All costs incurred in connection with such relocation of boundaries shall be borne by the Owner or Owners of the affected Units, including all costs incurred by the Association in connection therewith. If Units are combined, the undivided interest in the Common Expense Areas allocated to the combined Unit shall be the sum of the undivided interests of the Units that were combined. Any previously combined Units which are later divided shall be reinstated to the undivided interests in the Common Expense Areas which they had prior to the combination. An amendment to the Declaration and Condominium Map implementing a relocation of Unit boundaries under this Section shall be executed and filed in accordance with the Act.

3.7. **No Partition or Subdivision of Units or Common Elements.** No Owner may assert any right or bring any action for partition or subdivision with respect to such Owner's Unit. By becoming an Owner, each Owner waives any and all rights of subdivision or partition that such Owner may have with respect to such Owner's Unit. This Section shall not, however, limit or restrict the right of the Owners of a Unit to bring a partition action pursuant to Section 38-28-101, et seq., of the Colorado Revised Statutes requesting the sale of the Unit and the division of the proceeds among such Owners; provided that no physical division of the Unit shall be permitted as a part of such action and no such action shall affect any other Unit.

3.8. **Encumbrances.**

3.8.1. Any Owner shall have the right from time-to-time to Mortgage or encumber his interest in a Unit by a Mortgage or Deed of Trust. A First Mortgage shall be one which has first and paramount priority under applicable law and with respect to certain portions of the obligations, liens for Common Expenses or Limited Common Expenses and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws. The First Mortgage shall be subordinate to all other terms and conditions of the Declaration.

3.8.2. The Owner of a Unit may create junior Mortgages on the following conditions: That any such junior Mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses or Limited Common Expenses and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws. That the holder of any junior Mortgage shall release, for the purpose of restoration of any Improvements upon the Community, all of its right, title and interest in and to the proceeds under insurance policies upon said Community wherein the Association is named insured. Such release shall be furnished upon written request by the Association.

3.9. **Mechanic's Liens.** If any Owner shall cause or permit any material to be furnished to such Owner's Unit or any labor or services to be performed therein, neither the Association nor any other Owner of any other Unit shall be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done and such Owner shall be solely responsible to contractors, laborers, materialmen and other Persons furnishing labor, services or materials to such Owner's Unit. Nothing herein contained shall authorize any Owner or any Person dealing through, with or under any Owner to charge any Unit other than that of such Owner with any mechanic's or materialmen's lien or other lien or encumbrance whatsoever. Notice is hereby given that the right and power to charge any lien or encumbrance of any kind against any Owner or any Owner's Unit for work done or materials furnished to any other Owner's Unit is expressly denied. If, because of any act or omission of any Owner, any mechanic's or materialmen's lien or other lien or order for the payment of money shall be filed against any other Owner's Unit or against any other Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose or which act or omission forms the basis for such lien or order shall, at such Owner's own cost and expense, cause such lien or order to be canceled or bonded over in an amount and by a surety company reasonably acceptable to the party or parties affected by such lien or order within twenty (20) days after the filing thereof, and further such Owner shall indemnify and save harmless all such parties affected from and against any and all costs, expenses, claims, losses or damages, including reasonable attorneys' fees resulting therefrom.

3.10. **Additions, Alterations or Improvements by Owners.** No additions, alterations, changes or improvements shall be constructed, made, done or permitted to any Unit by any Owner, Occupant, or employee or agent thereof, without the prior written approval of the Board, which consent may be granted or withheld by the Board in its discretion. In considering a request by an Owner, the Board shall consider such things as the desire and need to maintain a uniform, aesthetically appealing design and style of the Improvements, thus, the Board shall determine, among other things, if the proposed addition, alteration, change or improvement will impact the Improvements in a positive or negative manner in terms of these design objectives and shall deny any request that results in a negative impact. The Board shall also take into account other relevant factors, including, without limitation, impacts to structural components of the building, increased maintenance obligations, impacts to views from other Units, impacts to use and enjoyment of Units and impacts to Common Expense Areas by other Owners and such other factors that the Board deems relevant. Without limiting the generality of the foregoing, said restrictions shall apply to and include, without limitation or exclusion: (i) an alteration or change of any structural elements of a Unit, including the roof; (ii) any exterior change to a Unit or Common Expense Area; and (iii) painting or other alteration or change of the exterior of a Unit, including doors, windows, lighting and the like, other than routine maintenance and painting which is not a change of the color or nature of such surfaces. Notwithstanding the foregoing, however, the foregoing restrictions shall not apply to nonstructural additions, alterations, changes or improvements made exclusively to the interior of a Unit, that do not include changes to the interior layout of a unit as noted above, are not visible from outside the Unit, and that are in compliance with all applicable laws, ordinances, regulations and codes. No Owner or Occupant shall have any right to alter, change or improve in any way the Common Expense Areas or any part thereof, said Common Expense Areas being the exclusive responsibility and jurisdiction of the Association.

3.11. **Maintenance of the Community.** All property within the Community, including without limitation all Units and Common Expense Areas, shall be kept and maintained in a safe, clean and attractive condition and in good order, condition and repair.

3.12. **Association Maintenance Responsibilities.**

3.12.1. The Association shall be responsible for maintaining, repairing, improving, restoring and replacing the Common Expense Areas and each of the Shared Structural Elements if any.

3.12.2. The Association, through its Board, shall have the exclusive right and authority to make any changes, alterations, improvements or additions to the Common Expense Areas and the Shared Structural Elements and no individual Owner shall have any right to do any of such things without the express prior written consent of the Board.

3.12.3. If the need for such maintenance or repair results from the negligent acts of or from damage or destruction caused by an Owner or Occupant, the Board shall have the right to perform such maintenance or repair and to levy and collect a Reimbursement Assessment upon the Owner and the Owner's Unit for the costs and expenses incurred by the Association in connection therewith.

3.12.4. Each Unit is subject to an easement for the benefit of the Association and its Board, agents, employees and contractors, for purposes of accomplishing the maintenance and repair rights described herein.

3.13. **Owner Maintenance Responsibilities.**

3.13.1. Each Owner shall be responsible for cleaning, sweeping, maintaining, repairing, improving, restoring and replacing as necessary all interior and exterior elements and features of the Owner's Unit but excluding the Shared Structural Elements and Common Expense Areas.

3.13.2. Each Owner shall be responsible for cleaning, sweeping, and maintaining any patios and decks, landscaping areas, stairwell areas, and parking spaces and other areas that have been included within the boundaries of the Unit as shown on the Map.

3.13.3. Each Owner shall be responsible for repairing and maintaining all interior and exterior elements of the Unit, including exterior doors, siding and windows, but excluding any Shared Structural Elements and Common Expense Areas.

3.13.4. In addition, each Owner shall be responsible for any damage to other Units or Common Expense Areas and the Shared Structural Elements resulting from the Owner's failure to perform or negligent performance of the Owner's maintenance and repair responsibilities as set forth herein.

3.13.5. Each Owner shall perform the Owner's maintenance and repair responsibilities in such manner as shall not unreasonably disturb or interfere with other Owners or Occupants.

3.13.6. If an Owner fails to perform any such maintenance or repair obligations within 10 days following receipt of a written notice from the Board requesting the same, the Board shall have the right to enter upon the Unit of the Owner to perform such obligations on the Owner's behalf and to levy and collect a Reimbursement Assessment upon the Owner and the Owner's Unit for the costs and expenses incurred by the Association in connection therewith.

3.13.7. Each Unit is subject to an easement for the benefit of the Association and its Board, agents, employees and contractors, for purposes of accomplishing the maintenance and repair rights described herein.

3.13.8. In the event of a conflict between the responsibilities of the Association under Section 3.12 and an Owner under Section 3.13, the provisions of Section 3.13 shall control.

3.14. **Standard of Care.** The Association and the individual Owners shall each use a reasonable standard of care in performing their respective maintenance, repair and upkeep responsibilities so that the entire Community will reflect a first class quality and pride of ownership. All repairs and replacements within the Community shall be substantially similar to the original construction and craftsmanship and shall be of first-class quality.

3.15. **Emergency Maintenance and Repair.** In the event of an emergency or the sudden occurrence of unanticipated conditions which threaten the health, safety or physical well-being of Persons or property within the Community or inconvenience the Owners, the Board shall have the authority (without any notice being required) to take whatever remedial action and to undertake such maintenance, repairs and improvements as may be necessary anywhere in the Community to protect persons and property, including the right to gain reasonable access to a Unit to complete this work.

3.16. **Compliance with Laws.** No Owner or Occupant shall do any act or cause or permit anything to be done or kept in or upon its Unit, which would be in violation of any federal, state, city or other law, ordinance, regulation or code of any governmental body having jurisdiction, or of any rule or regulation promulgated by the Association, or of any provision of this Declaration, or which would result in the increase of, or cancellation of, insurance maintained by the Association.

3.17. **Use and Occupancy of the Units.** Each Unit shall be occupied and used only for single-family residential purposes. No business, professional or other non-residential or commercial use shall be made of any Unit, or conducted in any Unit, excepting in-home businesses or occupations which do not involve employees other than Owners, the solicitation or invitation of the general public, or the servicing of customers, and which activities are conducted entirely within the Unit and do not cause any additional traffic or parking within the Community or otherwise create a nuisance for neighboring Units or the Community.

3.17.1. Use and occupancy of the Units shall be limited to residences of the Town of Rico or those that intend to establish residency within the Town of Rico within thirty (30) days of occupying the Unit pursuant to the Town Development Approvals and Requirements. Residency in the Town of Rico shall be maintained by occupants of units at all times.

3.17.2. The Units shall not be permitted to be rented on a short-term basis (for less than 30 days).

3.18. **Vehicle Parking, Storage, Operation and Repair.**

3.18.1. Each Unit shall be designated the right to park motorized vehicles in the Community in spaces assigned to the Unit on the Map as an limited common element.

3.18.2. Motorized vehicles of any kind shall only be parked or stored in designated Parking Spaces.

3.18.3. No boats, trailers, buses, motor homes, mobile homes, campers (on or off supporting vehicles), , snowmobiles, recreational vehicles, all-terrain vehicles, trucks larger than one ton, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger automobiles and one ton or smaller pick-up trucks) shall be parked or stored in the Community except as approved in advance by the Board.

3.18.4. No motorized vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt in the Community.

3.18.5. An “abandoned or inoperable vehicle” shall mean any motorized vehicle which does not display a current motor vehicle license or which is not capable of being driven under its own propulsion or which does not have an operable propulsion system within the vehicle. In the event that the Board shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this section, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), thereafter, the Board (as the case may be) shall have the right to remove the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the owner of the vehicle if the vehicle is located on a roadway, or at the sole expense of the Owner on which the vehicle is located, all without liability on the part of the Board.

3.18.6. The Board may cause any unauthorized vehicle parked in the Community to be immediately towed at the cost and expense of the owner of the unauthorized vehicle.

3.18.7. An Owner shall not sell, lease or otherwise convey all or any part of the parking rights it may have in an LCE Parking Space or Parking Unit to a person that does not own a Unit in the Community, other than pursuant to a valid lease of the associated Unit which also contains the right to use the LCE Parking Space or Parking Unit in such lease of the Unit, and any attempted sale, lease, or other conveyance shall be void.

3.19. **Pets.**

3.19.1. An Occupant, including an Owner of a Unit, may keep a maximum of no more than a total of three Pets, either dogs or cats in their Unit, so long as such dog or cat is not kept for any commercial purpose and do not cause noise or odor, or do not otherwise become a nuisance or threat to other Owners or Occupants. The Board has the authority to adopt Rules which may further govern or restrict the ability of an Owner to keep Pets in their Unit.

3.19.2. Contractors and subcontractors may not bring dogs or other pets into the Community.

3.19.3. A permitted dog or cat must be restrained at all times within the Owner’s or Occupant’s Unit, and shall not be permitted outside such Unit except when leashed and accompanied by the pet’s owner or the owner’s representative. Each dog or cat shall be properly immunized and otherwise maintained and cared for as required by applicable laws. An Owner shall promptly remove pet waste and clean up after their pet.

3.19.4. The Owner of a Unit where a dog or cat is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of the Owner’s Unit and of streets, sidewalks, Association Property or other Units necessitated by such pet.

3.19.5. The Board shall be responsible for enforcing the restrictions set forth in this Section, and shall have, and is hereby given, the right and authority to determine in its sole discretion that any one or more dogs or cats are being kept for commercial purposes, or are being kept in numbers, or are causing an unreasonable amount of noise or odor, or are otherwise a nuisance to other Owners or Occupants, or that an Owner or Occupant is otherwise in violation of this section, and to take such action or actions as it deems reasonably necessary to remedy the violation, including without limitation the

levying of fines and/or Reimbursement Assessments as provided in this Declaration. Also without limiting the generality of the foregoing, the Board may require the owner or custodian of a dog that barks or howls excessively, or of a dog or cat that exhibits threatening behavior or that has other offensive habits or that otherwise violates the restrictions set forth in this section, to confine such animal indoors, or to permanently remove such animal from the Community, and may adopt Rules governing pets.

3.20. **Leasing of Units.** Any Owner shall have the right to Lease his Unit under the following conditions:

3.20.1. An Occupant's use of the Unit shall be subject in all respects to the provisions of the Condominium Governing Documents, the Master Community Governing Documents and the Town Development Approvals and Requirements which prohibit short term rentals of the Units.

3.20.2. Each Owner who leases a Unit shall be responsible for assuring compliance by the Occupant with all of the provisions of the Condominium Governing Documents, Master Community Governing Documents and Town Development Approvals and Requirements, if any, and shall be jointly and severally responsible with the Occupant for any violations thereof by the Occupant. Any failure by the Occupant to comply with any of the Condominium Governing Documents, Master Community Governing Documents and Town Development Approvals and Requirements in any respect, shall be a default by Occupant and Owner under the Condominium Governing Documents which may be enforced against Occupant and/or Owner by the Board.

3.20.3. The Board shall have the right to give the Occupant written notice that the Occupant is in violation of one or more of the Condominium Governing Documents, which notice shall specify a period of time in which the Occupant may cure the violation. If the violation continues uncured, or if it is repeated within the 3-month period following the date of the first notice, the Owner gives to the Association an irrevocable power of attorney to act on the Owner's behalf to give such statutory notices to the Occupant and to take such other actions as may be necessary or appropriate to evict the Occupant from the Premises.

3.21. **Annoying Light, Sound or Odor.** All exterior lighting installed or maintained on any Unit shall be placed so that the light source is screened or shielded from any other Unit, and shall require the prior written approval of the Board in each instance. No light shall be emitted from any part of the Community (including any Unit) which is unreasonably bright or causes unreasonable glare. Without limiting the generality of the foregoing, no spotlights, floodlights or other high-intensity lights shall be permitted within the Community without the prior written approval of the Board. No sound shall be emitted from any part of the Community (including any Unit) which is loud or annoying, and no odor shall be emitted from any part of the Community (including any Unit) which is noxious or unreasonably offensive. Again without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, other than security devices used exclusively for security purposes, shall be located or used within the Community except with the prior written approval of the Board. The Board, in its sole discretion, shall have the right and authority to determine the existence of any violation of this Section including the reasonableness of any light, sound or odor.

3.22. **Timesharing.** No Unit shall be used for operation of a timesharing, fraction-sharing, vacation clubs, destination clubs, or similar programs whereby the right to exclusive use of the Unit rotates and/or shared among participants in the program over a period of years, unless approved by the Association in its sole and respective discretion..

3.23. **Noxious or Offensive Activities; Nuisances.** No noxious or offensive activity shall occur or be allowed at any time within the Community, nor shall anything be done or placed therein

which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to Owners, Occupants, or the Association, or which interferes with the peaceful enjoyment or possession and proper use of the Community, or any part thereof, by Owners or Occupants. The Board, in its sole discretion, shall have the right and authority to determine the existence of any nuisance or unreasonable embarrassment, disturbance or annoyance under this Section. Each Owner and Occupant shall comply with any Rules and the requirements of all health authorities and other governmental authorities having jurisdiction over the Community.

3.24. **No Hazardous or Unsafe Activities.** No activity shall be conducted on, and no improvement shall be constructed on, any property within the Community which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no explosives, gasoline, fireworks, or other volatile and/or incendiary materials or devices or any materials deemed hazardous or toxic substances under applicable environmental laws, Rules, or regulations shall ever be used, kept, stored, permitted to remain or be released or disposed of in any Unit or elsewhere within the Community.

3.25. **Outside Burning; Fire Hazards.** No exterior fires shall be lighted or permitted within the Community except in a contained barbecue unit while attended and in use for cooking purposes or a Town approved gas fire pit. No Owner or Occupant shall cause or permit any condition upon or within his Unit which creates a fire hazard or is in violation of fire prevention regulations, or which would increase insurance rates for other Owners.

3.26. **No Firearms.** The discharge of firearms, including but not limited to BB guns and pellet guns, upon or within any part of the Community (including the Units) is expressly prohibited unless such discharge is done lawfully to protect persons and property.

3.27. **Unsightliness; Sporting Equipment; Clothes Drying.** The Community is intended to foster a uniform and aesthetically pleasing environment. The Board will monitor and enforce compliance with the following requirements based upon this stated policy objective.

3.27.1. Decks, patios, balconies, porches and parking spaces shall not be used for the storage of personal property, excepting patio furniture.

3.27.2. Nothing shall be placed on or in windows or doors or otherwise on the exterior of the Units which create an unsightly appearance as determined by the Association, in consultation with the Managing Agent and/or the Services Provider.

3.27.3. Sporting equipment (e.g., skis, snowboards, bikes, mountain bikes, kayaks, etc.) and toys, may not be stored in any General Common Elements of the Community unless such locations are approved by the Association. Any such sporting equipment stored on any decks or patios shall be done in a neat and clean manner in order to prevent unsightliness within a Unit. The Association may determine that equipment stored in an unsightly manner is a nuisance and require the removal of such equipment.

3.27.4. Grilles and barbeques may be used and operated on a deck or patio assigned to the Unit, provided that they are well maintained and do not constitute an unsightly nuisance as determined by the Association.

3.27.5. Patio furniture may be kept and used on a deck or patio assigned to the Unit, provided that they are well maintained and do not constitute an unsightly nuisance as determined by the Association.

3.27.6. No laundry or wash shall be dried or hung outside anywhere within the Community.

3.28. **Garbage and Trash.** Except in Town approved refuse and recycling receptacles placed within the Unit garage spaces, no refuse, garbage, trash, grass, shrub, or tree clippings, plant waste, scrap, rubbish, or debris of any kind shall be kept, stored, maintained or allowed to accumulate or remain anywhere within the Community, except that containers of such materials may be placed next to the street on the designated morning of garbage collection and must be returned to the designated area that same day. No garbage containers, trash cans or receptacles shall be maintained in an unsanitary or unsightly condition, and except when placed for pickup they shall be kept completely within the designated area.

3.29. **Right of Entry.** During reasonable hours and upon reasonable notice to the Owner or Occupant of a Unit, any member of the Board, and any authorized representative of the Board shall have the right to inspect any exterior portion of a Unit and, with the permission of the Owner or Occupant, the interior portion of the Unit. In the case of emergency, no notice or permission shall be required to inspect the interior of a Unit. The purpose of any such inspection shall be to ascertain whether or not the provisions of this Declaration have been or are being complied with, or for the purpose of exercising any rights or performing any responsibilities (maintenance, repair, etc.) established by this Declaration and such individuals shall not be deemed guilty of trespass by reason of such entry. For purposes of this section, "emergency" shall mean circumstances posing an imminent threat of injury or damage to persons or property.

3.30. **Signs and Advertising.** No exterior signs, posters, billboards or advertising devices shall be displayed in the Community unless approved by the Board as provided for in Section 3.10 or otherwise specifically allowed by the Act. In all events, any such signs, posters, billboards or advertising devices are further subject to any required Town of Telluride approvals and the Rules.

3.31. **Flags or Displays.** No exterior flags or other displays shall be displayed in the Community unless approved by the Board as provided for in Section 3.10 or otherwise specifically allowed by the Act. In all events, any such flags or other displays are further subject to any required Town of Telluride approvals and the Rules.

3.32. **Health, Safety and Welfare, Rules.** In the event any uses, occupancies, activities, and facilities within the Community are deemed by the Board to be an unreasonable annoyance or nuisance, or to adversely affect the health, safety or welfare of Owners or Occupants, the Board may adopt reasonable Rules of general application in order to appropriately restrict and regulate such uses, occupancies, activities or facilities within the Community. Such Rules shall be consistent with the purposes, provisions and limitations of this Declaration.

3.33. **View Impairment.** Neither the Declarant nor the Association, guarantee or represent that any view over and across the Community from their Unit, will be preserved without impairment. The Declarant and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping except as otherwise required under a separate covenant or agreement. There shall be no express or implied easements for view purposes or for the passage of light and air.

3.34. **Variances.** The Board may, in its sole discretion and in extenuating circumstances, grant variances from any of the restrictions set forth in this Article 3, if the Board determines, in its

discretion, (a) either (i) that a particular restriction creates a substantial hardship or burden on an Owner or Occupant, which hardship or burden was not caused by said Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete, and (b) that the activity permitted under the variance, in the judgment of the Board, will not have any material adverse effect on the Owners and Occupants of the Community, and is consistent with the high quality of living intended to be promoted hereby throughout the Community. When an Owner applies for a variance, the Board must give reasonable notice of the variance hearing to all Owners of Units in the Community. No variance shall conflict with ordinances or regulations of the Town. If a variance from Town laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such Town variance before submitting a variance application to the Board. Obtaining a Town variance does not guarantee a Board approval of a variance and in no way binds the Board with regards to such variance application in front of the Board.

ARTICLE FOUR **EASEMENTS**

The following "**Easements**" are hereby established by Declarant for the purposes stated and for the parties indicated. Declarant reserves the right to modify the location and/or use of any of the Easements identified in this Article Four or anywhere else in this Declaration or on the Map. Declarant also reserves the right to expand the Persons who may use the Easements. The rights reserved herein shall be exercised in the manner provided for below in Article 11. Declarant's rights with respect to the modification of the Easements shall terminate twenty (20) years after the date of recording of this Declaration.

4.1. **Blanket Association Utility Easement.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns a perpetual, non-exclusive blanket easement over, across, upon and under the Units for the construction, installation, operation, maintenance, servicing, repair, removal and replacement of utilities and utility lines, pipes, wires, circuits, conduits, meters, facilities and systems for the benefit of the Community or any part thereof, including but not limited to water, sewer, gas, telephone, internet, electricity, cable TV and other master TV and communication systems, as well as for drainage and stormwater management, if any, together with an easement for access, ingress and egress to accomplish such purposes, and together with the right to grant any such easement rights to utility companies. The Association or other person or entity exercising such utility easement rights shall be obligated to restore, reseed, replant and/or re-landscape the surface of any disturbed area to as close to its original condition as possible, as promptly as possible following completion of any utility work, and shall be further obligated to exercise such easement rights at such times and in such manner as to interfere as little as reasonably possible with the occupancy, use and enjoyment of the Units by the Owners and Occupants thereof. Nothing granted herein shall authorize or empower the Association to damage or unreasonably affect the existence, use and enjoyment of any Unit in the event a utility allowed under this Section 4.1 is located in or under a Unit.

4.2. **Association Easement Over Common Expense Areas.** There is hereby created, granted and reserved to the Association a non-exclusive easement over, across, upon and under all Common Expense Areas, including a right of access, ingress and egress thereto, and a right to use, maintain, repair and replace such Common Expense Areas.

4.3. **Association Administrative Easement Over Common Expense Areas.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns, a perpetual, non-exclusive easement over, across, upon and under the Common Expense Areas and a right to use the Common Expense Areas for purposes of enabling the Association to perform its various responsibilities and to exercise its various rights under this Declaration.

4.4. **Association Easement in Units for Maintenance, Repair and Emergencies.**

There is hereby created, granted and reserved to the Association, its agents, employees and assigns, a perpetual, non-exclusive easement and right to enter upon all of the Units as reasonably necessary for the performance of the Association's rights and responsibilities under this Declaration and for the making of emergency repairs or reconstruction to the Common Expense Areas. For routine maintenance and non-emergency repairs, entry to a Unit shall be made only on a regular business day during regular business hours, after giving at least five day's notice in writing to the Owner. In case of emergency, where there is an imminent threat of damage or injury to person or property, entry shall be made at any time without notice or permission. The Board is hereby granted the authority to use such reasonable force as may be necessary under the circumstances to gain entry into a Unit in case of an emergency, if no other reasonable means of entry is available. The Association shall be responsible for the cost and expense of repairing all damages to property occurring as a result of such forcible entry, which costs shall be considered Common Expenses, unless the emergency and/or damage results from the willful act or negligence of an Owner or Occupant, in which event such Owner shall be solely responsible for the costs of repairing/restoring such damage. These costs can be levied, assessed and collected by the Board as a Reimbursement Assessment pursuant to the provisions of this Declaration.

4.5. **Shared Structural Elements Easements.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns, a perpetual, non-exclusive easement and right to enter upon all of the Units as reasonably necessary for the performance of the Association's rights and responsibilities under this Declaration with respect to the management, maintenance, repair and replacement of the Shared Structural Elements located within the Unit so burdened by the Shared Structural Elements Easement. For routine maintenance and non-emergency repairs, entry to a Unit shall be made only on a regular business day during regular business hours, after giving at least three day's notice in writing to the Owner. In case of emergency, where there is an imminent threat of damage or injury to person or property, entry shall be made at any time without notice or permission. The Board is hereby granted the authority to use such reasonable force as may be necessary under the circumstances to gain entry into a Unit in case of an emergency, if no other reasonable means of entry is available. The Association shall be responsible for the cost and expense of repairing all damages to property occurring as a result of such forcible entry and in the course of maintaining, repairing and replacing a Shared Structural Element, which costs shall be considered Common Expenses, unless the emergency and/or damage results from the willful act or negligence of an Owner or Occupant, in which event such Owner shall be solely responsible for the costs of repairing/restoring such damage. These costs can be levied, assessed and collected by the Board as a Reimbursement Assessment pursuant to the provisions of this Declaration.

4.6. **Encroachment Easements.** Each Owner has an easement upon an adjoining Unit for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, reconstruction, repair, settlement or shifting or movement of the Building, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachments occur due to the willful misconduct of an Owner. In the event a structure is partially or totally destroyed, and then repaired or rebuilt in substantially the same manner as originally constructed, the Owners agree that minor encroachments upon an abutting Unit shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of this Declaration or of deeds, mortgages, deeds of trust or other security instruments relating to Units, the actual location of a Unit shall be conclusively deemed to be the property intended to be conveyed, reserved or encumbered,

notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Unit as indicated on the Condominium Map.

4.7. **Blanket Emergency Services Easement.** There is hereby created, granted and reserved for the use and benefit of all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons now or hereafter serving the Community and its Owners and Occupants, a perpetual, non-exclusive blanket Emergency Services Easement over, upon, along and across all properties and areas within the Community, for use in the lawful performance of their duties.

4.8. **Reservation of Uses.** Declarant, for the same duration as the Declarant's Reserved Rights (defined in Article 11) reserves the right for the Owner of a Unit burdened by an easement on their Unit as provided for in this Article Four ("**Reserved Easements**"), for such Owner and the Owner's successors, transferees, designees and assigns, the right to use and enjoy the portion of the Unit covered by the Reserved Easements for all lawful and desired purposes which do not interfere with the use of the Reserved Easement.

ARTICLE FIVE **COMMON EXPENSE AREAS**

5.3. **Owner Liability for Owner or Occupant Damage to Common Expense Areas.** Each Owner shall be liable to the Association for any damage to the Common Expense Areas and any Shared Structural Elements or for any expense, loss or liability suffered or incurred by the Association in connection with the Common Expense Areas and any Shared Structural Elements arising from (a) the negligence or willful misconduct of such Owner or of any Occupant, agent, employee, family member, guest or invitee of such Owner, or (b) any violation by such Owner or any Occupant, agent, employee, family member, guest or invitee of such Owner of any law, regulation, or code, including without limitation any environmental law, or of any provisions of this Declaration, or any Rules relating to the Common Expense Areas and any Shared Structural Elements. Each Owner shall indemnify, defend and hold the Association harmless from any loss, damage, expense or liability arising from the circumstances described in subsections (a) or (b) immediately above. The Association shall have the power to levy and collect a Reimbursement Assessment against an Owner to recover the costs, expenses, damage, losses or liabilities incurred by the Association as a consequence of any such negligence, willful misconduct or violations by the Owner or the Owner's Occupant.

5.4. **Damage or Destruction to Common Expense Areas and Shared Structural Elements.** In the event of damage to or destruction of the Common Expense Areas and any Shared Structural Elements, including improvements thereon, by fire or other casualty, the Association shall repair or replace the same in accordance with the provisions of Article 6 below. Repair, reconstruction, or replacement of Common Expense Areas and the Shared Structural Elements shall be accomplished under such contracting and bidding procedures as the Association shall determine to be appropriate, and shall be performed at such times and in such manner as to interfere as little as reasonably possible with the occupancy, use and enjoyment of undamaged Units by the Owners and Occupants thereof. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Association may use the same for future maintenance, repair, improvement, and operation of Common Expense Areas and the Shared Structural Elements or for any other use deemed appropriate by the Board.

ARTICLE SIX **ASSOCIATION**

6.1. **Association; General Powers.** The Association has been formed as a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act to manage the affairs of the Community. The Association shall serve as the governing body for all of the Owners and Occupants for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Common Expense Areas and the Shared Structural Elements, the levying and collection of Assessments for Common Expenses and other expenses of the Association, and such other matters as may be provided in this Declaration, the Articles and the Bylaws. The Association shall have all of the powers, authority and duties as may be necessary or appropriate for the management of the business and affairs of the Community, including without limitation all of the powers, authority and duties of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act, and all of the powers and duties provided for in the Act. The Association shall have the power to assign its right to future income, including the right to receive Common Expense assessments, but only upon the affirmative vote of the Owners of Units to which at least 51 percent of the votes in the Association are allocated. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

6.2. **Association Board.** The affairs of the Association shall be managed by the Board. The number, term, and qualifications of the members of the Board shall be fixed in the Articles of Incorporation or the Bylaws, except that there shall never be less than two members. A quorum shall be deemed present throughout any meeting of the Board if persons entitled to cast at least 50 percent of the votes on the Board are present at the beginning of the meeting or grant their proxy as provided in C.R.S. Section 7-128-205(4). With the exception of matters that may be discussed in executive session, as set forth in Section 38-33.3-308(3-7) of the Act, all regular and special meetings of the Board or any committee thereof shall be open to attendance by all Members of the Association or their representatives. Without limiting the generality of the foregoing, no rule or regulation may be validly adopted during an executive session. Agendas for meetings of the Board shall be made reasonably available for examination by all Members of the Association or their representatives. The Board shall have all of the powers, authority and duties granted or delegated to it by the Colorado Revised Nonprofit Corporation Act, this Declaration, the Articles or Bylaws. Except as provided in the Colorado Revised Nonprofit Corporation Act, this Declaration, the Articles or Bylaws, the Board may act in all instances on behalf of the Association. The Board may not, however, act on behalf of the Association to amend this Declaration, to terminate the Community, or to elect members of the Board or determine the qualifications, powers and duties, or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term. The Board may, by resolution, delegate portions of its authority to officers of the Association, but such delegation of authority shall not relieve the Board of the ultimate responsibility for management of the affairs of the Association. No member of the Board and no officer shall be liable for actions taken or omissions made in the performance of such member's or officer's duties except for wanton and willful acts or omissions.

6.3. **Rules.** The Condominium Governing Documents establish a framework of covenants and conditions that govern the Community. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Association's membership are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 6.4. Generally, Rules are intended to enable the interpretation and implementation of this Declaration, the operation of the Association, and the maintenance, repair and replacement of the Common Expense Areas.

6.3.1. **Board Authority.** Subject to the notice requirements and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its Members, the Board, at an

open meeting of the Board, may, by Resolution, adopt new Rules and modify, amend, supplement or rescind existing Rules by majority vote of the directors at any Board meeting.

6.3.2. **Membership Authority.** Subject to the notice requirements in section 6.3.3, Owners entitled to cast more than 50% of the votes in the Association may also adopt new Rules and Regulations and modify or rescind existing Rules and Regulations at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Declarant membership exists, any such action shall also be subject to the Declarant's approval.

6.3.3. **Notice.** The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board or the membership at which such action is to be considered. At any such meeting, Owners shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

6.3.4. **Effective Date.** A Rules change adopted under this Section 6.3 shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners. Notice of the adoption, amendment, or repeal of any Rule or Regulation shall be given in writing to each Owner, and copies of the currently effective Rules shall be made available to each Owner and Occupant upon request and payment of the reasonable expense of copying the same. Each Owner and Occupant shall comply with such Rules, and each Owner shall see that Occupants claiming through such Owner comply with such Rules. Such Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. Such Rules may establish penalties (including the levying and collection of fines) for the violation of such Rules or of any provision of this Declaration, the Articles, or the Bylaws.

6.3.5. **Conflicts.** In the event of a conflict between the Rules and any provision of this Declaration, this Declaration shall control.

6.3.6. **Owners' Acknowledgment and Notice to Purchasers.** By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such change may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

6.4. **Protection of Owners and Others.** Except as may be set forth in this Declaration (either initially or by amendment) all Rules that may be adopted by the Board shall comply with the following provisions:

6.4.1. **Similar Treatment.** Similarly situated Units shall be treated similarly.

6.4.2. **Holiday, Religious and other Displays.** No Rule and Regulation shall abridge an Owner's right to display religious or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods. The Board may regulate or prohibit signs or displays, the content or graphics of which the Board deems to be obscene, vulgar, or similarly disturbing to the average person.

6.4.3. **Displays of American Flags.** No Rule and Regulation shall abridge an Owner's right display of the American flag in that Owner's Unit, in a window of the Owner's Unit, or on a balcony adjoining the owner's Unit if the American flag is displayed in a manner consistent with the federal flag code, P.L. 94-344; 90 Stat. 810; 4 U.S.C. 4 to 10. The Association may adopt reasonable rules regarding

the placement and manner of display of the American flag. The Association rules may regulate the location and size of flags and flagpoles, but shall not prohibit the installation of a flag or flagpole.

6.4.4. **Displays of Service Flags.** No Rule and Regulation shall abridge an Owner's right display a service flag bearing a star denoting the service of the Owner or a member of the Owner's immediate family in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the Owner's Unit. The Association may adopt reasonable rules regarding the size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than nine inches by sixteen inches.

6.4.5. **Displays of Political Signs.** No Rule and Regulation shall abridge an Owner's right display of a political sign by an Owner in that Owner's Unit, in a window of the Owner's Unit; except that an Association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. An Association may regulate the size and number of political signs that may be placed on a unit owner's property if the Association's regulation is no more restrictive than any applicable town, or county ordinance that regulates the size and number of political signs on residential property. If the town, or county in which the Unit is located does not regulate the size and number of political signs on residential property, the Association shall permit at least one political sign per political office or ballot issue that is contested in a pending election, with the maximum dimensions of thirty-six inches by forty-eight inches, on a Unit Owner's property. As used in this Section, "political sign" means a sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

6.4.6. **Household Composition.** No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities.

6.4.7. **Activities Within Dwellings.** No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

6.4.8. **Allocation of Burdens and Benefits.** No Rule and Regulation shall alter the allocation of financial burdens among the various Units to the detriment of any Owner over that Owner's objection expressed in writing to the Association. This provision does not affect the right to increase the amount of assessments as provided for herein.

6.4.9. **Leasing and Transfer of Units.** No rule and regulation shall prohibit leasing or transfer of any Unit or require approval prior to leasing or transferring a Unit; however, the rules and regulations may require a minimum lease term and other requirements and limitations. The rules and regulations may also require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

6.4.10. **Abridging Existing Rights.** No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's

ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

6.4.11. **Reasonable Rights to Develop.** No Rule may unreasonably interfere with the ability of the Declarant to develop, market, and sell property in the Community.

6.4.12. **Interference with Easements.** No Rule may unreasonably interfere with the exercise of any easement established by this Declaration or otherwise existing by separate document or instrument.

6.4.13. **Parking of Certain Vehicles.** No Rule and Regulation may unreasonably interfere with the ability of an Owner to park a motor vehicle on a street, driveway, or guest parking area in the Community if the vehicle is required to be available at designated periods at the Owner's residence as a condition of the Owner's employment and all of the following criteria are met:

(I) The Owner is a bona fide member of a volunteer fire department or is employed by an emergency service provider, as defined in Section 29-11- 101(1.6), C.R.S.;

(II) The vehicle bears an official emblem or other visible designation of the emergency service provider; and

(III) Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other unit owners to use streets and driveways within the common interest community.

6.5. **Membership in Association.** There shall be one Membership in the Association for each Unit within the Community. The person or persons who constitute the Owner of a Unit shall automatically be the holder of the Membership appurtenant to that Unit, and shall collectively be the "Member" of the Association with respect to that Unit, and the Membership appurtenant to that Unit shall automatically pass with fee simple title to the Unit. Membership in the Association shall not be assignable separate and apart from fee simple title to a Unit, and may not otherwise be separated from ownership of a Unit.

6.6. **Voting Rights of Members.** Each Unit in the Community shall have that allocated portion of the votes in the Association corresponding to the Allocated Interests as set forth on attached **Exhibit "B" ("Voting Rights")**. Occupants of Units shall not have voting rights. If title to a Unit is owned by more than one (1) person, such persons shall collectively cast their allocated votes. If only one of the multiple Owners of a Unit is present at the Association meeting, such Owner is entitled to cast the votes allocated to that Unit. If more than one of the multiple owners is present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. In the event of a protest being made by one or more multiple Owners and a majority of the multiple Owners of the Unit cannot agree on how to cast their votes, any votes cast for that Unit shall be null and void with regard to the issue being voted upon. Such multiple Owners and their Unit shall nevertheless be counted in determining the presence of a quorum with respect to the issue being voted upon. A quorum is deemed present throughout any meeting of the Members of the Association if persons entitled to cast at least 30% of the total allocated votes in the Association are present, in person or by proxy, at the beginning of the meeting. Provided a quorum of allocated votes is present in person or by proxy, the affirmative vote of a majority of the total allocated votes so present shall constitute approval of any matter voted upon unless a

different number is required on a particular matter by the Colorado Revised Nonprofit Corporation Act, this Declaration, the Articles, or the Bylaws. The votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each Owner of the Unit may vote or register protest to the casting of a vote by the other Owners of the Unit through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy shall terminate eleven (11) months after its date, unless a different termination date is otherwise set forth on its face. The Owners, by a vote of 67% of all allocated votes present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by Declarant.

6.7. **Period of Declarant Control of Association.**

6.7.1. Notwithstanding any other provisions hereof, Declarant shall have and hereby reserves the power to appoint and remove, in its sole discretion, the members of the Board and the officers of the Association during the period commencing upon the recording of this Declaration and terminating no later than the earlier of: (a) 60 days after conveyance of 75% of the Units that may be created to Unit Owners other than Declarant; or (b) 2 years after the last conveyance of a Unit by the Declarant in the ordinary course of business (“**Period of Declarant Control**”). In addition, Declarant reserves the right to approve any amendments to the Condominium Governing Documents during the Period of Declarant Control, except for those amendments that are specifically authorized by the Act to be made effective without the requirement to obtain the approval of the Declarant.

6.7.2. During said Period of Declarant Control of the Association:

a. Not later than 60 days after conveyance of 50% of the Units that may be created to Unit Owners other than Declarant, not less than 33-1/3% of the members of the Board must be elected by Unit Owners other than Declarant.

6.7.3. At any time prior to the termination of the Period of Declarant Control of the Association, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Board, but in such event Declarant may require for the duration of the Period of Declarant Control of the Association, that specified actions of the Association or the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole discretion and option, and its disapproval shall invalidate any such action by the Board or the Association. Not later than the termination of the Period of Declarant Control of the Association, the Unit Owners (including Declarant) shall elect an Board of at least three members, at least a majority of whom must be Unit Owners other than Declarant or designated representatives of Unit Owners other than Declarant and the Board shall elect the officers with such Board members and officers to take office upon election. Pursuant to Section 38-33.3-303(9) of the Act, within 60 days after Unit Owners other than Declarant elect a majority of the members of the Board, Declarant shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by Declarant and such other materials as required by the Act.

6.8. **Termination of Contracts and Leases of Declarant.** The following contracts and leases between the Association and Declarant or an affiliate of Declarant, if entered into before the Board elected by the Unit Owners pursuant to Section 38-33.3-303(7) takes office, may be terminated without penalty by the Association at any time after the Board elected by the Unit Owners pursuant to said Section 38-33.3-303(7) takes office, upon not less than 90 days notice to the other party: (i) any

management contract or employment contract; (ii) any other contract or lease between the Association and Declarant or an affiliate of Declarant; or (iii) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing.

6.9. **Required Disclosures.**

6.9.1. To the extent required by the Act, the Association shall provide to all Owners, at least once per year, a written notice stating the name of the Association; the name of the Association's designated Managing Agent, if any; and a valid physical address and telephone number for both the Association and the Managing Agent, if any. The notice shall also include the name of the Community, the initial date of recording of the Declaration, and the reception number or book and page for the main document that constitutes the Declaration. The Association shall provide all Unit Owners with an amended notice within ninety days after the change. The notice required by this Section may be accomplished by mail, email or by posting the information on a website maintained by the Association and readily accessible to all Owners. An Owner who does not have access to the internet shall provide written notice to the Association requesting that the notice contemplated by this Section be sent to that Owner by mail.

6.9.2. Within ninety days after assuming control of the Association from the Declarant pursuant to Section 6.7.3 and as provided for in the Act and, thereafter, within ninety days after the end of each fiscal year, the Association shall make the following information available to each of the Owners. The disclosures required in this Section 6.10 shall be accomplished by one of the following means: Posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; by delivery to each Owner by regular or mail sent to the address on file with the Association and/or by personal delivery; and/or by some combination of each of the above stated means. The cost of such distribution shall be accounted for as a common expense liability. The required information shall include the following:

- A. The date on which the Association's fiscal year commences;
- B. The Association's operating budget for the current fiscal year;
- C. A list, by Unit type, of the Association's current assessments, including both regular and special assessments;
- D. The Association's annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- E. The results of any financial audit or review, if any, for the fiscal year immediately preceding the current annual disclosure (and nothing in this section and by this reference will otherwise obligate the Association to cause such annual financial audit or review to be undertaken);
- F. A list of all Association insurance policies, including, but not limited to, property, general liability, Association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insured's, and expiration dates of the policies listed;
- G. All the Association's Bylaws, Articles, and Rules, articles, and rules and regulations;

H. The minutes of the Board and member meetings for the fiscal year immediately preceding the current annual disclosure; and

I. The Association's responsible governance policies adopted pursuant to the Act and as contemplated by Section 6.10.

6.10. **Good Governance Policies.**

6.10.1. The Association shall adopt responsible governing policies, including, but not limited to, policies as to the handling of conflicts of interest and investment of reserve funds. To the extent that other governance policies and practices are not otherwise formally adopted, the Association shall adhere to the requirements of the Colorado Revised Nonprofit Corporation Act as it relates to the governance of the Association. No policy of the Association shall be adopted that is inconsistent with the provisions of the Colorado Revised Nonprofit Corporation Act.

6.10.2. In addition to the foregoing and to the extent not otherwise provided for in this Declaration or Articles of Incorporation and the Bylaws for the Association, to promote responsible governance, the Association shall:

A. Maintain accounting records using generally accepted accounting principles; and

B. Adopt policies, procedures, and Rule concerning:

- (I) Collection of unpaid assessments;
- (II) Handling of conflicts of interest involving board members;
- (III) Conduct of meetings, which may refer to applicable provisions of the nonprofit code or other recognized rules and principles;
- (IV) Enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines;
- (V) Inspection and copying of Association records by Owners;
- (VI) Investment of reserve funds;
- (VII) Reserve studies and funding;
- (VIII) Dispute resolution policies; and
- (IX) Procedures for the adoption and amendment of policies, procedures, and rules, which are generally stated in Section 6.3 and Section 6.4 of this Declaration.

6.11. **Community Systems.** The Declarant during the duration of the Declarant's Reserved Rights and thereafter, the Association through its Board of Directors may provide, or may enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Community ("**Community Systems**"). Any such contracts may provide for installation, operation, management, maintenance and upgrades or modifications to the Community Systems as the Declarant or Board of Directors determines is appropriate. The Association or Declarant may provide for access to any such Community Systems for all Units as a Common Expense. If particular services or benefits are provided to particular Owners or Units at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the charges as a General Assessment or a Special Assessment and pay such charges to the provider on behalf of the Owners, as the Board deems appropriate.

6.12. **Opportunities for Community Interaction.** The Association may make use of computers, the Internet, and expanding technology to facilitate community interaction and encourage participation in Association activities. For example, the Association may create and maintain a community intranet or Internet home page, maintain an “online” newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and occupants to interact and participate in Association-sponsored activities. To the extent permitted by the Act, and unless otherwise specifically prohibited in the Condominium Documents, the Association may send notices by electronic means, hold Board or Association meetings and permit attendance and voting by electronic means, and send and collect assessment and other invoices by electronic means. The foregoing is not intended to authorize the termination of any of the documents or instruments relating to the Town Approvals, which may only be modified or terminated, if at all, pursuant to the terms and conditions provided for in such agreements or instruments and by the Town Laws and Town Approvals.

6.13. **Education.**

6.13.1. The Board may authorize, and account for as a Common Expense, reimbursement of Board members for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of the Associations. The course content of such educational meetings and seminars shall be specific to Colorado, and shall make reference to applicable sections of this Act.

6.13.2. The Association shall provide, or cause to be provided, education to Owners at no cost on at least an annual basis as to the general operations of the Association and the rights and responsibilities of Owners, the Association, and the Board under Colorado law.

ARTICLE SEVEN
INSURANCE

7.1. **Insurance Requirements.** The Association shall obtain, maintain and keep in full force and effect at all times the following types of insurance, and the cost of said coverage shall be paid by the Association as a Common Expense:

7.1.1. **Casualty Insurance.** Property insurance on the Common Expense Areas, the Shared Structural Elements and on any property owned by the Association. The insurance must include the Units but not the finished interior surfaces of the walls, floors and ceilings of the Units, which finished interior surfaces of the walls, floors and ceilings of the Units and all other improvements and furnishings, the Owner of the Unit is required to obtain. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and extended coverage insurance including, if available at a reasonable cost, coverage for vandalism and malicious mischief. Such insurance shall be for the full insurable replacement cost of the Units and other insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.

7.1.2. **Liability Insurance.** Comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Expense Areas, the Shared Structural Elements and covering public liability or claims of liability for injury to persons and/or property, and death of any person or persons. Such liability insurance shall, to the extent reasonably obtainable, (a) have limits of not less than One Million Dollars (\$1,000,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence (if the Unit is being rented or leased) and less than One Million Dollars (\$1,000,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence (if the Unit is not being rented or leased); (b) insure the Board, the Association and its

officers, and their respective employees, agents and all persons acting as agents and the Managing Agent and Serviced Provider; (c) include the Owners as additional insured's, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Expense Areas and the Shared Structural Elements; (d) cover claims of one or more insured parties against other insured parties; and (e) be written on an occurrence basis.

7.1.3. **Worker's Compensation.** A Worker's Compensation policy, if necessary, to meet the requirements of law.

7.1.4. **Directors and Officers Liability Insurance.** The Association may, in its discretion, carry directors and officers liability insurance in such amount as the Board may deem appropriate.

7.1.5. **Fidelity Insurance.** The Association shall obtain and maintain fidelity insurance coverage for the Board, the Association and its officers, and their respective employees, agents and all persons acting as agents and the Managing Agent.

7.1.6. **Other Insurance.** Such other insurance in such amounts as the Board shall determine, from time to time, to be appropriate to protect the Association or the Owners, or as may be required by the Act.

7.1.7. **Annual Review.** The Board shall revisit the coverage insurance coverage requirements at least every year to determine if any changes to the nature or amounts of the coverage's is necessary and appropriate.

7.2. **General Provisions Respecting Insurance.**

7.2.1. Insurance policies carried pursuant to Sections 7.1.1 and 7.1.2 above shall provide that (i) each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association; (ii) the insurer waives its rights of subrogation under the policy against the Association, each Owner, and any person claiming by, through, or under such Owner or any other director, agent or employee of the foregoing; (c) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and (d) if at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy shall be the primary insurance. An insurer that has issued an insurance policy for the insurance described in Sections 7.1.1 and 7.1.2 above shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses. In addition, to the extent available at reasonable cost and terms, all Association insurance shall:

A. be written with a company authorized to do business in Colorado which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

B. be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members and their Mortgagees, as their interests may appear;

C. contain an inflation guard endorsement;

D. include an agreed amount endorsement, if the policy contains a co-insurance clause;

E. provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

F. include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

7.2.2. In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds and provide:

A. a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

B. a waiver of the insurer's right to repair and reconstruct instead of paying cash;

C. an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

D. an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

E. a cross liability provision; and

F. a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

7.2.3. Any loss covered by the property insurance policy described in Sections 7.1.1 above must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, the Owners, and lienholders as their interests may appear. Subject to the provisions of Section 38.33.3-313(9) of the Act, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, the Owners, and lienholders are not entitled to receive payments of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely restored or the Community is terminated. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

7.2.4. Insurance policies and insurance coverage shall be reviewed at least annually by the Board to ascertain whether coverage under the policies is sufficient in light of the current values of

Common Expense Areas and in light of the possible or potential liabilities of the Association and other insured parties. In no event shall insurance coverage obtained or maintained by the Association obviate the need for Owners and Occupants to obtain insurance for their own benefit.

7.2.5. The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.1. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Reimbursement Assessment.

7.3. **Nonliability of Association or Board.** Notwithstanding the duty of the Association to obtain insurance coverage, as stated herein, neither the Association nor any Board member shall be liable to any Owner, Occupant, mortgagee or other person, if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner and Occupant to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner or Occupant may desire.

7.4. **Premiums.** Premiums for insurance policies purchased by the Association and other expenses connected with acquiring such insurance shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances, by an Owner or Occupant, may at the Board's election, be assessed against that particular Owner and his Unit as a Reimbursement Assessment.

7.5. **Insurance Claims.** The Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard, and may, in its discretion, appoint an authorized representative, or enter into an insurance trust agreement, wherein the trustee shall have the authority to negotiate losses under any policy purchased by the Association.

7.6. **Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Association or any insurance trustee shall be held or disposed of in trust for, the Association, the Owners, or the Occupants, as their interests may appear.

7.7. **Other Insurance to be Carried by Owners.** Insurance coverage on the improvements, furnishings and other items of personal property belonging to an Owner or Occupant, and public liability insurance coverage within and upon each Unit, shall be the responsibility of the Owner or Occupant of the Unit.

7.8. **Damage to Community.** Any portion of the Community for which insurance is required under Section 38-33.3-313 of the Act that is damaged or destroyed must be repaired or replaced promptly by the Association unless: (i) the Community is terminated; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) 67 percent of the Unit Owners, including owners of every Unit that will not be rebuilt, vote not to rebuild. The cost of

repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Expense Areas must be used to restore the damaged property to a condition compatible with the remainder of the Community, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those properties, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all Unit Owners or lienholders as their interests may appear in proportion Association. In the event of damage to or destruction of all or a portion of the Common Expense Areas due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Association may levy a Special Assessment in the aggregate amount of such deficiency, or if any Owner or group of Owners is liable for such damage, may levy a Reimbursement Assessment against the Owner or group of Owners responsible therefor, and shall proceed to make such repairs or reconstruction. Such Assessment shall be due and payable as provided by resolution of the Board, but not sooner than 60 days after written notice thereof. The Assessment provided for herein shall be a debt of each Unit Owner assessed and a lien on his Unit, and may be enforced and collected in the same manner as any Assessment Lien provided for in this Declaration. If the entire damaged property is not repaired or replaced, the insurance proceeds attributable to the damaged property must be used to restore the damaged property to a condition compatible with the remainder of the Community. No distributions of insurance proceeds shall be made unless made jointly payable to the Unit Owners and first mortgagees of their respective Units, if any.

ARTICLE EIGHT **LIMITED LIABILITY**

Neither the Association nor its past, present or future officers or directors, nor any other employee, agent or committee member of the Association, nor the Managing Agent, nor the Services Provider, shall be liable to any Owner or Occupant or to any other Person for actions taken or omissions made except for wanton and willful acts or omissions. Without limiting the generality of the foregoing, the Association and the Board shall not be liable to any Owner or Occupant or other person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Association for such purposes shall not be adequate, the Owners severally agree to indemnify and to defend the Association, the Board, the Managing Agent and the Services Provider against claims, damages or other liabilities resulting from such good faith action or failure to act.

ARTICLE NINE **ASSESSMENTS**

9.1. **Assessment Obligation.** Each Unit Owner, by acceptance of a deed therefor (including a public trustee's or sheriff's deed), whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) Regular Assessments or charges, (2) Special Assessments, and (3) Reimbursement Assessments, such assessments to be established and collected as hereinafter provided (collectively the "**Assessments**").

9.1.1. The term Assessments shall include all assessments arising under the Master Community Governing Documents. Assessments due under the Master Community Documents shall be assessed by the Board, collected by the Board and paid to the Master Community by the Board. The

Board shall make available all information provided by the Master Community in furtherance of the assessments assessed by the Master Community.

9.1.2. The Assessments, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a continuing lien and security interest upon the Unit against which each such Assessment is charged. The obligation for such payments by each Unit Owner to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction of any kind or nature. Each Unit Owner is liable for Assessments made against such Owner's Unit during his period of ownership of the Unit. Each Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the joint, several and personal obligation of each person who was an Owner of such Unit at the time when the Assessment became due. Upon the transfer of title to a Unit, the transferor and the transferee shall be jointly, severally and personally liable for all unpaid Assessments and other charges due to the Association prior to the date of transfer, and the transferee shall be personally liable for all such Assessments and charges becoming due thereafter. Assessments attributable to a Unit shall begin to accrue at such time as the Unit is annexed into the Community and made subject to this Declaration.

9.2. **Statutory Lien.** The Association has a statutory lien pursuant to §38-33.3-316 of the Act on the Unit of an Owner for all Assessments levied against such Unit or fines imposed against such Unit's Owner from the time the Assessment or fine becomes due ("**Assessment Lien**"). Fees, charges, late charges, attorneys' fees, fines and interest charged by the Association pursuant to the Act or this Declaration are enforceable as Assessments. The amount of the lien shall include all such items from the time such items become due. If an Assessment is payable in installments, the Association has an Assessment Lien for each installment from the time it becomes due, including the due date set by the Board's acceleration of installment obligations. An Assessment Lien is extinguished unless proceedings to enforce the lien are instituted within six years after the full amount of Assessments becomes due.

9.3. **Lien Superior to Unit and Other Exemptions.** An Assessment Lien shall be superior to any Unit exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed subject to this Declaration shall constitute a waiver of the Unit and any other exemption as against said Assessment Lien.

9.4. **Priority of Lien.** An Assessment Lien is prior to all other liens and encumbrances on a Unit except as follows:

9.4.1. Liens and encumbrances recorded before the recordation of this Declaration;

9.4.2. A security interest on the Unit which has priority over all other security interests on the Unit and which was recorded before the date on which the Assessment sought to be enforced became delinquent. An Assessment Lien is prior to the security interest described in the preceding sentence to the extent of an amount equal to the Regular Assessments (based on a Budget adopted by the Association pursuant to the Declaration) which would have become due, in the absence of any acceleration, during the 6 months immediately preceding institution by the Association or any party holding a lien senior to any part of the Association lien created under this Article 9 of an action or a non-judicial foreclosure either to enforce or to extinguish the lien;

9.4.3. Liens for real estate taxes and other governmental assessments or charges against the Unit; and

9.4.4. As may otherwise be set forth in the Act. The priority of mechanics and materialmen's liens is not affected by the Act.

This Article 9 does not prohibit an action or suit to recover sums for which this Article 9 creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the lien for an Assessment.

9.5. **Perfection of Lien.** The recording of this Declaration constitutes record notice and perfection of the statutory lien. No further recordation of any claim of lien for Assessments is required; however, a claim may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Unit as a Reimbursement Assessment.

9.6. **Regular Assessments.**

9.6.1. A Regular Assessment shall be made annually against each Unit, based upon an annual Budget prepared by the Board, for purposes of paying: (i) the annual costs of operating and administering the Association and all other Common Expenses, (ii) reasonable reserves for contingencies, replacements, and other proper purposes, if any, in such amounts and for such purposes, if at all, as determined by the Board; and (iii) such other matters as may be reasonably determined by the Board to be the subject of a Regular Assessment;

9.6.2. Regular Assessments shall be allocated against each Unit in such amounts and such percentages corresponding to the Allocated Interests assigned to the Unit as set forth on attached **Exhibit "B"**.

9.6.3. The Board, in the exercise of its reasonable discretion, may allocate certain portions of the Regular Assessments exclusively against some, but less than all, of the Units, provided that such Common Expenses are determined to benefit fewer than all of the Units (such assessment shall be designated as a Limited Common Expense).

9.6.4. Regular Assessments, including Limited Common Expenses, shall be levied on a calendar year basis. Regular Assessments, including Limited Common Expenses, shall be paid in installments on a monthly, quarterly, semi-annual or annual basis, as the Board may determine from time to time, and shall be due either on the first day of each calendar month or on the first day of each calendar year quarter (January 1, April 1, July 1 and October 1), or on the first day of a semi-annual or annual period (e.g. January 1, July 1) as appropriate. Unless and until changed to a monthly or semi-annual or annual system by the Board, Regular Assessments, including Limited Common Expenses, shall be due and payable on the first day of each calendar quarter. Any Owner acquiring a Unit between installment due dates shall pay a pro rata share of the immediately preceding installment.

9.6.5. The Board shall fix the amount of the Regular Assessment, using the Budget procedure described below, at least 30 days before the end of each calendar year. Written notice of the Regular Assessments, including Limited Common Expenses, shall be sent to each Owner. Failure of the Board timely to fix and levy the Regular Assessments, including Limited Common Expenses, for any year or to send a notice thereof to any Owner shall not relieve or release any Owner from liability for payment of Regular Assessments, including Limited Common Expenses, or any installments thereof for that or subsequent years as soon as the Board levies the Regular Assessments, including Limited Common Expenses, and provides notice thereof.

9.6.6. The Board may, but is not obligated, mail to each Owner at least 10 days prior to the due date thereof a written notice of the amount of the next quarterly (or monthly or semi annual or annual, as the case may be) installment of Regular Assessment that is due from such Owner, and the date on which such installment is due pursuant to subparagraph (d) above. Failure of the Board to send timely notice to any Owner of an installment of Regular Assessments, including Limited Common Expenses, due shall not relieve or release any Owner from liability for payment of that installment as soon as the Board in fact provides such notice.

9.6.7. In accordance with §38-33.3-314 of the Act, any surplus funds remaining after payment of or provision for Association expenses and any prepayment of or provision for reserves shall be carried forward as a credit against the next year's Budget.

9.7. **Association Budget.** During the last three (3) months of each calendar year thereafter, the Board shall prepare or cause to be prepared an operating budget ("**Budget**") for the next fiscal year. The Budget shall provide the allocation of any surplus funds remaining from any previous Budget period. Within ninety (90) days after adoption of any proposed Budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider the Budget. The meeting shall be not less than 14 nor more than 60 days after the mailing or other delivery of the summary. Such meeting may, but need not be, concurrent with the annual meeting of the Members as provided in the Bylaws. The Budget shall be considered by the Owners at that meeting whether or not a quorum of Owners is present and shall be deemed to be approved unless at least 51% of Unit Owner at that meeting vote to veto the Budget. In the event that the proposed Budget is vetoed, the Budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent Budget proposed by the Board, as may be reasonably adjusted for inflation based upon the Consumer Price Index published in the Wall Street Journal and may also be adjusted to account for increases in any non-discretionary costs, expenses and fees imposed by third parties, such as property taxes, utilities and similar items.

9.8. **Special Assessments.**

9.8.1. In addition to the Regular Assessments, including Limited Common Expenses, and Reimbursement Assessments authorized in this Article 9, the Board may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, maintenance, or replacement of capital improvements (including related fixtures and personal property) to or upon or serving the Community, or for excess reconstruction costs or other extraordinary expenses, or for funding any operating deficit of the Association. Except in the event of an emergency, where no membership vote shall be required, the Board shall not levy a Special Assessment without the approval of the Unit Owners in the Community as provided below.

9.8.2. Written notice of any meeting called for the purpose of levying a Special Assessment shall be sent to all Owners no less than 30 or more than 60 days before the meeting. At the meeting, the presence of Owners in person or by proxy that are entitled to cast 50 percent of the votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called pursuant to the same notice requirements, and the required quorum at this second meeting shall be only 30 percent of the votes in the Association. No such second meeting shall be held more than 60 days following the date of the first meeting.

9.8.3. Provided a quorum of Owners entitled to vote is present in person or by proxy in accordance with the quorum requirements set forth in the preceding paragraph, the Special Assessment

shall be deemed to be approved, unless vetoed by the vote of Owners holding a majority of the allocated votes so present.

9.8.4. For purposes of this Section, the term “emergency” shall mean any circumstances or set of circumstances which pose an imminent threat of loss, damage or injury, actual or threatened, to persons or property. Special Assessments shall be allocated in the same manner as Regular Assessments, that is, in accordance with the Allocated Interests of each Unit in the Community, provided that Special Assessments that benefit fewer than all of the Units shall be allocated exclusively to the Units benefited. Special Assessments shall be due and payable to the Association on the due date fixed by the Board in the notice given to the Owners of such Special Assessment, which due date shall be no earlier than 30 days after the giving of such notice.

9.9. **Reimbursement Assessments.** In addition to the Regular Assessments, including Limited Common Expenses, and Special Assessments authorized hereunder, the Board may levy against any Owner or Owners, at any time and from time to time, a Reimbursement Assessment for purposes of reimbursing the Association, the Managing Agent and/or the Serviced Provider for goods and services provided to an Owner or Occupant of a Unit or for reimbursements to the Association or Managing Agent for all costs and expenses incurred by it in enforcing any provision of or in remedying any violation of this Declaration, the Articles and Bylaws, or any Rules, by such Owner or Owners, their Occupant(s), or their agents, employees or contractors. Reimbursement Assessments may also be made by the Board for any other purposes for which this Declaration provides for the levying of a Reimbursement Assessment. Finally, and in addition to the foregoing, a Reimbursement Assessment may also be levied in the form of a reasonable fine against an Owner for a violation of this Declaration, the Articles, Bylaws, or the Rules, but only after the Owner(s) to be so fined have been provided with Notice and Hearing. Reimbursement Assessments shall be due and payable to the Association on the due date fixed by the Board in the notice given to the Owner(s) of such Reimbursement Assessment, which date shall be no earlier than 30 days after the giving of such notice.

9.10. **Working Capital.** A working capital fund is established and shall be managed and maintained by the Board. Any amounts paid into this fund shall not be considered as advance payment of assessments. Each Unit’s share of the working capital fund may be collected and then contributed to the Association by the Declarant at the time the sale of the Unit is closed or at the termination of Declarant control. Declarant has no obligation to establish or fund any working capital accounts.

9.11. **Reserve Accounts.** The Association may, but is not obligated, to establish or fund reserve accounts for capital improvements or repairs to the Community. Declarant has no obligation to establish or fund any reserve accounts.

9.12. **Benefit of Class of Owners.** The costs of any Common Expenses to the Community, not determined to be a Limited Common Expense pursuant to this Article, unless and to the extent that these are separately metered or provided, shall be apportioned to all Units, in accordance with the Units’ Allocated Interest as set forth on **Exhibit “B”**. The foregoing notwithstanding, the costs of maintaining, repairing, managing or using any Common Expense Area, or portions thereof, which the Board reasonably determines to benefit only one or more Units, shall be borne by the Unit or Units involved, in accordance with the allocations determined by the Board, in its sole discretion.

9.13. **Misconduct.** If any Common Expenses or Limited Common Expenses are caused by the misconduct of any Owner, the Board may assess that expense exclusively against such Owner’s Unit as a Reimbursement Assessment.

9.14. **Special Allocation of Expenses of Repair and Maintenance.** The Association shall have the right to allocate a disproportionate share of the expenses of repair and maintenance of the Common Elements serving one or more Units, but less than all Units to any Unit, which has been occupied or used (including uses of a Unit on a rental basis for the majority of the dates in any Assessment period) to the extent that the Board reasonably determines that such occupancy and/or usage has resulted in excessive wear and tear.

9.15. **Effect of Nonpayment of Assessments; Remedies of the Association.**

9.15.1. Any Assessment or portion or installment thereof which is not paid when due (or for which a bad check is issued) shall be deemed delinquent and shall bear interest from and after the due date at the rate of interest set by the Board from time to time, which shall not be less than the maximum amount allowed per Colorado law and the Board may also assess a late charge thereon and/or may assess a bad check charge in the amount of 10 percent of the bad check or \$50.00, whichever is greater. The Board may also elect to accelerate the installment obligations of any Regular Assessment for which an installment is delinquent. The delinquent Owner shall also be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting a delinquent Assessment, which collection costs shall be added to the delinquent Assessment. The Board may but shall not be required to record a Notice of Delinquent Assessment or charge against any Unit as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Board, and shall set forth the amount of the unpaid Assessment or charge, the name of the delinquent Owner and a description of the Unit.

9.15.2. The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property. The Association shall be entitled to purchase the Unit at foreclosure. The Association may also bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Unit in the discretion of the Association. No Owner may exempt himself or otherwise avoid liability for the Assessments provided for herein by waiver of the use or enjoyment of any Common Expense Areas or by abandonment of the Unit against which the Assessments are made.

9.15.3. In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver to collect all sums alleged to be due from the Unit Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Regular Assessments.

9.16. **Statement of Unpaid Assessments.** The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by facsimile transmittal or by certified mail, first class postage prepaid, return receipt requested, to the Association, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit, whether delinquent or not. The statement shall be furnished within 14 days after receipt of the request and is binding on the Association, the Board, and every Owner. If no statement is furnished either delivered personally or by facsimile transmission or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request.

9.17. **Assessments for Tort Liability.** In the event of any tort liability against the Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Special Assessment. The Association may, however, require a larger contribution

from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions.

9.18. **Audit.** The Association shall prepare audits as may be required by the Act or as otherwise elected by the Association.

ARTICLE TEN **EMINENT DOMAIN**

10.1. **Definition of Taking.** The term “taking”, as used in this Article 10, shall mean condemnation by eminent domain or sale under threat of condemnation.

10.2. **Taking of Units.** If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Owner for the acquired Unit and its Allocated Interests. Upon acquisition, unless the decree otherwise provides, that Unit’s Allocated Interests are automatically reallocated to the remaining Units (as appropriate) in proportion to the respective Allocated Interests of those Units before the taking. Otherwise, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit. Upon acquisition, unless the decree otherwise provides:

10.2.1. That Unit’s Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and

10.2.2. The portion of Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units (as appropriate) in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

10.3. **Miscellaneous.** The court decree shall be recorded in the Official Records. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

ARTICLE ELEVEN **SPECIAL DECLARANT RIGHTS, DEVELOPMENT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

The Declarant hereby reserves for itself and its successors, assigns and designees, the following “**Special Declarant Rights**,” and “**Additional Reserved Rights**” for thirty (30) years following the recordation of this Declaration, unless sooner terminated by the written election of Declarant in its sole discretion (collectively the “**Reserved Rights**”).

11.1. **SPECIAL DECLARANT RIGHTS.**

11.1.1. **Completion of Improvements.** The right to complete any Improvements indicated on plats and maps filed with the Declaration.

11.1.2. **Exercise of Reserved Rights.** The right to exercise: (i) any Special Declarant Rights, Additional Reserved Rights or Development Rights reserved in this Article; or (ii) any other rights reserved or existing under the provisions of this Declaration or the Act.

11.1.3. **Consolidation on Merger.** The right to merge or consolidate the Community with a reasonably similar common interest community as determined by Declarant.

11.1.4. **Amendment of Declaration.** The right to amend the Declaration in connection with the exercise of any Development Rights, Special Declarant Rights or Additional Reserved Rights.

11.1.5. **Amendment of Community Map.** The right to amend the Condominium Map in connection with the exercise of any Development Rights, Special Declarant Rights or Additional Reserved Rights.

11.2. **DEVELOPMENT RIGHTS.**

11.2.1. **Modify Boundaries of Units and Common Elements.** The Declarant reserves the right to undertake any of the following actions, provided that each owner of a Unit being modified or changed pursuant to this authority must consent to the action (if the Units are owned by persons or parties other than Declarant) and the Declarant is responsible for paying all costs associated with the construction of any improvements resulting from the exercise of such rights:

- A. Relocate boundaries between adjoining Units;
- B. Enlarge, reduce or diminish the size of Units;
- C. Subdivide a Unit into one or more additional Units;
- D. Combine two Units into one Unit;
- E. Enlarge, reduce or diminish the size or areas of the Common Elements;

11.2.2. **Modify Uses of Units and Common Elements.** The Declarant reserves the right to undertake any of the following actions, provided that each owner of a Unit being modified or changed pursuant to this authority must consent to the action (if the Units are owned by persons or parties other than Declarant) and the Declarant is responsible for paying all costs associated with the construction of any improvements resulting from the exercise of such rights:

- A. Convert and re-designate a Hotel Unit to a Residential Unit or to a Commercial Unit or convert and re-designate a Commercial Units to Hotel Unit or a Residential Unit;
- B. Convert a Parking Unit to a Common Element, including a Limited Common Element and assign its usage to a particular Unit;
- C. Convert a Storage Unit to a Common Element, including a Limited Common Element and assign its usage to a particular Unit;
- D. Re-designate a portion of a General Common Element that is adjacent to Hotel Unit, Commercial Unit or Parking Unit as a Limited Common Element, which is then allocated to the adjacent Unit, provided that this conversion would occur in instances which reasonably improve the access to or the use and operation of the adjacent Unit, resulting in the overall improvement of the operation of the Hotel or commercial components of the Building; and

- E. Re-designate uses and activities occurring on the Common Elements, except for Limited Common Elements, which re-designation of uses and activities will require the consent of the Owner of the Unit to which the right to use Limited Common Element was assigned.

11.2.3. **Construct Improvements.** The right to construct improvements on and within Units, Common Elements and Limited Common Elements, to subdivide Units and to convert Units into Common Elements or to convert Common Elements into Units, provided that each owner of a Unit within which the improvements are being undertaken are owned by Declarant or the Owner of the Unit consents to the action (if other than Declarant) and the Declarant is responsible for paying all costs associated with the construction of any improvements resulting from the exercise of such rights:

11.2.4. **Create Additional Units.** The right to create or construct additional Units, Common Elements and Limited Common Elements, to subdivide Units and to convert Units into Common Elements or to convert Common Elements into Units.

11.2.5. **Annex Additional Real Property or Units.** The right to add Units and to subject additional property located in the Town of Telluride to the provisions of this Declaration either as vacant land or upon the substantial completion of improvements thereon.

11.2.6. **Relocate Boundaries of Units.** In exercising its Reserved Rights, Declarant may modify the boundaries of any Common Element and include areas associated with a Common Element into a Unit, provided that Declarant shall not reduce an area designated as a Limited Common Element without the consent of the Owner(s) of the Unit(s) to which the Limited Common Element has been assigned.

11.2.7. **Master Association and Subordinate Association.** The right to create master associations and/or subordinate associations (for and individual building) and to subject all portions of the Real Property to such master or subordinate association.

11.2.8. **Other Rights.**

A. To exercise the Declarants reserved rights as provided for in the Master Association Governing Documents;

B. The right to grant or withhold its approval and/or consent to any matter or action requiring the approval and/or consent pursuant to the Declaration;

C. The right to exercise any and all other Reserved Rights stated, established or otherwise reserved herein or otherwise allowed in the Act;

D. The right to amend the Declaration in connection with the exercise of any Reserved Rights; and

E. The right to amend the Condominium Map in connection with the exercise of any Reserved Rights.

11.3. **ADDITIONAL RESERVED RIGHTS.**

11.3.1. **Dedications.** The right to establish or obtain, from time to time, by dedication, grant or otherwise, utility and other easements or encroachment permits for purposes including but not limited to streets, paths, walkways, skyways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Community.

11.3.2. **Use Agreements.** The right to enter into, establish, execute, amend, and otherwise deal with contracts, agreements and leases for the use, operation, lease, repair, maintenance or regulations of recreational facilities and/or Common Elements, which may or may not be a part of the Community.

11.3.3. **Grant Easement.** The right to grant and convey an easement over portions of the Common Elements to adjoining property owners to enable pedestrian and vehicular access and/or the extension of utilities to serve adjoining property, provided that the grant of such easement does not preclude uses and activities of the Common Elements contemplated by this Declaration.

11.3.4. **Other Rights.** The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

11.4. **Assignment of the Declarant Rights.** Declarant reserves the right to transfer and assign some or all of the Reserved Rights to any Person, which will be evidenced by a written assignment recorded in the Official Records, and upon such assignment, such assignee may elect to exercise any assigned Reserved Rights subject to these Declarations and the Act and upon such election, the assignee shall assume all of the duties and obligations of the Declarant with respect to the Reserved Rights being so assigned.

11.5. **No Further Authorizations Needed.** The consent of Owners or holders of Security Interests shall not be required for the Declarant or its assignees to exercise any Reserved Rights, and Declarant or its assignees may proceed without limitation at their option, subject to existing property use, zoning laws and any planned unit development requirements of the Town. Reserved Rights of the Declarant or its assignees may be exercised with respect to different parcels of the Community at different times. Additionally, Declarant or its assignees may exercise any Reserved Rights on all or any portion of the Community in whatever order is determined. Declarant or its assignees shall not be obligated to exercise any Reserved Rights or to expand the Community beyond the number of Units initially submitted.

11.6. **Amendment of the Declaration or Map.** If Declarant or its assignees elect to exercise any Reserved Rights, that party shall comply with the Act with respect to amending or supplementing the Map or the Declaration.

11.7. **Interpretation.** Recording of amendments to the Declaration and the Map or plat pursuant to Reserved Rights in the Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically vest in each existing Owner the reallocated Allocated Interests appurtenant to his Unit. 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 Units after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration or Map.

ARTICLE TWELVE
GENERAL PROVISIONS

12.1 **Duration of Declaration.** The term of this Declaration shall be perpetual.

12.2 **Termination of Community.** The Community may be terminated only by the agreement of: (i) Owners holding at least 80% of the total allocated votes in the Association, and (ii) the holders of all first mortgages on Units. In the event of such termination, the provisions of Section 38-33.3-218 of the Act shall apply.

12.3 **Amendment of Declaration and Map.**

12.3.1 This Declaration and the Map may be amended pursuant to Section 38-33.3-217 of the Act. Under the Act, the Declaration may be amended by the Declarant in certain defined circumstances, including without limitation: (a) when the Declarant is exercising reserved rights hereunder, or (b) for purposes of correcting clerical, typographical, or technical errors. The Act also provides that the Declaration may be amended by the Declarant and/or the Association in certain defined circumstances.

12.3.2 In addition to the foregoing, this Declaration (including the Condominium Map) may be amended only by the vote or agreement of Owners to which more than 67% of the votes in the Association are allocated.

12.3.3 In the event that written notice of an intent to amend this Declaration, the Map or any of the Condominium Governing Documents requiring approval by the Owners, which notice complies with this Section 12.3.3 is sent to an Owner at the current address of the Owner on file with the Association and the Owner fails to respond by the expiration of the stated thirty day period, the Association shall count the non-responding Owner of the Unit as an affirmative vote. All ballots shall be returned to the President of the Association. The notice required by this Section shall include: (a) a copy of the proposed amendment, (b) a statement that the Owner has thirty days to vote to either approve or disapprove the proposed amendment in writing and that failure to vote will result in and be deemed to be a vote in favor of the proposed amendment, and (c) reasonable and clear directions on the manner and method on which the Owner may vote on the proposed amendment and where to return the ballot. If the Owner fails to respond by the expiration of the stated thirty day period, the Association shall count the non-responding Owner of the Unit as an affirmative vote. All ballots shall be returned to the President of the Association.

12.3.4 Pursuant to Section 38-33.3-217(4) of the Act, which provides that except to the extent expressly permitted or required by other provisions of the Act (e.g., permitted amendments), no amendment may: (i) create or increase special Declarant rights; or (ii) increase the number of Units, in the absence of a vote or agreement of Unit Owners to which at least 67% of the votes in the Association are allocated, including 67% of the votes allocated to Units not owned by the Association.

12.3.5 Pursuant to Section 38-33.3-217(4.5) of the Act which provides that except to the extent expressly permitted or required by other provisions of the Act, no amendment may change the uses to which any Unit is restricted in the absence of a vote or agreement of Owners to which at least 67% of the votes in the Association for such Units are allocated. This limitation does not apply in instances where the Declarant is amending the Declaration and/or the Condominium Governing Documents pursuant to its Reserved Rights, to the fullest extent allowed by the Act.

12.3.6 Under no circumstances shall any amendment to the Declaration, the Map or any of the Condominium Governing Documents alter, limit, impair, reduce, eliminate, extinguish, terminate or otherwise affect the Reserved Rights of Declarant or any Unit owned by Declarant without the prior written consent and approval of Declarant, which Declarant may grant or withhold in Declarant's sole discretion.

12.3.7 No consent of any mortgage or trust deed holder shall be required to accomplish any amendment or supplement to this Declaration, the Map or any of the Condominium Governing Documents.

12.3.8 An amendment to this Declaration shall be in the form of a "First (or Second, etc.) Amendment to Declaration and Map." With the exception of Declarant amendments, amendments to this Declaration shall be duly executed by the President and Secretary of the Association and recorded in the Official Records.

12.4 **Compliance; Enforcement.**

12.4.1 Every Owner and Occupant of a Unit in the Community shall fully and faithfully observe, abide by, comply with and perform all of the covenants, conditions and restrictions set forth in this Declaration and the Condominium Governing Document, and all approvals granted by the Board, as the same or any of them may be amended from time to time. In addition to any other rights or remedies that may be provided to any Person under the terms and provisions of this Declaration and/or any Condominium Governing Document, the Association through its Board, and every Owner (except an Owner that is delinquent in the payment of Assessments hereunder), shall have the right, acting alone or together with others having such right, to enforce, by any proceeding at law or in equity, any or all of the covenants, conditions, restrictions, assessments, charges, liens, servitudes, easements and other provisions now or hereafter imposed by this Declaration or any Condominium Governing Document, and any approvals granted by the Board. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration. This provision does not limit the remedies that may be available under this Declaration or at law or in equity. Each remedy provided under this Declaration is cumulative and not exclusive.

12.4.2 A Person seeking to enforce this Declaration or any Condominium Governing Document shall first comply with any requirements for Alternative Dispute Resolution concerning the Claim as provided for in Section 12.5. Subject to the limitations contained in Section 12.6, such enforcement rights shall include without limitation the right to bring an injunctive action for any form of injunctive relief available under Colorado law (including specific performance), or an action for damages, or both. Injunctive relief may include, without limitation, orders to stop work, orders to remove improvements constructed in violation hereof, orders to compel performance, and any other orders appropriate under the circumstances.

12.4.3 The Board shall have the following further rights and remedies:

A. The right to levy and collect, after Notice and Hearing, reasonable fines for the violation of any of the foregoing matters which shall constitute a lien upon the violator's Unit. In the event that any Person, including an occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.

B. The right to levy and collect a Reimbursement Assessment against any Owner.

C. The right to enter upon any Unit within the Community, after giving the Owner or Occupant at least 5 days written notice of the nature of the violation (unless an emergency exists, in which case without notice), without liability to the Owner or Occupant thereof, to enforce or cause compliance with such matters, at the cost and expense of the Owner or Occupant in violation.

D. The right to cut off or suspend any or all Association services or benefits to the subject Owner or Occupant and his Unit until the violation is cured.

E. The right to suspend an Owner's right to vote (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Assessment).

F. The right to exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents).

G. The right to record a notice of violation with respect to any Unit on which a violation exists.

12.4.4 In any action brought under this Section 12.4, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection therewith.

12.4.5 Failure by any party entitled to exercise any of the rights available to it under this Section 12.4 shall in no event be deemed a waiver of the right to do so in any other instance.

12.4.6 No Owner shall have the right to bring any claim for damages or any enforcement action against another Owner, Occupant, the Association, Declarant or an Affiliate of Declarant, until the aggrieved Owner has given the offending Owner, Occupant, the Association, Declarant or an Affiliate of Declarant written notice of the aggrieved Owner's complaint and the opportunity to resolve the problem as provided for in Section 12.5.

12.4.7 Notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of this Declaration or the Condominium Governing Documents, or to compel the removal of any building or improvement because of the violation of the terms of any such building restriction, unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

12.4.8 The decision for the Association to pursue an enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

A. the Association's position is not strong enough to justify taking any or further action;

B. the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

C. although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources;

D. the Association is precluded from bringing an action because of applicable law, this Declaration or the Condominium Governing Documents; and/or

E. that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

12.4.9 A decision by the Association and its Board not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

12.4.10 The provisions of this Section 12.4 may not be modified, amended or deleted without the prior written consent of Declarant, which may be granted or withheld in the discretion of Declarant so long as Declarant owns a Unit.

12.5 Agreement to Encourage Alternative Dispute Resolution.

12.5.1 **Bound Parties.** The Declarant, each of the Affiliates of Declarant, the Association and its officers, directors, and committee members, each Owner and all other Persons subject to this Declaration, and any Person not otherwise subject to this Declaration or any Condominium Governing Document who agrees to submit to this Chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in this Section 12.5 and has engaged in a good faith effort to resolve such Claim.

12.5.2 **Claims.** As used in this Chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

(a) the interpretation, application, or enforcement of the Declaration and/or any Condominium Governing Document;

(b) the rights, obligations, and duties of any Bound Party under the Declaration and/or any Condominium Governing Document; or

(c) the design or construction of any Improvements within the Community, other than matters of aesthetic judgment, which shall not be subject to review.

12.5.3 **Limitations on Claims.** Notwithstanding the above, the following shall not be considered "**Claims**", unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 12.5:

(a) any suit by the Association to collect assessments or other amounts due from any Owner, including the filing of a Statement of Lien against any Owner and their Unit;

(b) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the covenants and restrictions of this Declaration and/or any Condominium Governing Document;

(c) any suit that does not include the Declarant, Affiliates of Declarant or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Declaration and/or any Condominium Governing Document;

(d) any dispute which affects the material rights or obligations of a party who is not bound by the terms of the Declaration and/or any Condominium Governing Document; and

(e) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 12.5.4, unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Section.

12.5.4 **Dispute Resolution Procedures.**

(a) **Notice.** A Person bound by this Declaration and/or any Condominium Governing Document ("**Bound Party**") asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice ("**Notice**") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

- (1) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (2) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (3) the Claimant's proposed resolution or remedy; and
- (4) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the San Miguel County, Colorado area. Each Bound Party shall present the mediator with a written summary of the Claim. If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim. If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant

shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate, subject to the limitations contained in Section 12.6. Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall pay an equal share of the mediator's fees.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

12.5.5 **Limitation of Damages.** All Bound Parties agree that, in any lawsuit arising out of a Claim subject to the procedures set forth in Section 12.4 or Section 12.5, any damage award shall be specifically limited to the amount of any actual economic loss suffered by the prevailing party and shall not include consequential damages, punitive damages, exemplary damages and/or damages for physical, mental or emotional pain and suffering.

12.5.6 **Declarant to Consent to Amendments.** The provisions of this Section 12.5 may not be modified, amended or deleted without the prior written consent of Declarant, which may be granted or withheld in the discretion of Declarant during the period the Declarant owns a Unit.

12.6 **Rights of First Mortgagees.** Upon the filing of a written request therefor with the Association, the holder of a First Mortgage on any Unit in the Common Interest Community shall be entitled to:

12.6.1 Receive written notice of meetings of the Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;

12.6.2 Receive written notice from the Association that the Owner of the Unit is delinquent in the payment of Assessments thereon;

12.6.3 Upon written request, inspect the books and records of the Association during normal business hours;

12.6.4 Upon written request, receive copies of annual Association financial statements;

12.6.5 Upon written request, receive written notice of meetings of the Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;

12.6.6 Upon written request, receive written notice of the lapse of any insurance that the Association is required to maintain under this Declaration; and

12.6.7 This Declaration and the other Condominium Governing Documents may be amended or supplemented without the requirement to obtain the consent of any First Mortgagee or any other holder of a Mortgage as provided for in Section 12.3.

12.7 **Notice.** Each Owner, and each First Mortgagee if it so elects (as provided for in Section 12.6), shall register its mailing address from time to time with the Association. Except as otherwise specifically provided in this Declaration, any notice permitted or required to be given hereunder shall be in writing and may be delivered either personally, or by facsimile transmission, or by mail. Notices delivered personally or sent by facsimile transmission shall be deemed given on the date so delivered or sent. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been posted in the first-class U.S. Mail, certified and return receipt requested, with adequate postage affixed, addressed to the receiving party at the address last registered by such party with the Association, or in the case of an Owner that has not provided such an address, to the Unit of that Owner. Notices to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

12.8 **No Dedication to Public Use.** Nothing contained in this Declaration shall be deemed to be or to constitute a dedication of all or any part of the Community to the public or to any public use.

12.9 **Safety and Security.** Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, the Association, the Declarant, the Affiliates of Declarant and the Managing Agent shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any Occupants of such Owner's Unit that the Association, its Board and committees, the Declarant, the Affiliates of Declarant and the Managing Agent are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including and the contents of Units, resulting from acts of third parties.

12.10 **Interpretation of Declaration.** The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a common and general plan for the development, improvement, enhancement, protection and enjoyment of the Community, and to the extent possible, shall be construed so as to be consistent with the Act.

12.11 **Conflict With Condominium Map.** In the event of any conflict or inconsistency between the provisions of this Declaration and the Condominium Map, the provisions of said Condominium Map shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said Condominium Map.

12.12 **Conflict With the Act.** In the event of any conflict or inconsistency between the provisions of the Condominium Governing Documents and the Act and/or the Colorado Revised Nonprofit Corporation Act, the respective provisions of the Act and/or the Colorado Revised Nonprofit Corporation Act shall govern and control and the Condominium Governing Documents shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of the Act and/or the Colorado Revised Nonprofit Corporation Act

12.13 **Governing Law; Jurisdiction.** The laws of the State of Colorado shall govern the interpretation, validity, performance, and enforcement of this Declaration. Any legal action brought in connection with this Declaration shall be commenced in the District Court for Dolores County, Colorado, and by acceptance of a deed to a Unit each Unit Owner voluntarily submits to the jurisdiction of such court.

12.14 **Costs and Attorneys' Fees.** In any action or proceeding involving the interpretation or enforcement of any provision of this Declaration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith.

12.15 **Severability.** Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Where any provision of this Declaration is alleged to be or declared by a court of competent jurisdiction to be unconscionable, Association shall have the right by amendment to this Declaration to replace such provision with a new provision, as similar thereto as practicable but which in Association's reasonable opinion would be considered not to be unconscionable.

12.16 **Captions.** Captions given to various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof and shall not be considered in interpreting any of the provisions hereof.

12.17 **Singular Includes Plural.** Unless the context requires a contrary construction, as employed in this Declaration the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

IN WITNESS WHEREOF, the Declarant does hereby adopt, execute and publish this Declaration, intending it to become effective as of the Effective Date.

DECLARANT:

BRD, LLC,
a Colorado limited liability company

By: _____
Jason Soules, Manager

Date: _____

STATE OF COLORADO)
) ss
COUNTY OF _____)

Acknowledged, subscribed and sworn to before me this ____ day of _____, 2024 by Jason Soules, as the Manager of BRD, LLC a Colorado limited liability company.

Witness my hand and official seal.

Notary Public

My commission expires: _____.

EXHIBIT "A"
(Legal Description of the Real Estate)

The areas Designated in the Condominium Map recorded on _____, 2024 in Plat Book Reception No. _____ in the Official Records as Bedrock Building 1 & 2 Subassociation and as Bedrock Building 1 and Bedrock Building 2, Located on Lot 6 Bedrock Subdivision, According to the Bedrock Subdivision Plat, Town of Rico, Dolores County, State of Colorado, Recorded at Reception Number 171981, Dolores County Clerk and Records Office.

EXHIBIT B
(Allocated Interests)

Unit 1A	25%
Unit 1B	25%
Unit 2A	25%
Unit 2B	25%

DECLARATION FOR BEDROCK 3 & 4 CONDOMINIUMS

THIS CONDOMINIUM DECLARATION FOR BEDROCK 3 & 4 CONDOMINIUMS

(“**Declaration**”), is made effective as of _____, 2024 (“**Effective Date**”) and is made, adopted and published by BRD, LLC, a Colorado limited liability company (“**Declarant**”). Capitalized terms used in this Declaration and not defined elsewhere in this Declaration have the meanings given those terms in Article 2.

ARTICLE ONE IMPOSITION OF COVENANTS

1.1. Condominiums and Master Community.

1.1.1. Declarant is the owner of Lot 6, Bedrock Subdivision, Town of Rico, and has established thereon, certain condominiums known as the Bedrock Condominiums (the “**Master Community**”) featuring 4 buildings comprising two separate condominium communities, Bedrock 1 & 2 Condominiums and Bedrock 3 & 4 Condominiums each with their own declarations and the Future Development Area reserved for future development by the Declarant, its successors and assigns.

1.1.2. The Master Community was formed in accordance with the “**Master Condominium Declaration**” recorded on _____, at Reception No. _____ and the “**Master Community Map**”, which also includes the Map for the Bedrock 3 & 4 Condominiums. The Master Community Declaration and Master Community Map are hereinafter referred to as the Master Community Governing Documents.

1.1.3. The Master Community was formed for the purposes stated in the Master Community Governing Documents including the purpose of creating the condominium buildings, Future Development Areas and for the purpose of administering and managing the Master Condominium Property (as defined in the Master Community Governing Documents).

1.2. General Purposes.

1.2.1. Declarant is the current, fee simple owner of certain improved real estate situate in the Town of Rico, Dolores County, Colorado, more particularly described on attached **Exhibit “A”**, together with the beneficial rights and burdens arising from any agreement, covenants, easements and rights-of-way as well as any appurtenances affecting such land and any improvements constructed on the land now and in the future (together such interests are collectively referred to as the “**Real Estate**”).

1.2.2. Declarant desires by this Declaration to create a common interest community under the name and style of “**Bedrock 3 & 4 Condominiums**” (the “**Community**”) in which the Real Estate will be designated for separate ownership with portions designated as Common Expense Areas allocated solely amongst the owners of the separate ownership portions.

1.2.3. This Declaration is executed and recorded subject to the terms and conditions of all easements, agreements, covenants and instrument of record affecting the Real Estate and Community.

1.3. Submission of Real Estate.

1.3.1. Declarant hereby submits the Real Estate to condominium ownership under and pursuant to the provisions of the Colorado Common Interest Ownership Act, Section 38-33.3-101, et seq. of the Colorado Revised Statutes, as it may be amended from time to time (“**Act**”), to this Declaration for

the Community (“**Declaration**”) as set forth in the Master Community Map which contains the Condominium Map for Bedrock 3 & 4 Condominiums (as defined below).

1.3.2. This is the Declaration for the areas designated in the Condominium Map recorded on _____, 2024, Reception No. _____ in the Official Records (“**Condominium Map**” or “**Map**”) as Bedrock Building 3 & 4 Subassociation and as Bedrock Building 3 and Bedrock Building 4 within the Map. By this reference, the Condominium Map is incorporated in this Declaration.

1.3.3. The Community shall be deemed to be subject to any and all applicable terms and conditions contained in the Act, including amendments to the Act made subsequent to the recordation of this Declaration.

1.3.4. The Community is formed subject to all easements, agreements, covenants and instruments of record affecting the Real Estate and Community.

1.4. **Real Estate Made Subject to Condominium Declaration.**

1.4.1. To further accomplish the purposes and intentions recited above, the Real Estate has been further subjected to the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration.

1.4.2. This Declaration is recorded subject to all easements, agreements, covenants and instruments of record affecting the Real Estate.

1.5. **Covenants Running With the Land.** All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of all Unit Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns. All of the Real Estate shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved, subject to the provisions of this Declaration.

1.6. **Governmental Approvals; Subject to the Town of Rico Laws and Regulations.**

1.6.1. The Community will be developed in accordance with any and all site specific approvals granted to Declarant for the Real Estate by the Town of Rico (“**Town**”) as well as the applicable and effective laws, regulations, charters and codes properly made applicable to the Real Estate (collectively, the “**Town Development Approvals and Requirements**”).

1.6.2. In all instances where this Declarations provides for the right of Declarant to exercise Reserved Rights, including rights to modify elements of this Declaration, the Map, the Units and the Common Expense Areas, the exercise of such rights is made expressly subject to any and all applicable terms, conditions, requirements and restrictions contained in the Town of Rico laws, codes and regulations (collectively “**Town Laws**”).

1.6.3. Nothing herein is intended to relieve a Person from complying with applicable provisions of the Town Laws, whether or not this requirement is expressly stated herein.

1.6.4. In the event of a conflict between the Condominium Governing Documents and the Town Development Approvals and Requirements, the applicable Town Development Approvals and Requirements shall control.

1.7. **Other Buildings and Future Phases.** There currently exists other buildings with similar condominium regimes within the Master Community and further improvements are contemplated and as they are completed within the Master Community other similar condominium regimes may be established. The Community may but need not merge with such future communities within the Master Community and operate under one managing authority or enter into cooperation agreements to jointly share in the management and administration of their separate individual communities. The Declarant reserves the right to undertake such mergers in accordance with the Reserved Rights of Declarant as provided for in Article Eleven.

1.8. **Effect of Bedrock 1 & 2 Condominiums.** The Bedrock 1 & 2 Condominiums were established pursuant to its condominium declaration recorded on _____ at Reception No. _____ and the areas designated for the Bedrock 1 & 2 Subassociation on the Condominium Map (the “**Bedrock 1 & 2 Condominiums Governing Documents**”). The units and common elements in the Bedrock 1 & 2 Condominiums exist in accordance with their respective governing documents and are not intended to be burdened or otherwise affected by this Declaration or Condominium Map. Similarly, the Bedrock 1 & 2 Condominiums Governing Documents are not intended to burden or otherwise affect the Units created in this Community.

ARTICLE TWO **DEFINITIONS**

Capitalized terms used in this Declaration and not defined elsewhere in this Declaration have the meanings given those terms in Article 2. The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

2.1. “**Act**” means the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, as amended and supplemented from time to time. In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable to this Declaration.

2.2. “**Affiliates of Declarant**” mean any designee or assignee of Declarant and shall also mean any agent, contractor, architect, attorney or other consultant retained by Declarant in connection with the development of the Community.

2.3. “**Allocated Interests**” means: (a) the Common Expenses Liability attributable to the Common Expense Areas; and (b) the Voting Rights in the Association attributable to and allocated to each of the Units as provided for in the Condominium Governing Documents. The initial Allocated Interests for each of the Units are set forth on **Exhibit “B”**. The initial Allocated Interests for each Unit may change as a result of the Declarant’s (or its assignee’s) exercise of the Reserved Rights.

2.4. “**Articles of Incorporation**” or “**Articles**” means the Articles of the Association, which have been filed with the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

2.5. “**Assessments**” means the Regular Assessments, including Common Expenses Liabilities, Special Assessments and Reimbursement Assessments duly assessed pursuant to this Declaration.

2.6. “**Association**” means Bedrock 3 & 4 Condominiums Association, a Colorado nonprofit corporation.

2.7. “**Association Property**” means, to the extent of the Association’s interest therein: (a) all real and personal property, including Improvements, now or hereafter owned or leased by the Association, (b) all easements, property rights or other interests created or reserved on the Maps or this Declaration, or in any separate agreement, for the use and benefit of the Association and/or the Owners, and (d) any development plans, permits and approvals, water and sewer taps and the like (or interests therein) that may be owned, leased or maintained by the Association or which the Association is entitled to use. Association Property may be located within or outside the Community. With the exception of easements which are Association Property, Association Property does not include the Units or the Improvements constructed therein.

2.8. “**Board**” means the governing body of the Association, as provided for in this Declaration and as further empowered by the Act, the Articles of Incorporation and the Bylaws for the Association.

2.9. “**Budget**” means a written itemized estimate of the Common Expenses to be incurred by the Association in performing its functions under this Declaration and adopted by the Board pursuant to the Declaration and Bylaws.

2.10. “**Building**” means each building or structure situated on the Real Estate and containing the Units, together with (i) any additions or modifications or replacements that may hereafter be made thereto, and (ii) all improvements and fixtures contained therein.

2.11. “**Bylaws**” means any instruments, however denominated, which are adopted by the Association for the regulation and management of the internal affairs of the Association, including the amendments thereto.

2.12. “**Common Expense Areas**” means all portions of the Community designated on the Map as a Common Expense Area. Without limiting the foregoing, the Common Expense Areas include the roof, common walls and equipment in the Buildings and within each Unit which exist for the common use and/or benefit of the Owners or necessary or convenient to the Community’s existence, maintenance or safety. The Common Expense Areas also include the rights, duties and obligations arising from and under any and all easements benefiting the Real Estate. The rights of the Association under easements that benefit the Community including those stated in Article Four hereunder.

2.13. “**Common Expenses**” means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including all expenses incurred by the Association for any reason whatsoever in connection with Association Property, or the costs of any other item or service provided or performed by the Association pursuant to this Declaration, the Articles, the Bylaws, the Rules and Regulations, any Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association. Any fees and charges imposed by the Managing Agent pursuant to the Management Agreement and/or by the Services Provider pursuant to the Services Agreement for services provided to the Community as a whole or to all of the Units. In the event that any common services furnished to the Community are part of services that are provided to or benefit property in addition to the Community, Common Expenses shall only include the cost of such services reasonably allocated to the services provided to the Community.

2.14. “**Common Expenses Liability**” means the liability for a share of the Common Expenses, including any Limited Common Expenses, attributable to and allocated to each Unit in accordance with the Allocated Interests assigned to the Unit and/or as otherwise provided for in this Declaration.

2.15. “**Community**” means the Bedrock 3 & 4 Condominiums, including each of the Units and all of the Association Property, together with all Improvements and other amenities now or hereafter located thereon, and together with all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. If any property is subsequently withdrawn from the Community pursuant to the provisions of this Declaration, the term “Community” shall thereafter not include said withdrawn property.

2.16. “**Condominium Governing Documents**” means the basic documents creating and governing the Community, including, but not limited to, this Declaration, the Map, the Articles of Incorporation and the Bylaws of the Association, any Rules promulgated by the Association and any other documents, policies and procedures relating to the Community adopted by the Association or the Board pursuant to this Declaration or the Act, as the same may be supplemented or amended from time to time.

2.17. “**Condominium Map**” or “**Map**” means the Condominium Map, which shall also be deemed to be that part of this Declaration that depicts all or any portion of the Community and is recorded in the Official Records.

2.18. “**Declarant**” means BRD, LLC, a Colorado limited liability company, its successors, assigns and affiliates. A Person shall be deemed to be a “successor and assign” of Declarant if specifically designated in a duly recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in that written instrument.

2.19. “**Declaration**” means this Declaration for the Community, together with any supplement or amendment to this Declaration and recorded in the Official Records. The term Declaration includes all Maps and any Plats recorded with or prior to this Declaration and all amendments to this Declaration and supplements to the Maps and any Plats without specific reference thereto.

2.20. “**Deed of Trust**” means a Mortgage.

2.21. “**Eligible First Mortgagee**” means a First Mortgagee which has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for herein.

2.22. “**First Mortgagee**” means a holder of a Security Interest in a Unit which has priority over all other Security Interests in the Unit.

2.23. “**General Common Expenses**” means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, for the general benefit of all or substantially all of the Units.

2.24. “**Improvement(s)**” means any construction of Buildings, improvements, alterations, additions, repairs to any Building, structural or otherwise, any excavation, grading, landscaping or other work which in any way alter the Real Estate or the improvements located thereon, from its natural or improved state existing on the date this Declaration was first recorded, including, but not limited to, dwelling units, buildings, outbuildings, additions, patio covers, awnings, the painting, staining or other change of any exterior surfaces of any visible structure, walkways, outdoor sculptures or artwork, sprinkler or irrigation systems, garages, carports, roads, driveways, parking areas, ponds, ditches, fences, screening walls, retaining walls, stairs, decks, flag poles, fixtures, landscaping (including the addition, alteration or removal of any tree, shrub or other vegetation), hedges, windbreaks, plantings, planted trees

and shrubs, gardens, poles, signs, tanks, solar equipment, wind harnessing or other energy generating equipment, exterior air conditioning, water softener fixtures, utilities, antennae and satellite dishes or receivers. Once an Improvement has been constructed or accomplished on a property within the Community, any subsequent alteration of or addition to or removal of that Improvement shall also constitute an "Improvement" hereunder.

2.25. "**Lease**" means and refers to any agreement for the leasing, rental, use or occupancy of a Unit within the Community for a period of thirty days or longer.

2.26. "**Limited Common Expenses**" means any Common Expenses which are attributable solely to a Limited Common Element and are billed to the Unit to which the Limited Common Element is to be used exclusively for.

2.27. "**Limited Common Element**" means any portion of the Common Expense Areas designed as limited common elements for the exclusive use of one or fewer than all the Units on the Map.

2.28. "**Majority of Owners**" means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

2.29. "**Management Agreement**" means any contract or arrangement entered into for purposes of administering the performance of the responsibilities of a Board relative to the operation, maintenance, and management of the Community or particular portions or aspects thereof.

2.30. "**Managing Agent**" means a person, firm, corporation, or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

2.31. "**Member**" means each Unit Owner. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

2.32. "**Mortgage**" means any mortgage, deed of trust or other security instrument, given voluntarily by the Owner of a Unit, creating a real property security interest in a Unit and recorded in the Official Records. "**First Mortgage**" means a mortgage which is the first and most senior of the Mortgages on the same Unit. The term "**Mortgage**" does not mean a statutory, tax or judicial lien. The term "**Deed of Trust**" when used herein shall be synonymous with the term "**Mortgage**."

2.33. "**Mortgagee**" means a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee.

2.34. "**Mortgagor**" means the maker, obligor or grantor of a Mortgage. The term "**Mortgagor**" includes a trustor or grantor under a Deed of Trust.

2.35. "**Notice and Hearing**" means a written notice and public hearing before the Board, or a panel appointed by the Board, as set forth in the Bylaws.

2.36. "**Occupant**" means: (a) an Owner while occupying the Unit, (b) any Person who is a tenant in a residence on a Unit pursuant to a Lease with the Owner thereof; (c) any Person who is present within the Community as a family member, guest or invitee of an Owner, an Occupant or the Association; (d) any person who is a guest, invitee, servant, tenant, employee, or licensee of Owner who is occupying a Unit for any period of time; or (e) any Person who is otherwise occupying a Unit.

2.37. “**Official Records**” means the Office of the Clerk and Recorder of Dolores County, Colorado.

2.38. “**Parking Space Limited Common Elements**” means the parking spaces designated as limited common elements appurtenant to the Units within the community if any.

2.39. “**Person**” means an individual, Association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision, or any other legally established entity and/or any combination thereof.

2.40. “**Plat**” means that Bedrock Subdivision Plat recorded at Reception No 171981, in the official records which creates Lot 6 which is subject to the Master Community Governing Documents.

2.41. “**Property**” means the real property described in the Maps.

2.42. “**Records**” means the Office of the Clerk and Recorder of Dolores County.

2.43. “**Regular Assessment**” means a charge against an Owner and the Owner’s Unit for purposes of covering the annual costs of operating and administering the Association and all other Common Expenses. Regular Assessments are based on a Budget adopted by the Board in accordance with this Declaration and are allocated to the Units in accordance with the Allocated Interests designated to that Unit, except that Common Expenses that in the judgment of the Board benefit fewer than all of the Units may be allocated exclusively to the Units benefited as Limited Common Expenses, as provided for herein.

2.44. “**Reimbursement Assessment**” means a charge determined by the Board, in its sole and reasonable discretion, assessed against a particular Owner or Occupants of Owner’s Unit and against the Owner’s Unit for the purpose of: (a) imposing fines and penalties and/or reimbursing the Association for costs and expenses incurred by the Association in connection with the enforcement of any provision of the Condominium Governing Documents; (b) imposing fines and penalties and/or reimbursing the Association for costs and expenses incurred by the Association in connection with the remedying of any violation of the Condominium Governing Documents by the Owner or by an Occupant, (c) imposing fines and penalties and/or reimbursing the Association for costs and expenses incurred by the Association in connection with correcting or repairing damage caused to any Association Property or any other Unit attributable to the misconduct and/or the actions or the inactions of the Owner or Occupant; or (d) for such other purposes set forth in the Condominium Governing Documents providing for the imposition of fines or the collection of costs, expenses and the like, together with late charges and interest and attorney fees and costs, as provided for in the Condominium Governing Documents. Reimbursement Assessments shall also include each of those fees and costs for goods and services requested by and/or otherwise provided to an Owner or Occupant by the Association or the Managing Agent or Services Provider.

2.45. “**Rules**” means any Rules and Regulations, policies and procedures or any approvals granted by any committee, or for other purposes set forth in this Declaration, pursuant to this Declaration, together with late charges and interest as provided for herein. Reimbursement Assessment shall include without limitation any Common Expense caused by the misconduct of any Unit Owner or of such Owner’s Occupants.

2.46. “**Rules and Regulations**” means the Rules and Regulations, if any, promulgated by the Board for the management, preservation, safety, control, and orderly operation of Stones Throw II Duplex

in order to effectuate the intent and to enforce the obligations set forth in the Condominium Governing Documents, as amended and supplemented from time to time.

2.47. **“Security Interest”** means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest. Any such holder of a Security Interest on the Real Estate which has priority over all other Security Interests on the Real Estate shall become a First Mortgagee on such Units.

2.48. **“Services Agreement”** means any services agreement, if any, that may be executed between the Association, the Declarant and such other third party Service Provider providing such services to and on behalf of the Association and the Unit Owners, which services may be undertaken within the Real Estate or off-site on any other property.

2.49. **“Services Provider”** means the party providing services to and on behalf of the Association and the Unit Owners in accordance with the Services Agreement.

2.50. **“Shared Structural Elements”** means those structural elements, if any, serving or benefitting another Unit in the Community, located within a portion of a Unit. The Shared Structural Elements consist of improvements, elements or components serving Units in the Community, including, without limitation, structural elements, shared utilities and foundation. Shared Structural Elements are intended to Common Elements of the Community. An Owner shall not do work or make any changes to the portion of their Unit which may negatively and unreasonably impact any Shared Structural Elements.

2.51. **“Short-Term Rental”** means the leasing or rental of a Unit for a period of less than thirty (30) consecutive days, except to a relative of the Owner, which is strictly prohibited by this Declaration and the Town Development Approvals and Requirements.

2.52. **“Special Assessment”** means a charge against an Owner and the Owner’s Unit for purposes of reimbursing the Association for costs and expenses incurred or to be incurred by the Association for the purpose of paying for the construction, reconstruction, repair, maintenance or replacement of capital improvements to or upon or serving the Community or any part thereof, the costs of which were not included in a Regular Assessment, or for excess reconstruction costs or other extraordinary expenses, or to acquire Association Property, or for funding any operating or reserve deficit of the Association, as authorized by the Board from time to time as provided herein. Special Assessments shall be based on a Budget adopted by the Board in accordance with the Declaration.

2.53. **“Unit”** means a Unit, which is a physical portion of the Community designated for separate ownership or occupancy and the boundaries of which are depicted, described or otherwise determined by this Declaration and the Map. Each Unit includes an appurtenant undivided interest in the Common Expense Areas corresponding with the Allocated Interest assigned to each Unit as set forth on attached **Exhibit “B”**. Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Community as more specifically set forth on **Exhibit “B”** and depicted on the Map.

2.54. **“Unit Owner”** or **“Owner”** means any person who owns record title to a Unit or an undivided interest therein. The term includes a contract seller but excludes a contract purchaser and excludes any Person having a Security Interest in a Unit or an undivided interest therein, unless such

Person has acquired record title to such Unit or undivided interest pursuant to a foreclosure or any proceedings in lieu of foreclosure. The term “**Owner**” shall be analogous to the term “**Unit Owner**”, as that term is defined in the Act.

ARTICLE THREE **GENERAL PROVISIONS AND RESTRICTIONS**

3.1. **Division into Units. Maximum Number of Units.** The Real Estate and the Building are hereby initially divided into 6 Units each consisting of a separate fee simple estate in a Unit and an appurtenant undivided fee simple interest in the Common Expense Areas. Said undivided interest have the Allocated Interest as set forth on **Exhibit “B”**.

3.2. **Inseparability of a Unit.** Each Unit and its appurtenant undivided interest in the Common Expense Areas shall be inseparable and may be conveyed, leased, encumbered, devised or inherited only as a Unit.

3.3. **Description of Units.** Every contract for sale, deed, lease, security interest and every other legal document or instrument shall legally describe a Unit as follows:

Unit _____, Bedrock 3 & 4 Condominiums, according to the Condominium Map thereof recorded on _____, 2024 at Reception No. _____ and the Declaration for Bedrock 3 & 4 Condominiums recorded on _____, 2024 at Reception No. _____, all in the Office of the Clerk and Recorder of Dolores County, Colorado.

Such description shall be legally sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit and its appurtenant undivided interest in the Common Expense Areas, and to incorporate all of the rights, interests, obligations, restrictions and burdens appurtenant or incident to ownership of a Unit as set forth in this Declaration and on the Condominium Map.

3.4. **Unit Boundaries.** The boundaries of each Unit are as designated on the Map. In the event of any conflict between any provisions of this Declaration and depictions contained on the Map, with respect to any Unit boundary, the depictions on the Map shall control. The boundaries of each Unit shall be the following boundaries extended to their planar intersections with the perimeter boundaries: Need to discuss boundaries with Dave.

3.4.1. **Upper Boundaries.** The upper horizontal boundaries of each Unit shall be the horizontal planes of the bottom surfaces of the dropped ceiling, if any, or, if none, the unfinished joists, extended to their planar intersections with the vertical perimeter boundaries.

3.4.2. **Lower Boundaries.** The lower horizontal boundaries of the Unit shall be the horizontal planes of the unfinished surfaces of the concrete, gypcrete or plywood subflooring, extended to their planar intersections with the vertical perimeter boundaries.

3.4.3. **Vertical Boundaries.** The vertical boundaries of each Unit shall be (i) with respect to the exterior perimeter walls, the vertical planes of the finished exterior surfaces of the external Building walls bounding the Unit extended to their planar intersections with the upper and lower boundaries; and (ii) with respect to internal walls common to a Unit and General Common Element, the vertical planes of the unfinished exterior surfaces of the walls bounding the Unit, extending to their planar intersections with the upper and lower boundaries; and (iii) with respect to the internal walls separating Units, the center of the separation wall, extending to the planar intersections with the upper and lower boundaries.

3.4.4. **Doors and Windows.** The area of a door and window for a Unit is deemed to be part of the Unit.

3.5. **Separate Assessments and Taxation - Notice to Assessor.** The Association, to the extent necessary, shall give written notice to the Assessor of Dolores County, Colorado, of the creation of condominium ownership of this Community, as provided by the Act, so that each Unit shall be deemed a separate parcel and subject to separate assessment and taxation.

3.6. **Relocation of Unit Boundaries.** Except as hereinafter specifically provided with respect to Declarant, no Owner or Owners may relocate the boundaries of any Unit(s) except by amendment to this Declaration in accordance with the applicable requirements hereof. In addition, any relocation of boundaries shall be done in accordance with the procedures set forth in the Act, in particular Sections 212 and 213. All costs incurred in connection with such relocation of boundaries shall be borne by the Owner or Owners of the affected Units, including all costs incurred by the Association in connection therewith. If Units are combined, the undivided interest in the Common Expense Areas allocated to the combined Unit shall be the sum of the undivided interests of the Units that were combined. Any previously combined Units which are later divided shall be reinstated to the undivided interests in the Common Expense Areas which they had prior to the combination. An amendment to the Declaration and Condominium Map implementing a relocation of Unit boundaries under this Section shall be executed and filed in accordance with the Act.

3.7. **No Partition or Subdivision of Units or Common Elements.** No Owner may assert any right or bring any action for partition or subdivision with respect to such Owner's Unit. By becoming an Owner, each Owner waives any and all rights of subdivision or partition that such Owner may have with respect to such Owner's Unit. This Section shall not, however, limit or restrict the right of the Owners of a Unit to bring a partition action pursuant to Section 38-28-101, et seq., of the Colorado Revised Statutes requesting the sale of the Unit and the division of the proceeds among such Owners; provided that no physical division of the Unit shall be permitted as a part of such action and no such action shall affect any other Unit.

3.8. **Encumbrances.**

3.8.1. Any Owner shall have the right from time-to-time to Mortgage or encumber his interest in a Unit by a Mortgage or Deed of Trust. A First Mortgage shall be one which has first and paramount priority under applicable law and with respect to certain portions of the obligations, liens for Common Expenses or Limited Common Expenses and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws. The First Mortgage shall be subordinate to all other terms and conditions of the Declaration.

3.8.2. The Owner of a Unit may create junior Mortgages on the following conditions: That any such junior Mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses or Limited Common Expenses and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws. That the holder of any junior Mortgage shall release, for the purpose of restoration of any Improvements upon the Community, all of its right, title and interest in and to the proceeds under insurance policies upon said Community wherein the Association is named insured. Such release shall be furnished upon written request by the Association.

3.9. **Mechanic's Liens.** If any Owner shall cause or permit any material to be furnished to such Owner's Unit or any labor or services to be performed therein, neither the Association nor any other

Owner of any other Unit shall be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done and such Owner shall be solely responsible to contractors, laborers, materialmen and other Persons furnishing labor, services or materials to such Owner's Unit. Nothing herein contained shall authorize any Owner or any Person dealing through, with or under any Owner to charge any Unit other than that of such Owner with any mechanic's or materialmen's lien or other lien or encumbrance whatsoever. Notice is hereby given that the right and power to charge any lien or encumbrance of any kind against any Owner or any Owner's Unit for work done or materials furnished to any other Owner's Unit is expressly denied. If, because of any act or omission of any Owner, any mechanic's or materialmen's lien or other lien or order for the payment of money shall be filed against any other Owner's Unit or against any other Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose or which act or omission forms the basis for such lien or order shall, at such Owner's own cost and expense, cause such lien or order to be canceled or bonded over in an amount and by a surety company reasonably acceptable to the party or parties affected by such lien or order within twenty (20) days after the filing thereof, and further such Owner shall indemnify and save harmless all such parties affected from and against any and all costs, expenses, claims, losses or damages, including reasonable attorneys' fees resulting therefrom.

3.10. **Additions, Alterations or Improvements by Owners.** No additions, alterations, changes or improvements shall be constructed, made, done or permitted to any Unit by any Owner, Occupant, or employee or agent thereof, without the prior written approval of the Board, which consent may be granted or withheld by the Board in its discretion. In considering a request by an Owner, the Board shall consider such things as the desire and need to maintain a uniform, aesthetically appealing design and style of the Improvements, thus, the Board shall determine, among other things, if the proposed addition, alteration, change or improvement will impact the Improvements in a positive or negative manner in terms of these design objectives and shall deny any request that results in a negative impact. The Board shall also take into account other relevant factors, including, without limitation, impacts to structural components of the building, increased maintenance obligations, impacts to views from other Units, impacts to use and enjoyment of Units and impacts to Common Expense Areas by other Owners and such other factors that the Board deems relevant. Without limiting the generality of the foregoing, said restrictions shall apply to and include, without limitation or exclusion: (i) an alteration or change of any structural elements of a Unit, including the roof; (ii) any exterior change to a Unit or Common Expense Area; and (iii) painting or other alteration or change of the exterior of a Unit, including doors, windows, lighting and the like, other than routine maintenance and painting which is not a change of the color or nature of such surfaces. Notwithstanding the foregoing, however, the foregoing restrictions shall not apply to nonstructural additions, alterations, changes or improvements made exclusively to the interior of a Unit, that do not include changes to the interior layout of a unit as noted above, are not visible from outside the Unit, and that are in compliance with all applicable laws, ordinances, regulations and codes. No Owner or Occupant shall have any right to alter, change or improve in any way the Common Expense Areas or any part thereof, said Common Expense Areas being the exclusive responsibility and jurisdiction of the Association.

3.11. **Maintenance of the Community.** All property within the Community, including without limitation all Units and Common Expense Areas, shall be kept and maintained in a safe, clean and attractive condition and in good order, condition and repair.

3.12. **Association Maintenance Responsibilities.**

3.12.1. The Association shall be responsible for maintaining, repairing, improving, restoring and replacing the Common Expense Areas and each of the Shared Structural Elements if any.

3.12.2. The Association, through its Board, shall have the exclusive right and authority to make any changes, alterations, improvements or additions to the Common Expense Areas and the Shared Structural Elements and no individual Owner shall have any right to do any of such things without the express prior written consent of the Board.

3.12.3. If the need for such maintenance or repair results from the negligent acts of or from damage or destruction caused by an Owner or Occupant, the Board shall have the right to perform such maintenance or repair and to levy and collect a Reimbursement Assessment upon the Owner and the Owner's Unit for the costs and expenses incurred by the Association in connection therewith.

3.12.4. Each Unit is subject to an easement for the benefit of the Association and its Board, agents, employees and contractors, for purposes of accomplishing the maintenance and repair rights described herein.

3.13. **Owner Maintenance Responsibilities.**

3.13.1. Each Owner shall be responsible for cleaning, sweeping, maintaining, repairing, improving, restoring and replacing as necessary all interior and exterior elements and features of the Owner's Unit but excluding the Shared Structural Elements and Common Expense Areas.

3.13.2. Each Owner shall be responsible for cleaning, sweeping, and maintaining any patios and decks, landscaping areas, stairwell areas, and parking spaces and other areas that have been included within the boundaries of the Unit as shown on the Map.

3.13.3. Each Owner shall be responsible for repairing and maintaining all interior and exterior elements of the Unit, including exterior doors, siding and windows, but excluding any Shared Structural Elements and Common Expense Areas.

3.13.4. In addition, each Owner shall be responsible for any damage to other Units or Common Expense Areas and the Shared Structural Elements resulting from the Owner's failure to perform or negligent performance of the Owner's maintenance and repair responsibilities as set forth herein.

3.13.5. Each Owner shall perform the Owner's maintenance and repair responsibilities in such manner as shall not unreasonably disturb or interfere with other Owners or Occupants.

3.13.6. If an Owner fails to perform any such maintenance or repair obligations within 10 days following receipt of a written notice from the Board requesting the same, the Board shall have the right to enter upon the Unit of the Owner to perform such obligations on the Owner's behalf and to levy and collect a Reimbursement Assessment upon the Owner and the Owner's Unit for the costs and expenses incurred by the Association in connection therewith.

3.13.7. Each Unit is subject to an easement for the benefit of the Association and its Board, agents, employees and contractors, for purposes of accomplishing the maintenance and repair rights described herein.

3.13.8. In the event of a conflict between the responsibilities of the Association under Section 3.12 and an Owner under Section 3.13, the provisions of Section 3.13 shall control.

3.14. **Standard of Care.** The Association and the individual Owners shall each use a reasonable standard of care in performing their respective maintenance, repair and upkeep responsibilities

so that the entire Community will reflect a first class quality and pride of ownership. All repairs and replacements within the Community shall be substantially similar to the original construction and craftsmanship and shall be of first-class quality.

3.15. **Emergency Maintenance and Repair.** In the event of an emergency or the sudden occurrence of unanticipated conditions which threaten the health, safety or physical well-being of Persons or property within the Community or inconvenience the Owners, the Board shall have the authority (without any notice being required) to take whatever remedial action and to undertake such maintenance, repairs and improvements as may be necessary anywhere in the Community to protect persons and property, including the right to gain reasonable access to a Unit to complete this work.

3.16. **Compliance with Laws.** No Owner or Occupant shall do any act or cause or permit anything to be done or kept in or upon its Unit, which would be in violation of any federal, state, city or other law, ordinance, regulation or code of any governmental body having jurisdiction, or of any rule or regulation promulgated by the Association, or of any provision of this Declaration, or which would result in the increase of, or cancellation of, insurance maintained by the Association.

3.17. **Use and Occupancy of the Units.** Each Unit shall be occupied and used only for single-family residential purposes. No business, professional or other non-residential or commercial use shall be made of any Unit, or conducted in any Unit, excepting in-home businesses or occupations which do not involve employees other than Owners, the solicitation or invitation of the general public, or the servicing of customers, and which activities are conducted entirely within the Unit and do not cause any additional traffic or parking within the Community or otherwise create a nuisance for neighboring Units or the Community.

3.17.1. Use and occupancy of the Units shall be limited to residences of the Town of Rico or those that intend to establish residency within the Town of Rico within thirty (30) days of occupying the Unit pursuant to the Town Development Approvals and Requirements. Residency in the Town of Rico shall be maintained by occupants of units at all times.

3.17.2. The Units shall not be permitted to be rented on a short-term basis (for less than 30 days).

3.18. **Vehicle Parking, Storage, Operation and Repair.**

3.18.1. Each Unit shall be designated the right to park motorized vehicles in the Community in spaces assigned to the Unit on the Map as an limited common element.

3.18.2. Motorized vehicles of any kind shall only be parked or stored in designated Parking Spaces.

3.18.3. No boats, trailers, buses, motor homes, mobile homes, campers (on or off supporting vehicles), , snowmobiles, recreational vehicles, all-terrain vehicles, trucks larger than one ton, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger automobiles and one ton or smaller pick-up trucks) shall be parked or stored in the Community except as approved in advance by the Board.

3.18.4. No motorized vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt in the Community.

3.18.5. An “abandoned or inoperable vehicle” shall mean any motorized vehicle which does not display a current motor vehicle license or which is not capable of being driven under its own propulsion or which does not have an operable propulsion system within the vehicle. In the event that the Board shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this section, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), thereafter, the Board (as the case may be) shall have the right to remove the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the owner of the vehicle if the vehicle is located on a roadway, or at the sole expense of the Owner on which the vehicle is located, all without liability on the part of the Board.

3.18.6. The Board may cause any unauthorized vehicle parked in the Community to be immediately towed at the cost and expense of the owner of the unauthorized vehicle.

3.18.7. An Owner shall not sell, lease or otherwise convey all or any part of the parking rights it may have in an LCE Parking Space or Parking Unit to a person that does not own a Unit in the Community, other than pursuant to a valid lease of the associated Unit which also contains the right to use the LCE Parking Space or Parking Unit in such lease of the Unit, and any attempted sale, lease, or other conveyance shall be void.

3.19. **Pets.**

3.19.1. An Occupant, including an Owner of a Unit, may keep a maximum of no more than a total of three Pets, either dogs or cats in their Unit, so long as such dog or cat is not kept for any commercial purpose and do not cause noise or odor, or do not otherwise become a nuisance or threat to other Owners or Occupants. The Board has the authority to adopt Rules which may further govern or restrict the ability of an Owner to keep Pets in their Unit.

3.19.2. Contractors and subcontractors may not bring dogs or other pets into the Community.

3.19.3. A permitted dog or cat must be restrained at all times within the Owner’s or Occupant’s Unit, and shall not be permitted outside such Unit except when leashed and accompanied by the pet’s owner or the owner’s representative. Each dog or cat shall be properly immunized and otherwise maintained and cared for as required by applicable laws. An Owner shall promptly remove pet waste and clean up after their pet.

3.19.4. The Owner of a Unit where a dog or cat is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of the Owner’s Unit and of streets, sidewalks, Association Property or other Units necessitated by such pet.

3.19.5. The Board shall be responsible for enforcing the restrictions set forth in this Section, and shall have, and is hereby given, the right and authority to determine in its sole discretion that any one or more dogs or cats are being kept for commercial purposes, or are being kept in numbers, or are causing an unreasonable amount of noise or odor, or are otherwise a nuisance to other Owners or Occupants, or that an Owner or Occupant is otherwise in violation of this section, and to take such action or actions as it deems reasonably necessary to remedy the violation, including without limitation the levying of fines and/or Reimbursement Assessments as provided in this Declaration. Also without limiting the generality of the foregoing, the Board may require the owner or custodian of a dog that barks or howls excessively, or of a dog or cat that exhibits threatening behavior or that has other offensive

habits or that otherwise violates the restrictions set forth in this section, to confine such animal indoors, or to permanently remove such animal from the Community, and may adopt Rules governing pets.

3.20. **Leasing of Units.** Any Owner shall have the right to Lease his Unit under the following conditions:

3.20.1. An Occupant's use of the Unit shall be subject in all respects to the provisions of the Condominium Governing Documents, the Master Community Governing Documents and the Town Development Approvals and Requirements which prohibit short term rentals of the Units.

3.20.2. Each Owner who leases a Unit shall be responsible for assuring compliance by the Occupant with all of the provisions of the Condominium Governing Documents, Master Community Governing Documents and Town Development Approvals and Requirements, if any, and shall be jointly and severally responsible with the Occupant for any violations thereof by the Occupant. Any failure by the Occupant to comply with any of the Condominium Governing Documents, Master Community Governing Documents and Town Development Approvals and Requirements in any respect, shall be a default by Occupant and Owner under the Condominium Governing Documents which may be enforced against Occupant and/or Owner by the Board.

3.20.3. The Board shall have the right to give the Occupant written notice that the Occupant is in violation of one or more of the Condominium Governing Documents, which notice shall specify a period of time in which the Occupant may cure the violation. If the violation continues uncured, or if it is repeated within the 3-month period following the date of the first notice, the Owner gives to the Association an irrevocable power of attorney to act on the Owner's behalf to give such statutory notices to the Occupant and to take such other actions as may be necessary or appropriate to evict the Occupant from the Premises.

3.21. **Annoying Light, Sound or Odor.** All exterior lighting installed or maintained on any Unit shall be placed so that the light source is screened or shielded from any other Unit, and shall require the prior written approval of the Board in each instance. No light shall be emitted from any part of the Community (including any Unit) which is unreasonably bright or causes unreasonable glare. Without limiting the generality of the foregoing, no spotlights, floodlights or other high-intensity lights shall be permitted within the Community without the prior written approval of the Board. No sound shall be emitted from any part of the Community (including any Unit) which is loud or annoying, and no odor shall be emitted from any part of the Community (including any Unit) which is noxious or unreasonably offensive. Again without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, other than security devices used exclusively for security purposes, shall be located or used within the Community except with the prior written approval of the Board. The Board, in its sole discretion, shall have the right and authority to determine the existence of any violation of this Section including the reasonableness of any light, sound or odor.

3.22. **Timesharing.** No Unit shall be used for operation of a timesharing, fraction-sharing, vacation clubs, destination clubs, or similar programs whereby the right to exclusive use of the Unit rotates and/or shared among participants in the program over a period of years, unless approved by the Association in its sole and respective discretion..

3.23. **Noxious or Offensive Activities; Nuisances.** No noxious or offensive activity shall occur or be allowed at any time within the Community, nor shall anything be done or placed therein which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to Owners, Occupants, or the Association, or which interferes with the peaceful enjoyment or possession and proper use of the Community, or any part thereof, by Owners or Occupants. The Board, in its sole

discretion, shall have the right and authority to determine the existence of any nuisance or unreasonable embarrassment, disturbance or annoyance under this Section. Each Owner and Occupant shall comply with any Rules and the requirements of all health authorities and other governmental authorities having jurisdiction over the Community.

3.24. **No Hazardous or Unsafe Activities.** No activity shall be conducted on, and no improvement shall be constructed on, any property within the Community which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no explosives, gasoline, fireworks, or other volatile and/or incendiary materials or devices or any materials deemed hazardous or toxic substances under applicable environmental laws, Rules, or regulations shall ever be used, kept, stored, permitted to remain or be released or disposed of in any Unit or elsewhere within the Community.

3.25. **Outside Burning; Fire Hazards.** No exterior fires shall be lighted or permitted within the Community except in a contained barbecue unit while attended and in use for cooking purposes or a Town approved gas fire pit. No Owner or Occupant shall cause or permit any condition upon or within his Unit which creates a fire hazard or is in violation of fire prevention regulations, or which would increase insurance rates for other Owners.

3.26. **No Firearms.** The discharge of firearms, including but not limited to BB guns and pellet guns, upon or within any part of the Community (including the Units) is expressly prohibited unless such discharge is done lawfully to protect persons and property.

3.27. **Unsigntliness; Sporting Equipment; Clothes Drying.** The Community is intended to foster a uniform and aesthetically pleasing environment. The Board will monitor and enforce compliance with the following requirements based upon this stated policy objective.

3.27.1. Decks, patios, balconies, porches, and parking spaces shall not be used for the storage of personal property, excepting patio furniture.

3.27.2. Nothing shall be placed on or in windows or doors or otherwise on the exterior of the Units which create an unsightly appearance as determined by the Association, in consultation with the Managing Agent and/or the Services Provider.

3.27.3. Sporting equipment (e.g., skis, snowboards, bikes, mountain bikes, kayaks, etc.) and toys, may not be stored in any General Common Elements of the Community unless such locations are approved by the Association. Any such sporting equipment stored on any decks or patios shall be done in a neat and clean manner in order to prevent unsightliness within a Unit. The Association may determine that equipment stored in an unsightly manner is a nuisance and require the removal of such equipment.

3.27.4. Grilles and barbeques may be used and operated on a deck or patio assigned to the Unit, provided that they are well maintained and do not constitute an unsightly nuisance as determined by the Association.

3.27.5. Patio furniture may be kept and used on a deck or patio assigned to the Unit, provided that they are well maintained and do not constitute an unsightly nuisance as determined by the Association.

3.27.6. No laundry or wash shall be dried or hung outside anywhere within the Community.

3.28. **Garbage and Trash.** Except in Town approved refuse and recycling receptacles placed in areas designated by the Association, no refuse, garbage, trash, grass, shrub, or tree clippings, plant waste, scrap, rubbish, or debris of any kind shall be kept, stored, maintained or allowed to accumulate or remain anywhere within the Community, except that containers of such materials may be placed next to the street on the designated morning of garbage collection and must be returned to the designated area that same day. No garbage containers, trash cans or receptacles shall be maintained in an unsanitary or unsightly condition, and except when placed for pickup they shall be kept completely within the designated area.

3.29. **Right of Entry.** During reasonable hours and upon reasonable notice to the Owner or Occupant of a Unit, any member of the Board, and any authorized representative of the Board shall have the right to inspect any exterior portion of a Unit and, with the permission of the Owner or Occupant, the interior portion of the Unit. In the case of emergency, no notice or permission shall be required to inspect the interior of a Unit. The purpose of any such inspection shall be to ascertain whether or not the provisions of this Declaration have been or are being complied with, or for the purpose of exercising any rights or performing any responsibilities (maintenance, repair, etc.) established by this Declaration and such individuals shall not be deemed guilty of trespass by reason of such entry. For purposes of this section, "emergency" shall mean circumstances posing an imminent threat of injury or damage to persons or property.

3.30. **Signs and Advertising.** No exterior signs, posters, billboards or advertising devices shall be displayed in the Community unless approved by the Board as provided for in Section 3.10 or otherwise specifically allowed by the Act. In all events, any such signs, posters, billboards or advertising devices are further subject to any required Town of Telluride approvals and the Rules.

3.31. **Flags or Displays.** No exterior flags or other displays shall be displayed in the Community unless approved by the Board as provided for in Section 3.10 or otherwise specifically allowed by the Act. In all events, any such flags or other displays are further subject to any required Town of Telluride approvals and the Rules.

3.32. **Health, Safety and Welfare, Rules.** In the event any uses, occupancies, activities, and facilities within the Community are deemed by the Board to be an unreasonable annoyance or nuisance, or to adversely affect the health, safety or welfare of Owners or Occupants, the Board may adopt reasonable Rules of general application in order to appropriately restrict and regulate such uses, occupancies, activities or facilities within the Community. Such Rules shall be consistent with the purposes, provisions and limitations of this Declaration.

3.33. **View Impairment.** Neither the Declarant nor the Association, guarantee or represent that any view over and across the Community from their Unit, will be preserved without impairment. The Declarant and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping except as otherwise required under a separate covenant or agreement. There shall be no express or implied easements for view purposes or for the passage of light and air.

3.34. **Variances.** The Board may, in its sole discretion and in extenuating circumstances, grant variances from any of the restrictions set forth in this Article 3, if the Board determines, in its discretion, (a) either (i) that a particular restriction creates a substantial hardship or burden on an Owner or Occupant, which hardship or burden was not caused by said Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete, and

(b) that the activity permitted under the variance, in the judgment of the Board, will not have any material adverse effect on the Owners and Occupants of the Community, and is consistent with the high quality of living intended to be promoted hereby throughout the Community. When an Owner applies for a variance, the Board must give reasonable notice of the variance hearing to all Owners of Units in the Community. No variance shall conflict with ordinances or regulations of the Town. If a variance from Town laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such Town variance before submitting a variance application to the Board. Obtaining a Town variance does not guarantee a Board approval of a variance and in no way binds the Board with regards to such variance application in front of the Board.

ARTICLE FOUR **EASEMENTS**

The following "**Easements**" are hereby established by Declarant for the purposes stated and for the parties indicated. Declarant reserves the right to modify the location and/or use of any of the Easements identified in this Article Four or anywhere else in this Declaration or on the Map. Declarant also reserves the right to expand the Persons who may use the Easements. The rights reserved herein shall be exercised in the manner provided for below in Article 11. Declarant's rights with respect to the modification of the Easements shall terminate twenty (20) years after the date of recording of this Declaration.

4.1. **Blanket Association Utility Easement.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns a perpetual, non-exclusive blanket easement over, across, upon and under the Units for the construction, installation, operation, maintenance, servicing, repair, removal and replacement of utilities and utility lines, pipes, wires, circuits, conduits, meters, facilities and systems for the benefit of the Community or any part thereof, including but not limited to water, sewer, gas, telephone, internet, electricity, cable TV and other master TV and communication systems, as well as for drainage and stormwater management, if any, together with an easement for access, ingress and egress to accomplish such purposes, and together with the right to grant any such easement rights to utility companies. The Association or other person or entity exercising such utility easement rights shall be obligated to restore, reseed, replant and/or re-landscape the surface of any disturbed area to as close to its original condition as possible, as promptly as possible following completion of any utility work, and shall be further obligated to exercise such easement rights at such times and in such manner as to interfere as little as reasonably possible with the occupancy, use and enjoyment of the Units by the Owners and Occupants thereof. Nothing granted herein shall authorize or empower the Association to damage or unreasonably affect the existence, use and enjoyment of any Unit in the event a utility allowed under this Section 4.1 is located in or under a Unit.

4.2. **Association Easement Over Common Expense Areas.** There is hereby created, granted and reserved to the Association a non-exclusive easement over, across, upon and under all Common Expense Areas, including a right of access, ingress and egress thereto, and a right to use maintain, repair and replace such Common Expense Areas.

4.3. **Association Administrative Easement Over Common Expense Areas.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns, a perpetual, non-exclusive easement over, across, upon and under the Common Expense Areas and a right to use the Common Expense Areas for purposes of enabling the Association to perform its various responsibilities and to exercise its various rights under this Declaration.

4.4. **Association Easement in Units for Maintenance, Repair and Emergencies.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns, a perpetual, non-exclusive easement and right to enter upon all of the Units as reasonably necessary for the

performance of the Association's rights and responsibilities under this Declaration and for the making of emergency repairs or reconstruction to the Common Expense Areas. For routine maintenance and non-emergency repairs, entry to a Unit shall be made only on a regular business day during regular business hours, after giving at least five day's notice in writing to the Owner. In case of emergency, where there is an imminent threat of damage or injury to person or property, entry shall be made at any time without notice or permission. The Board is hereby granted the authority to use such reasonable force as may be necessary under the circumstances to gain entry into a Unit in case of an emergency, if no other reasonable means of entry is available. The Association shall be responsible for the cost and expense of repairing all damages to property occurring as a result of such forcible entry, which costs shall be considered Common Expenses, unless the emergency and/or damage results from the willful act or negligence of an Owner or Occupant, in which event such Owner shall be solely responsible for the costs of repairing/restoring such damage. These costs can be levied, assessed and collected by the Board as a Reimbursement Assessment pursuant to the provisions of this Declaration.

4.5. **Shared Structural Elements Easements.** There is hereby created, granted and reserved to the Association, its agents, employees and assigns, a perpetual, non-exclusive easement and right to enter upon all of the Units as reasonably necessary for the performance of the Association's rights and responsibilities under this Declaration with respect to the management, maintenance, repair and replacement of the Shared Structural Elements located within the Unit so burdened by the Shared Structural Elements Easement. For routine maintenance and non-emergency repairs, entry to a Unit shall be made only on a regular business day during regular business hours, after giving at least three day's notice in writing to the Owner. In case of emergency, where there is an imminent threat of damage or injury to person or property, entry shall be made at any time without notice or permission. The Board is hereby granted the authority to use such reasonable force as may be necessary under the circumstances to gain entry into a Unit in case of an emergency, if no other reasonable means of entry is available. The Association shall be responsible for the cost and expense of repairing all damages to property occurring as a result of such forcible entry and in the course of maintaining, repairing and replacing a Shared Structural Element, which costs shall be considered Common Expenses, unless the emergency and/or damage results from the willful act or negligence of an Owner or Occupant, in which event such Owner shall be solely responsible for the costs of repairing/restoring such damage. These costs can be levied, assessed and collected by the Board as a Reimbursement Assessment pursuant to the provisions of this Declaration.

4.6. **Encroachment Easements.** Each Owner has an easement upon an adjoining Unit for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, reconstruction, repair, settlement or shifting or movement of the Building, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachments occur due to the willful misconduct of an Owner. In the event a structure is partially or totally destroyed, and then repaired or rebuilt in substantially the same manner as originally constructed, the Owners agree that minor encroachments upon an abutting Unit shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of this Declaration or of deeds, mortgages, deeds of trust or other security instruments relating to Units, the actual location of a Unit shall be conclusively deemed to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Unit as indicated on the Condominium Map.

4.7. **Blanket Emergency Services Easement.** There is hereby created, granted and reserved for the use and benefit of all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons now or hereafter serving the Community and its Owners and Occupants, a perpetual, non-exclusive blanket Emergency Services Easement over, upon, along and across all properties and areas within the Community, for use in the lawful performance of their duties.

4.8. **Reservation of Uses.** Declarant, for the same duration as the Declarant's Reserved Rights (defined in Article 11) reserves the right for the Owner of a Unit burdened by an easement on their Unit as provided for in this Article Four ("**Reserved Easements**"), for such Owner and the Owner's successors, transferees, designees and assigns, the right to use and enjoy the portion of the Unit covered by the Reserved Easements for all lawful and desired purposes which do not interfere with the use of the Reserved Easement.

ARTICLE FIVE **COMMON EXPENSE AREAS**

5.3. **Owner Liability for Owner or Occupant Damage to Common Expense Areas.** Each Owner shall be liable to the Association for any damage to the Common Expense Areas and any Shared Structural Elements or for any expense, loss or liability suffered or incurred by the Association in connection with the Common Expense Areas and any Shared Structural Elements arising from (a) the negligence or willful misconduct of such Owner or of any Occupant, agent, employee, family member, guest or invitee of such Owner, or (b) any violation by such Owner or any Occupant, agent, employee, family member, guest or invitee of such Owner of any law, regulation, or code, including without limitation any environmental law, or of any provisions of this Declaration, or any Rules relating to the Common Expense Areas and any Shared Structural Elements. Each Owner shall indemnify, defend and hold the Association harmless from any loss, damage, expense or liability arising from the circumstances described in subsections (a) or (b) immediately above. The Association shall have the power to levy and collect a Reimbursement Assessment against an Owner to recover the costs, expenses, damage, losses or liabilities incurred by the Association as a consequence of any such negligence, willful misconduct or violations by the Owner or the Owner's Occupant.

5.4. **Damage or Destruction to Common Expense Areas and Shared Structural Elements.** In the event of damage to or destruction of the Common Expense Areas and any Shared Structural Elements, including improvements thereon, by fire or other casualty, the Association shall repair or replace the same in accordance with the provisions of Article 6 below. Repair, reconstruction, or replacement of Common Expense Areas and the Shared Structural Elements shall be accomplished under such contracting and bidding procedures as the Association shall determine to be appropriate, and shall be performed at such times and in such manner as to interfere as little as reasonably possible with the occupancy, use and enjoyment of undamaged Units by the Owners and Occupants thereof. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Association may use the same for future maintenance, repair, improvement, and operation of Common Expense Areas and the Shared Structural Elements or for any other use deemed appropriate by the Board.

ARTICLE SIX **ASSOCIATION**

6.1. **Association; General Powers.** The Association has been formed as a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act to manage the affairs of the Community. The Association shall serve as the governing body for all of the Owners and Occupants for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of

the Common Expense Areas and the Shared Structural Elements, the levying and collection of Assessments for Common Expenses and other expenses of the Association, and such other matters as may be provided in this Declaration, the Articles and the Bylaws. The Association shall have all of the powers, authority and duties as may be necessary or appropriate for the management of the business and affairs of the Community, including without limitation all of the powers, authority and duties of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act, and all of the powers and duties provided for in the Act. The Association shall have the power to assign its right to future income, including the right to receive Common Expense assessments, but only upon the affirmative vote of the Owners of Units to which at least 51 percent of the votes in the Association are allocated. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

6.2. **Association Board.** The affairs of the Association shall be managed by the Board. The number, term, and qualifications of the members of the Board shall be fixed in the Articles of Incorporation or the Bylaws, except that there shall never be less than two members. A quorum shall be deemed present throughout any meeting of the Board if persons entitled to cast at least 50 percent of the votes on the Board are present at the beginning of the meeting or grant their proxy as provided in C.R.S. Section 7-128-205(4). With the exception of matters that may be discussed in executive session, as set forth in Section 38-33.3-308(3-7) of the Act, all regular and special meetings of the Board or any committee thereof shall be open to attendance by all Members of the Association or their representatives. Without limiting the generality of the foregoing, no rule or regulation may be validly adopted during an executive session. Agendas for meetings of the Board shall be made reasonably available for examination by all Members of the Association or their representatives. The Board shall have all of the powers, authority and duties granted or delegated to it by the Colorado Revised Nonprofit Corporation Act, this Declaration, the Articles or Bylaws. Except as provided in the Colorado Revised Nonprofit Corporation Act, this Declaration, the Articles or Bylaws, the Board may act in all instances on behalf of the Association. The Board may not, however, act on behalf of the Association to amend this Declaration, to terminate the Community, or to elect members of the Board or determine the qualifications, powers and duties, or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term. The Board may, by resolution, delegate portions of its authority to officers of the Association, but such delegation of authority shall not relieve the Board of the ultimate responsibility for management of the affairs of the Association. No member of the Board and no officer shall be liable for actions taken or omissions made in the performance of such member's or officer's duties except for wanton and willful acts or omissions.

6.3. **Rules.** The Condominium Governing Documents establish a framework of covenants and conditions that govern the Community. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Association's membership are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 6.4. Generally, Rules are intended to enable the interpretation and implementation of this Declaration, the operation of the Association, and the maintenance, repair and replacement of the Common Expense Areas.

6.3.1. **Board Authority.** Subject to the notice requirements and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its Members, the Board, at an open meeting of the Board, may, by Resolution, adopt new Rules and modify, amend, supplement or rescind existing Rules by majority vote of the directors at any Board meeting.

6.3.2. **Membership Authority.** Subject to the notice requirements in section 6.3.3, Owners entitled to cast more than 50% of the votes in the Association may also adopt new Rules and

Regulations and modify or rescind existing Rules and Regulations at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Declarant membership exists, any such action shall also be subject to the Declarant's approval.

6.3.3. **Notice.** The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board or the membership at which such action is to be considered. At any such meeting, Owners shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

6.3.4. **Effective Date.** A Rules change adopted under this Section 6.3 shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners. Notice of the adoption, amendment, or repeal of any Rule or Regulation shall be given in writing to each Owner, and copies of the currently effective Rules shall be made available to each Owner and Occupant upon request and payment of the reasonable expense of copying the same. Each Owner and Occupant shall comply with such Rules, and each Owner shall see that Occupants claiming through such Owner comply with such Rules. Such Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. Such Rules may establish penalties (including the levying and collection of fines) for the violation of such Rules or of any provision of this Declaration, the Articles, or the Bylaws.

6.3.5. **Conflicts.** In the event of a conflict between the Rules and any provision of this Declaration, this Declaration shall control.

6.3.6. **Owners' Acknowledgment and Notice to Purchasers.** By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such change may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

6.4. **Protection of Owners and Others.** Except as may be set forth in this Declaration (either initially or by amendment) all Rules that may be adopted by the Board shall comply with the following provisions:

6.4.1. **Similar Treatment.** Similarly situated Units shall be treated similarly.

6.4.2. **Holiday, Religious and other Displays.** No Rule and Regulation shall abridge an Owner's right to display religious or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods. The Board may regulate or prohibit signs or displays, the content or graphics of which the Board deems to be obscene, vulgar, or similarly disturbing to the average person.

6.4.3. **Displays of American Flags.** No Rule and Regulation shall abridge an Owner's right display of the American flag in that Owner's Unit, in a window of the Owner's Unit, or on a balcony adjoining the owner's Unit if the American flag is displayed in a manner consistent with the federal flag code, P.L. 94-344; 90 Stat. 810; 4 U.S.C. 4 to 10. The Association may adopt reasonable rules regarding the placement and manner of display of the American flag. The Association rules may regulate the location and size of flags and flagpoles, but shall not prohibit the installation of a flag or flagpole.

6.4.4. **Displays of Service Flags.** No Rule and Regulation shall abridge an Owner's right display a service flag bearing a star denoting the service of the Owner or a member of the Owner's

immediate family in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the Owner's Unit. The Association may adopt reasonable rules regarding the size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than nine inches by sixteen inches.

6.4.5. **Displays of Political Signs.** No Rule and Regulation shall abridge an Owner's right display of a political sign by an Owner in that Owner's Unit, in a window of the Owner's Unit; except that an Association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. An Association may regulate the size and number of political signs that may be placed on a unit owner's property if the Association's regulation is no more restrictive than any applicable town, or county ordinance that regulates the size and number of political signs on residential property. If the town, or county in which the Unit is located does not regulate the size and number of political signs on residential property, the Association shall permit at least one political sign per political office or ballot issue that is contested in a pending election, with the maximum dimensions of thirty-six inches by forty-eight inches, on a Unit Owner's property. As used in this Section, "political sign" means a sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

6.4.6. **Household Composition.** No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities.

6.4.7. **Activities Within Dwellings.** No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

6.4.8. **Allocation of Burdens and Benefits.** No Rule and Regulation shall alter the allocation of financial burdens among the various Units to the detriment of any Owner over that Owner's objection expressed in writing to the Association. This provision does not affect the right to increase the amount of assessments as provided for herein.

6.4.9. **Leasing and Transfer of Units.** No rule and regulation shall prohibit leasing or transfer of any Unit or require approval prior to leasing or transferring a Unit; however, the rules and regulations may require a minimum lease term and other requirements and limitations. The rules and regulations may also require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

6.4.10. **Abridging Existing Rights.** No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

6.4.11. **Reasonable Rights to Develop.** No Rule may unreasonably interfere with the ability of the Declarant to develop, market, and sell property in the Community.

6.4.12. **Interference with Easements.** No Rule may unreasonably interfere with the exercise of any easement established by this Declaration or otherwise existing by separate document or instrument.

6.4.13. **Parking of Certain Vehicles.** No Rule and Regulation may unreasonably interfere with the ability of an Owner to park a motor vehicle on a street, driveway, or guest parking area in the Community if the vehicle is required to be available at designated periods at the Owner's residence as a condition of the Owner's employment and all of the following criteria are met:

(I) The Owner is a bona fide member of a volunteer fire department or is employed by an emergency service provider, as defined in Section 29-11- 101(1.6), C.R.S.;

(II) The vehicle bears an official emblem or other visible designation of the emergency service provider; and

(III) Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other unit owners to use streets and driveways within the common interest community.

6.5. **Membership in Association.** There shall be one Membership in the Association for each Unit within the Community. The person or persons who constitute the Owner of a Unit shall automatically be the holder of the Membership appurtenant to that Unit, and shall collectively be the "Member" of the Association with respect to that Unit, and the Membership appurtenant to that Unit shall automatically pass with fee simple title to the Unit. Membership in the Association shall not be assignable separate and apart from fee simple title to a Unit, and may not otherwise be separated from ownership of a Unit.

6.6. **Voting Rights of Members.** Each Unit in the Community shall have that allocated portion of the votes in the Association corresponding to the Allocated Interests as set forth on attached **Exhibit "B" ("Voting Rights")**. Occupants of Units shall not have voting rights. If title to a Unit is owned by more than one (1) person, such persons shall collectively cast their allocated votes. If only one of the multiple Owners of a Unit is present at the Association meeting, such Owner is entitled to cast the votes allocated to that Unit. If more than one of the multiple owners is present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. In the event of a protest being made by one or more multiple Owners and a majority of the multiple Owners of the Unit cannot agree on how to cast their votes, any votes cast for that Unit shall be null and void with regard to the issue being voted upon. Such multiple Owners and their Unit shall nevertheless be counted in determining the presence of a quorum with respect to the issue being voted upon. A quorum is deemed present throughout any meeting of the Members of the Association if persons entitled to cast at least 30% of the total allocated votes in the Association are present, in person or by proxy, at the beginning of the meeting. Provided a quorum of allocated votes is present in person or by proxy, the affirmative vote of a majority of the total allocated votes so present shall constitute approval of any matter voted upon unless a different number is required on a particular matter by the Colorado Revised Nonprofit Corporation Act, this Declaration, the Articles, or the Bylaws. The votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each Owner of the Unit may vote or register protest to the casting of a vote by the other Owners of the Unit through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated

or purports to be revocable without notice. A proxy shall terminate eleven (11) months after its date, unless a different termination date is otherwise set forth on its face. The Owners, by a vote of 67% of all allocated votes present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by Declarant.

6.7. **Period of Declarant Control of Association.**

6.7.1. Notwithstanding any other provisions hereof, Declarant shall have and hereby reserves the power to appoint and remove, in its sole discretion, the members of the Board and the officers of the Association during the period commencing upon the recording of this Declaration and terminating no later than the earlier of: (a) 60 days after conveyance of 75% of the Units that may be created to Unit Owners other than Declarant; or (b) 2 years after the last conveyance of a Unit by the Declarant in the ordinary course of business (“**Period of Declarant Control**”). In addition, Declarant reserves the right to approve any amendments to the Condominium Governing Documents during the Period of Declarant Control, except for those amendments that are specifically authorized by the Act to be made effective without the requirement to obtain the approval of the Declarant.

6.7.2. During said Period of Declarant Control of the Association:

a. Not later than 60 days after conveyance of 50% of the Units that may be created to Unit Owners other than Declarant, not less than 33-1/3% of the members of the Board must be elected by Unit Owners other than Declarant.

6.7.3. At any time prior to the termination of the Period of Declarant Control of the Association, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Board, but in such event Declarant may require for the duration of the Period of Declarant Control of the Association, that specified actions of the Association or the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole discretion and option, and its disapproval shall invalidate any such action by the Board or the Association. Not later than the termination of the Period of Declarant Control of the Association, the Unit Owners (including Declarant) shall elect an Board of at least three members, at least a majority of whom must be Unit Owners other than Declarant or designated representatives of Unit Owners other than Declarant and the Board shall elect the officers with such Board members and officers to take office upon election. Pursuant to Section 38-33.3-303(9) of the Act, within 60 days after Unit Owners other than Declarant elect a majority of the members of the Board, Declarant shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by Declarant and such other materials as required by the Act.

6.8. **Termination of Contracts and Leases of Declarant.** The following contracts and leases between the Association and Declarant or an affiliate of Declarant, if entered into before the Board elected by the Unit Owners pursuant to Section 38-33.3-303(7) takes office, may be terminated without penalty by the Association at any time after the Board elected by the Unit Owners pursuant to said Section 38-33.3-303(7) takes office, upon not less than 90 days notice to the other party: (i) any management contract or employment contract; (ii) any other contract or lease between the Association and Declarant or an affiliate of Declarant; or (iii) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing.

6.9. **Required Disclosures.**

6.9.1. To the extent required by the Act, the Association shall provide to all Owners, at least once per year, a written notice stating the name of the Association; the name of the Association's designated Managing Agent, if any; and a valid physical address and telephone number for both the Association and the Managing Agent, if any. The notice shall also include the name of the Community, the initial date of recording of the Declaration, and the reception number or book and page for the main document that constitutes the Declaration. The Association shall provide all Unit Owners with an amended notice within ninety days after the change. The notice required by this Section may be accomplished by mail, email or by posting the information on a website maintained by the Association and readily accessible to all Owners. An Owner who does not have access to the internet shall provide written notice to the Association requesting that the notice contemplated by this Section be sent to that Owner by mail.

6.9.2. Within ninety days after assuming control of the Association from the Declarant pursuant to Section 6.7.3 and as provided for in the Act and, thereafter, within ninety days after the end of each fiscal year, the Association shall make the following information available to each of the Owners. The disclosures required in this Section 6.10 shall be accomplished by one of the following means: Posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; by delivery to each Owner by regular or mail sent to the address on file with the Association and/or by personal delivery; and/or by some combination of each of the above stated means. The cost of such distribution shall be accounted for as a common expense liability. The required information shall include the following:

- A. The date on which the Association's fiscal year commences;
- B. The Association's operating budget for the current fiscal year;
- C. A list, by Unit type, of the Association's current assessments, including both regular and special assessments;
- D. The Association's annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- E. The results of any financial audit or review, if any, for the fiscal year immediately preceding the current annual disclosure (and nothing in this section and by this reference will otherwise obligate the Association to cause such annual financial audit or review to be undertaken);
- F. A list of all Association insurance policies, including, but not limited to, property, general liability, Association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insured's, and expiration dates of the policies listed;
- G. All the Association's Bylaws, Articles, and Rules, articles, and rules and regulations;
- H. The minutes of the Board and member meetings for the fiscal year immediately preceding the current annual disclosure; and
- I. The Association's responsible governance policies adopted pursuant to the Act and as contemplated by Section 6.10.

6.10. **Good Governance Policies.**

6.10.1. The Association shall adopt responsible governing policies, including, but not limited to, policies as to the handling of conflicts of interest and investment of reserve funds. To the extent that other governance policies and practices are not otherwise formally adopted, the Association shall adhere to the requirements of the Colorado Revised Nonprofit Corporation Act as it relates to the governance of the Association. No policy of the Association shall be adopted that is inconsistent with the provisions of the Colorado Revised Nonprofit Corporation Act.

6.10.2. In addition to the foregoing and to the extent not otherwise provided for in this Declaration or Articles of Incorporation and the Bylaws for the Association, to promote responsible governance, the Association shall:

- A. Maintain accounting records using generally accepted accounting principles; and
- B. Adopt policies, procedures, and Rule concerning:
 - (I) Collection of unpaid assessments;
 - (II) Handling of conflicts of interest involving board members;
 - (III) Conduct of meetings, which may refer to applicable provisions of the nonprofit code or other recognized rules and principles;
 - (IV) Enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines;
 - (V) Inspection and copying of Association records by Owners;
 - (VI) Investment of reserve funds;
 - (VII) Reserve studies and funding;
 - (VIII) Dispute resolution policies; and
 - (IX) Procedures for the adoption and amendment of policies, procedures, and rules, which are generally stated in Section 6.3 and Section 6.4 of this Declaration.

6.11. **Community Systems.** The Declarant during the duration of the Declarant's Reserved Rights and thereafter, the Association through its Board of Directors may provide, or may enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Community ("**Community Systems**"). Any such contracts may provide for installation, operation, management, maintenance and upgrades or modifications to the Community Systems as the Declarant or Board of Directors determines is appropriate. The Association or Declarant may provide for access to any such Community Systems for all Units as a Common Expense. If particular services or benefits are provided to particular Owners or Units at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the charges as a General Assessment or a Special Assessment and pay such charges to the provider on behalf of the Owners, as the Board deems appropriate.

6.12. **Opportunities for Community Interaction.** The Association may make use of computers, the Internet, and expanding technology to facilitate community interaction and encourage participation in Association activities. For example, the Association may create and maintain a community intranet or Internet home page, maintain an "online" newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and occupants to interact and participate in Association-sponsored activities. To the extent permitted by the Act, and unless otherwise specifically

prohibited in the Condominium Documents, the Association may send notices by electronic means, hold Board or Association meetings and permit attendance and voting by electronic means, and send and collect assessment and other invoices by electronic means. The foregoing is not intended to authorize the termination of any of the documents or instruments relating to the Town Approvals, which may only be modified or terminated, if at all, pursuant to the terms and conditions provided for in such agreements or instruments and by the Town Laws and Town Approvals.

6.13. **Education.**

6.13.1. The Board may authorize, and account for as a Common Expense, reimbursement of Board members for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of the Associations. The course content of such educational meetings and seminars shall be specific to Colorado, and shall make reference to applicable sections of this Act.

6.13.2. The Association shall provide, or cause to be provided, education to Owners at no cost on at least an annual basis as to the general operations of the Association and the rights and responsibilities of Owners, the Association, and the Board under Colorado law.

ARTICLE SEVEN **INSURANCE**

7.1. **Insurance Requirements.** The Association shall obtain, maintain and keep in full force and effect at all times the following types of insurance, and the cost of said coverage shall be paid by the Association as a Common Expense:

7.1.1. **Casualty Insurance.** Property insurance on the Common Expense Areas, the Shared Structural Elements and on any property owned by the Association. The insurance must include the Units but not the finished interior surfaces of the walls, floors and ceilings of the Units, which finished interior surfaces of the walls, floors and ceilings of the Units and all other improvements and furnishings, the Owner of the Unit is required to obtain. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and extended coverage insurance including, if available at a reasonable cost, coverage for vandalism and malicious mischief. Such insurance shall be for the full insurable replacement cost of the Units and other insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.

7.1.2. **Liability Insurance.** Comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Expense Areas, the Shared Structural Elements and covering public liability or claims of liability for injury to persons and/or property, and death of any person or persons. Such liability insurance shall, to the extent reasonably obtainable, (a) have limits of not less than One Million Dollars (\$1,000,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence (if the Unit is being rented or leased) and less than One Million Dollars (\$1,000,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence (if the Unit is not being rented or leased); (b) insure the Board, the Association and its officers, and their respective employees, agents and all persons acting as agents and the Managing Agent and Serviced Provider; (c) include the Owners as additional insured's, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Expense Areas and the Shared Structural Elements; (d) cover claims of one or more insured parties against other insured parties; and (e) be written on an occurrence basis.

7.1.3. **Worker's Compensation.** A Worker's Compensation policy, if necessary, to meet the requirements of law.

7.1.4. **Directors and Officers Liability Insurance.** The Association may, in its discretion, carry directors and officers liability insurance in such amount as the Board may deem appropriate.

7.1.5. **Fidelity Insurance.** The Association shall obtain and maintain fidelity insurance coverage for the Board, the Association and its officers, and their respective employees, agents and all persons acting as agents and the Managing Agent.

7.1.6. **Other Insurance.** Such other insurance in such amounts as the Board shall determine, from time to time, to be appropriate to protect the Association or the Owners, or as may be required by the Act.

7.1.7. **Annual Review.** The Board shall revisit the coverage insurance coverage requirements at least every year to determine if any changes to the nature or amounts of the coverage's is necessary and appropriate.

7.2. **General Provisions Respecting Insurance.**

7.2.1. Insurance policies carried pursuant to Sections 7.1.1 and 7.1.2 above shall provide that (i) each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association; (ii) the insurer waives its rights of subrogation under the policy against the Association, each Owner, and any person claiming by, through, or under such Owner or any other director, agent or employee of the foregoing; (c) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and (d) if at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy shall be the primary insurance. An insurer that has issued an insurance policy for the insurance described in Sections 7.1.1 and 7.1.2 above shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses. In addition, to the extent available at reasonable cost and terms, all Association insurance shall:

A. be written with a company authorized to do business in Colorado which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

B. be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members and their Mortgagees, as their interests may appear;

C. contain an inflation guard endorsement;

D. include an agreed amount endorsement, if the policy contains a co-insurance clause;

E. provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

F. include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

7.2.2. In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds and provide:

- A. a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;
- B. a waiver of the insurer's right to repair and reconstruct instead of paying cash;
- C. an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- D. an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- E. a cross liability provision; and
- F. a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

7.2.3. Any loss covered by the property insurance policy described in Sections 7.1.1 above must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, the Owners, and lienholders as their interests may appear. Subject to the provisions of Section 38.33.3-313(9) of the Act, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, the Owners, and lienholders are not entitled to receive payments of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely restored or the Community is terminated. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

7.2.4. Insurance policies and insurance coverage shall be reviewed at least annually by the Board to ascertain whether coverage under the policies is sufficient in light of the current values of Common Expense Areas and in light of the possible or potential liabilities of the Association and other insured parties. In no event shall insurance coverage obtained or maintained by the Association obviate the need for Owners and Occupants to obtain insurance for their own benefit.

7.2.5. The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the

requirements of Section 7.1. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Reimbursement Assessment.

7.3. **Nonliability of Association or Board.** Notwithstanding the duty of the Association to obtain insurance coverage, as stated herein, neither the Association nor any Board member shall be liable to any Owner, Occupant, mortgagee or other person, if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner and Occupant to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner or Occupant may desire.

7.4. **Premiums.** Premiums for insurance policies purchased by the Association and other expenses connected with acquiring such insurance shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances, by an Owner or Occupant, may at the Board's election, be assessed against that particular Owner and his Unit as a Reimbursement Assessment.

7.5. **Insurance Claims.** The Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard, and may, in its discretion, appoint an authorized representative, or enter into an insurance trust agreement, wherein the trustee shall have the authority to negotiate losses under any policy purchased by the Association.

7.6. **Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Association or any insurance trustee shall be held or disposed of in trust for, the Association, the Owners, or the Occupants, as their interests may appear.

7.7. **Other Insurance to be Carried by Owners.** Insurance coverage on the improvements, furnishings and other items of personal property belonging to an Owner or Occupant, and public liability insurance coverage within and upon each Unit, shall be the responsibility of the Owner or Occupant of the Unit.

7.8. **Damage to Community.** Any portion of the Community for which insurance is required under Section 38-33.3-313 of the Act that is damaged or destroyed must be repaired or replaced promptly by the Association unless: (i) the Community is terminated; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) 67 percent of the Unit Owners, including owners of every Unit that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Expense Areas must be used to restore the damaged property to a condition compatible with the remainder of the Community, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those properties, or to lienholders, as their interests may appear, and the remainder of the proceeds must be

distributed to all Unit Owners or lienholders as their interests may appear in proportion Association. In the event of damage to or destruction of all or a portion of the Common Expense Areas due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Association may levy a Special Assessment in the aggregate amount of such deficiency, or if any Owner or group of Owners is liable for such damage, may levy a Reimbursement Assessment against the Owner or group of Owners responsible therefor, and shall proceed to make such repairs or reconstruction. Such Assessment shall be due and payable as provided by resolution of the Board, but not sooner than 60 days after written notice thereof. The Assessment provided for herein shall be a debt of each Unit Owner assessed and a lien on his Unit, and may be enforced and collected in the same manner as any Assessment Lien provided for in this Declaration. If the entire damaged property is not repaired or replaced, the insurance proceeds attributable to the damaged property must be used to restore the damaged property to a condition compatible with the remainder of the Community. No distributions of insurance proceeds shall be made unless made jointly payable to the Unit Owners and first mortgagees of their respective Units, if any.

ARTICLE EIGHT **LIMITED LIABILITY**

Neither the Association nor its past, present or future officers or directors, nor any other employee, agent or committee member of the Association, nor the Managing Agent, nor the Services Provider, shall be liable to any Owner or Occupant or to any other Person for actions taken or omissions made except for wanton and willful acts or omissions. Without limiting the generality of the foregoing, the Association and the Board shall not be liable to any Owner or Occupant or other person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Association for such purposes shall not be adequate, the Owners severally agree to indemnify and to defend the Association, the Board, the Managing Agent and the Services Provider against claims, damages or other liabilities resulting from such good faith action or failure to act.

ARTICLE NINE **ASSESSMENTS**

9.1. **Assessment Obligation.** Each Unit Owner, by acceptance of a deed therefor (including a public trustee's or sheriff's deed), whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) Regular Assessments or charges, (2) Special Assessments, and (3) Reimbursement Assessments, such assessments to be established and collected as hereinafter provided (collectively the "**Assessments**").

9.1.1. The term Assessments shall include all assessments arising under the Master Community Governing Documents. Assessments due under the Master Community Documents shall be assessed by the Board, collected by the Board and paid to the Master Community by the Board. The Board shall make available all information provided by the Master Community in furtherance of the assessments assessed by the Master Community.

9.1.2. The Assessments, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a continuing lien and security interest upon the Unit against which each such Assessment is charged. The obligation for such payments by each Unit Owner to the Association is an

independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction of any kind or nature. Each Unit Owner is liable for Assessments made against such Owner's Unit during his period of ownership of the Unit. Each Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the joint, several and personal obligation of each person who was an Owner of such Unit at the time when the Assessment became due. Upon the transfer of title to a Unit, the transferor and the transferee shall be jointly, severally and personally liable for all unpaid Assessments and other charges due to the Association prior to the date of transfer, and the transferee shall be personally liable for all such Assessments and charges becoming due thereafter. Assessments attributable to a Unit shall begin to accrue at such time as the Unit is annexed into the Community and made subject to this Declaration.

9.2. **Statutory Lien.** The Association has a statutory lien pursuant to §38-33.3-316 of the Act on the Unit of an Owner for all Assessments levied against such Unit or fines imposed against such Unit's Owner from the time the Assessment or fine becomes due ("**Assessment Lien**"). Fees, charges, late charges, attorneys' fees, fines and interest charged by the Association pursuant to the Act or this Declaration are enforceable as Assessments. The amount of the lien shall include all such items from the time such items become due. If an Assessment is payable in installments, the Association has an Assessment Lien for each installment from the time it becomes due, including the due date set by the Board's acceleration of installment obligations. An Assessment Lien is extinguished unless proceedings to enforce the lien are instituted within six years after the full amount of Assessments becomes due.

9.3. **Lien Superior to Unit and Other Exemptions.** An Assessment Lien shall be superior to any Unit exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed subject to this Declaration shall constitute a waiver of the Unit and any other exemption as against said Assessment Lien.

9.4. **Priority of Lien.** An Assessment Lien is prior to all other liens and encumbrances on a Unit except as follows:

9.4.1. Liens and encumbrances recorded before the recordation of this Declaration;

9.4.2. A security interest on the Unit which has priority over all other security interests on the Unit and which was recorded before the date on which the Assessment sought to be enforced became delinquent. An Assessment Lien is prior to the security interest described in the preceding sentence to the extent of an amount equal to the Regular Assessments (based on a Budget adopted by the Association pursuant to the Declaration) which would have become due, in the absence of any acceleration, during the 6 months immediately preceding institution by the Association or any party holding a lien senior to any part of the Association lien created under this Article 9 of an action or a non-judicial foreclosure either to enforce or to extinguish the lien;

9.4.3. Liens for real estate taxes and other governmental assessments or charges against the Unit; and

9.4.4. As may otherwise be set forth in the Act. The priority of mechanics and materialmen's liens is not affected by the Act.

This Article 9 does not prohibit an action or suit to recover sums for which this Article 9 creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the lien for an Assessment.

9.5. **Perfection of Lien.** The recording of this Declaration constitutes record notice and perfection of the statutory lien. No further recordation of any claim of lien for Assessments is required; however, a claim may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Unit as a Reimbursement Assessment.

9.6. **Regular Assessments.**

9.6.1. A Regular Assessment shall be made annually against each Unit, based upon an annual Budget prepared by the Board, for purposes of paying: (i) the annual costs of operating and administering the Association and all other Common Expenses, (ii) reasonable reserves for contingencies, replacements, and other proper purposes, if any, in such amounts and for such purposes, if at all, as determined by the Board; and (iii) such other matters as may be reasonably determined by the Board to be the subject of a Regular Assessment;

9.6.2. Regular Assessments shall be allocated against each Unit in such amounts and such percentages corresponding to the Allocated Interests assigned to the Unit as set forth on attached **Exhibit "B"**.

9.6.3. The Board, in the exercise of its reasonable discretion, may allocate certain portions of the Regular Assessments exclusively against some, but less than all, of the Units, provided that such Common Expenses are determined to benefit fewer than all of the Units (such assessment shall be designated as a Limited Common Expense).

9.6.4. Regular Assessments, including Limited Common Expenses, shall be levied on a calendar year basis. Regular Assessments, including Limited Common Expenses, shall be paid in installments on a monthly, quarterly, semi-annual or annual basis, as the Board may determine from time to time, and shall be due either on the first day of each calendar month or on the first day of each calendar year quarter (January 1, April 1, July 1 and October 1), or on the first day of a semi-annual or annual period (e.g. January 1, July 1) as appropriate. Unless and until changed to a monthly or semi-annual or annual system by the Board, Regular Assessments, including Limited Common Expenses, shall be due and payable on the first day of each calendar quarter. Any Owner acquiring a Unit between installment due dates shall pay a pro rata share of the immediately preceding installment.

9.6.5. The Board shall fix the amount of the Regular Assessment, using the Budget procedure described below, at least 30 days before the end of each calendar year. Written notice of the Regular Assessments, including Limited Common Expenses, shall be sent to each Owner. Failure of the Board timely to fix and levy the Regular Assessments, including Limited Common Expenses, for any year or to send a notice thereof to any Owner shall not relieve or release any Owner from liability for payment of Regular Assessments, including Limited Common Expenses, or any installments thereof for that or subsequent years as soon as the Board levies the Regular Assessments, including Limited Common Expenses, and provides notice thereof.

9.6.6. The Board may, but is not obligated, mail to each Owner at least 10 days prior to the due date thereof a written notice of the amount of the next quarterly (or monthly or semi annual or annual, as the case may be) installment of Regular Assessment that is due from such Owner, and the date on which such installment is due pursuant to subparagraph (d) above. Failure of the Board to send timely notice to any Owner of an installment of Regular Assessments, including Limited Common Expenses, due shall not relieve or release any Owner from liability for payment of that installment as soon as the Board in fact provides such notice.

9.6.7. In accordance with §38-33.3-314 of the Act, any surplus funds remaining after payment of or provision for Association expenses and any prepayment of or provision for reserves shall be carried forward as a credit against the next year's Budget.

9.7. **Association Budget.** During the last three (3) months of each calendar year thereafter, the Board shall prepare or cause to be prepared an operating budget ("**Budget**") for the next fiscal year. The Budget shall provide the allocation of any surplus funds remaining from any previous Budget period. Within ninety (90) days after adoption of any proposed Budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider the Budget. The meeting shall be not less than 14 nor more than 60 days after the mailing or other delivery of the summary. Such meeting may, but need not be, concurrent with the annual meeting of the Members as provided in the Bylaws. The Budget shall be considered by the Owners at that meeting whether or not a quorum of Owners is present and shall be deemed to be approved unless at least 51% of Unit Owner at that meeting vote to veto the Budget. In the event that the proposed Budget is vetoed, the Budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent Budget proposed by the Board, as may be reasonably adjusted for inflation based upon the Consumer Price Index published in the Wall Street Journal and may also be adjusted to account for increases in any non-discretionary costs, expenses and fees imposed by third parties, such as property taxes, utilities and similar items.

9.8. **Special Assessments.**

9.8.1. In addition to the Regular Assessments, including Limited Common Expenses, and Reimbursement Assessments authorized in this Article 9, the Board may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, maintenance, or replacement of capital improvements (including related fixtures and personal property) to or upon or serving the Community, or for excess reconstruction costs or other extraordinary expenses, or for funding any operating deficit of the Association. Except in the event of an emergency, where no membership vote shall be required, the Board shall not levy a Special Assessment without the approval of the Unit Owners in the Community as provided below.

9.8.2. Written notice of any meeting called for the purpose of levying a Special Assessment shall be sent to all Owners no less than 30 or more than 60 days before the meeting. At the meeting, the presence of Owners in person or by proxy that are entitled to cast 50 percent of the votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called pursuant to the same notice requirements, and the required quorum at this second meeting shall be only 30 percent of the votes in the Association. No such second meeting shall be held more than 60 days following the date of the first meeting.

9.8.3. Provided a quorum of Owners entitled to vote is present in person or by proxy in accordance with the quorum requirements set forth in the preceding paragraph, the Special Assessment shall be deemed to be approved, unless vetoed by the vote of Owners holding a majority of the allocated votes so present.

9.8.4. For purposes of this Section, the term "emergency" shall mean any circumstances or set of circumstances which pose an imminent threat of loss, damage or injury, actual or threatened, to persons or property. Special Assessments shall be allocated in the same manner as Regular Assessments, that is, in accordance with the Allocated Interests of each Unit in the Community, provided that Special Assessments that benefit fewer than all of the Units shall be allocated exclusively to the Units benefited.

Special Assessments shall be due and payable to the Association on the due date fixed by the Board in the notice given to the Owners of such Special Assessment, which due date shall be no earlier than 30 days after the giving of such notice.

9.9. **Reimbursement Assessments.** In addition to the Regular Assessments, including Limited Common Expenses, and Special Assessments authorized hereunder, the Board may levy against any Owner or Owners, at any time and from time to time, a Reimbursement Assessment for purposes of reimbursing the Association, the Managing Agent and/or the Serviced Provider for goods and services provided to an Owner or Occupant of a Unit or for reimbursements to the Association or Managing Agent for all costs and expenses incurred by it in enforcing any provision of or in remedying any violation of this Declaration, the Articles and Bylaws, or any Rules, by such Owner or Owners, their Occupant(s), or their agents, employees or contractors. Reimbursement Assessments may also be made by the Board for any other purposes for which this Declaration provides for the levying of a Reimbursement Assessment. Finally, and in addition to the foregoing, a Reimbursement Assessment may also be levied in the form of a reasonable fine against an Owner for a violation of this Declaration, the Articles, Bylaws, or the Rules, but only after the Owner(s) to be so fined have been provided with Notice and Hearing. Reimbursement Assessments shall be due and payable to the Association on the due date fixed by the Board in the notice given to the Owner(s) of such Reimbursement Assessment, which date shall be no earlier than 30 days after the giving of such notice.

9.10. **Working Capital.** A working capital fund is established and shall be managed and maintained by the Board. Any amounts paid into this fund shall not be considered as advance payment of assessments. Each Unit's share of the working capital fund may be collected and then contributed to the Association by the Declarant at the time the sale of the Unit is closed or at the termination of Declarant control. Declarant has no obligation to establish or fund any working capital accounts.

9.11. **Reserve Accounts.** The Association may, but is not obligated, to establish or fund reserve accounts for capital improvements or repairs to the Community. Declarant has no obligation to establish or fund any reserve accounts.

9.12. **Benefit of Class of Owners.** The costs of any Common Expenses to the Community, not determined to be a Limited Common Expense pursuant to this Article, unless and to the extent that these are separately metered or provided, shall be apportioned to all Units, in accordance with the Units' Allocated Interest as set forth on **Exhibit "B"**. The foregoing notwithstanding, the costs of maintaining, repairing, managing or using any Common Expense Area, or portions thereof, which the Board reasonably determines to benefit only one or more Units, shall be borne by the Unit or Units involved, in accordance with the allocations determined by the Board, in its sole discretion.

9.13. **Misconduct.** If any Common Expenses or Limited Common Expenses are caused by the misconduct of any Owner, the Board may assess that expense exclusively against such Owner's Unit as a Reimbursement Assessment.

9.14. **Special Allocation of Expenses of Repair and Maintenance.** The Association shall have the right to allocate a disproportionate share of the expenses of repair and maintenance of the Common Elements serving one or more Units, but less than all Units to any Unit, which has been occupied or used (including uses of a Unit on a rental basis for the majority of the dates in any Assessment period) to the extent that the Board reasonably determines that such occupancy and/or usage has resulted in excessive wear and tear.

9.15. **Effect of Nonpayment of Assessments; Remedies of the Association.**

9.15.1. Any Assessment or portion or installment thereof which is not paid when due (or for which a bad check is issued) shall be deemed delinquent and shall bear interest from and after the due date at the rate of interest set by the Board from time to time, which shall not be less than the maximum amount allowed per Colorado law and the Board may also assess a late charge thereon and/or may assess a bad check charge in the amount of 10 percent of the bad check or \$50.00, whichever is greater. The Board may also elect to accelerate the installment obligations of any Regular Assessment for which an installment is delinquent. The delinquent Owner shall also be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting a delinquent Assessment, which collection costs shall be added to the delinquent Assessment. The Board may but shall not be required to record a Notice of Delinquent Assessment or charge against any Unit as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Board, and shall set forth the amount of the unpaid Assessment or charge, the name of the delinquent Owner and a description of the Unit.

9.15.2. The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property. The Association shall be entitled to purchase the Unit at foreclosure. The Association may also bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Unit in the discretion of the Association. No Owner may exempt himself or otherwise avoid liability for the Assessments provided for herein by waiver of the use or enjoyment of any Common Expense Areas or by abandonment of the Unit against which the Assessments are made.

9.15.3. In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver to collect all sums alleged to be due from the Unit Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Regular Assessments.

9.16. **Statement of Unpaid Assessments.** The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by facsimile transmittal or by certified mail, first class postage prepaid, return receipt requested, to the Association, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit, whether delinquent or not. The statement shall be furnished within 14 days after receipt of the request and is binding on the Association, the Board, and every Owner. If no statement is furnished either delivered personally or by facsimile transmission or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request.

9.17. **Assessments for Tort Liability.** In the event of any tort liability against the Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Special Assessment. The Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions.

9.18. **Audit.** The Association shall prepare audits as may be required by the Act or as otherwise elected by the Association.

ARTICLE TEN
EMINENT DOMAIN

10.1. **Definition of Taking.** The term “taking”, as used in this Article 10, shall mean condemnation by eminent domain or sale under threat of condemnation.

10.2. **Taking of Units.** If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Owner for the acquired Unit and its Allocated Interests. Upon acquisition, unless the decree otherwise provides, that Unit’s Allocated Interests are automatically reallocated to the remaining Units (as appropriate) in proportion to the respective Allocated Interests of those Units before the taking. Otherwise, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit. Upon acquisition, unless the decree otherwise provides:

10.2.1. That Unit’s Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and

10.2.2. The portion of Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units (as appropriate) in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

10.3. **Miscellaneous.** The court decree shall be recorded in the Official Records. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

ARTICLE ELEVEN
**SPECIAL DECLARANT RIGHTS, DEVELOPMENT RIGHTS
AND ADDITIONAL RESERVED RIGHTS**

The Declarant hereby reserves for itself and its successors, assigns and designees, the following “**Special Declarant Rights**,” and “**Additional Reserved Rights**” for thirty (30) years following the recordation of this Declaration, unless sooner terminated by the written election of Declarant in its sole discretion (collectively the “**Reserved Rights**”).

11.1. **SPECIAL DECLARANT RIGHTS.**

11.1.1. **Completion of Improvements.** The right to complete any Improvements indicated on plats and maps filed with the Declaration.

11.1.2. **Exercise of Reserved Rights.** The right to exercise: (i) any Special Declarant Rights, Additional Reserved Rights or Development Rights reserved in this Article; or (ii) any other rights reserved or existing under the provisions of this Declaration or the Act.

11.1.3. **Consolidation on Merger.** The right to merge or consolidate the Community with a reasonably similar common interest community as determined by Declarant.

11.1.4. **Amendment of Declaration.** The right to amend the Declaration in connection with the exercise of any Development Rights, Special Declarant Rights or Additional Reserved Rights.

11.1.5. **Amendment of Community Map.** The right to amend the Condominium Map in connection with the exercise of any Development Rights, Special Declarant Rights or Additional Reserved Rights.

11.2. **DEVELOPMENT RIGHTS.**

11.2.1. **Modify Boundaries of Units and Common Elements.** The Declarant reserves the right to undertake any of the following actions, provided that each owner of a Unit being modified or changed pursuant to this authority must consent to the action (if the Units are owned by persons or parties other than Declarant) and the Declarant is responsible for paying all costs associated with the construction of any improvements resulting from the exercise of such rights:

- A. Relocate boundaries between adjoining Units;
- B. Enlarge, reduce or diminish the size of Units;
- C. Subdivide a Unit into one or more additional Units;
- D. Combine two Units into one Unit;
- E. Enlarge, reduce or diminish the size or areas of the Common Elements;

11.2.2. **Modify Uses of Units and Common Elements.** The Declarant reserves the right to undertake any of the following actions, provided that each owner of a Unit being modified or changed pursuant to this authority must consent to the action (if the Units are owned by persons or parties other than Declarant) and the Declarant is responsible for paying all costs associated with the construction of any improvements resulting from the exercise of such rights:

- A. Convert and re-designate a Hotel Unit to a Residential Unit or to a Commercial Unit or convert and re-designate a Commercial Units to Hotel Unit or a Residential Unit;
- B. Convert a Parking Unit to a Common Element, including a Limited Common Element and assign its usage to a particular Unit;
- C. Convert a Storage Unit to a Common Element, including a Limited Common Element and assign its usage to a particular Unit;
- D. Re-designate a portion of a General Common Element that is adjacent to Hotel Unit, Commercial Unit or Parking Unit as a Limited Common Element, which is then allocated to the adjacent Unit, provided that this conversion would occur in instances which reasonably improve the access to or the use and operation of the adjacent Unit, resulting in the overall improvement of the operation of the Hotel or commercial components of the Building; and
- E. Re-designate uses and activities occurring on the Common Elements, except for Limited Common Elements, which re-designation of uses and activities will require the consent of the Owner of the Unit to which the right to use Limited Common Element was assigned.

11.2.3. **Construct Improvements.** The right to construct improvements on and within Units, Common Elements and Limited Common Elements, to subdivide Units and to convert Units into Common Elements or to convert Common Elements into Units, provided that each owner of a Unit within which the improvements are being undertaken are owned by Declarant or the Owner of the Unit consents to the action (if other than Declarant) and the Declarant is responsible for paying all costs associated with the construction of any improvements resulting from the exercise of such rights:

11.2.4. **Create Additional Units.** The right to create or construct additional Units, Common Elements and Limited Common Elements, to subdivide Units and to convert Units into Common Elements or to convert Common Elements into Units.

11.2.5. **Annex Additional Real Property or Units.** The right to add Units and to subject additional property located in the Town of Telluride to the provisions of this Declaration either as vacant land or upon the substantial completion of improvements thereon.

11.2.6. **Relocate Boundaries of Units.** In exercising its Reserved Rights, Declarant may modify the boundaries of any Common Element and include areas associated with a Common Element into a Unit, provided that Declarant shall not reduce an area designated as a Limited Common Element without the consent of the Owner(s) of the Unit(s) to which the Limited Common Element has been assigned.

11.2.7. **Master Association and Subordinate Association.** The right to create master associations and/or subordinate associations (for and individual building) and to subject all portions of the Real Property to such master or subordinate association.

11.2.8. **Other Rights.**

A. To exercise the Declarants reserved rights as provided for in the Master Association Governing Documents;

B. The right to grant or withhold its approval and/or consent to any matter or action requiring the approval and/or consent pursuant to the Declaration;

C. The right to exercise any and all other Reserved Rights stated, established or otherwise reserved herein or otherwise allowed in the Act;

D. The right to amend the Declaration in connection with the exercise of any Reserved Rights; and

E. The right to amend the Condominium Map in connection with the exercise of any Reserved Rights.

11.3. **ADDITIONAL RESERVED RIGHTS.**

11.3.1. **Dedications.** The right to establish or obtain, from time to time, by dedication, grant or otherwise, utility and other easements or encroachment permits for purposes including but not limited to streets, paths, walkways, skyways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Community.

11.3.2. **Use Agreements.** The right to enter into, establish, execute, amend, and otherwise deal with contracts, agreements and leases for the use, operation, lease, repair, maintenance or regulations of recreational facilities and/or Common Elements, which may or may not be a part of the Community.

11.3.3. **Grant Easement.** The right to grant and convey an easement over portions of the Common Elements to adjoining property owners to enable pedestrian and vehicular access and/or the extension of utilities to serve adjoining property, provided that the grant of such easement does not preclude uses and activities of the Common Elements contemplated by this Declaration.

11.3.4. **Other Rights.** The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

11.4. **Assignment of the Declarant Rights.** Declarant reserves the right to transfer and assign some or all of the Reserved Rights to any Person, which will be evidenced by a written assignment recorded in the Official Records, and upon such assignment, such assignee may elect to exercise any assigned Reserved Rights subject to these Declarations and the Act and upon such election, the assignee shall assume all of the duties and obligations of the Declarant with respect to the Reserved Rights being so assigned.

11.5. **No Further Authorizations Needed.** The consent of Owners or holders of Security Interests shall not be required for the Declarant or its assignees to exercise any Reserved Rights, and Declarant or its assignees may proceed without limitation at their option, subject to existing property use, zoning laws and any planned unit development requirements of the Town. Reserved Rights of the Declarant or its assignees may be exercised with respect to different parcels of the Community at different times. Additionally, Declarant or its assignees may exercise any Reserved Rights on all or any portion of the Community in whatever order is determined. Declarant or its assignees shall not be obligated to exercise any Reserved Rights or to expand the Community beyond the number of Units initially submitted.

11.6. **Amendment of the Declaration or Map.** If Declarant or its assignees elect to exercise any Reserved Rights, that party shall comply with the Act with respect to amending or supplementing the Map or the Declaration.

11.7. **Interpretation.** Recording of amendments to the Declaration and the Map or plat pursuant to Reserved Rights in the Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically vest in each existing Owner the reallocated Allocated Interests appurtenant to his Unit. 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 Units after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration or Map.

ARTICLE TWELVE **GENERAL PROVISIONS**

12.1 **Duration of Declaration.** The term of this Declaration shall be perpetual.

12.2 **Termination of Community.** The Community may be terminated only by the agreement of: (i) Owners holding at least 80% of the total allocated votes in the Association, and (ii) the

holders of all first mortgages on Units. In the event of such termination, the provisions of Section 38-33.3-218 of the Act shall apply.

12.3 Amendment of Declaration and Map.

12.3.1 This Declaration and the Map may be amended pursuant to Section 38-33.3-217 of the Act. Under the Act, the Declaration may be amended by the Declarant in certain defined circumstances, including without limitation: (a) when the Declarant is exercising reserved rights hereunder, or (b) for purposes of correcting clerical, typographical, or technical errors. The Act also provides that the Declaration may be amended by the Declarant and/or the Association in certain defined circumstances.

12.3.2 In addition to the foregoing, this Declaration (including the Condominium Map) may be amended only by the vote or agreement of Owners to which more than 67% of the votes in the Association are allocated.

12.3.3 In the event that written notice of an intent to amend this Declaration, the Map or any of the Condominium Governing Documents requiring approval by the Owners, which notice complies with this Section 12.3.3 is sent to an Owner at the current address of the Owner on file with the Association and the Owner fails to respond by the expiration of the stated thirty day period, the Association shall count the non-responding Owner of the Unit as an affirmative vote. All ballots shall be returned to the President of the Association. The notice required by this Section shall include: (a) a copy of the proposed amendment, (b) a statement that the Owner has thirty days to vote to either approve or disapprove the proposed amendment in writing and that failure to vote will result in and be deemed to be a vote in favor of the proposed amendment, and (c) reasonable and clear directions on the manner and method on which the Owner may vote on the proposed amendment and where to return the ballot. If the Owner fails to respond by the expiration of the stated thirty day period, the Association shall count the non-responding Owner of the Unit as an affirmative vote. All ballots shall be returned to the President of the Association.

12.3.4 Pursuant to Section 38-33.3-217(4) of the Act, which provides that except to the extent expressly permitted or required by other provisions of the Act (e.g., permitted amendments), no amendment may: (i) create or increase special Declarant rights; or (ii) increase the number of Units, in the absence of a vote or agreement of Unit Owners to which at least 67% of the votes in the Association are allocated, including 67% of the votes allocated to Units not owned by the Association.

12.3.5 Pursuant to Section 38-33.3-217(4.5) of the Act which provides that except to the extent expressly permitted or required by other provisions of the Act, no amendment may change the uses to which any Unit is restricted in the absence of a vote or agreement of Owners to which at least 67% of the votes in the Association for such Units are allocated. This limitation does not apply in instances where the Declarant is amending the Declaration and/or the Condominium Governing Documents pursuant to its Reserved Rights, to the fullest extent allowed by the Act.

12.3.6 Under no circumstances shall any amendment to the Declaration, the Map or any of the Condominium Governing Documents alter, limit, impair, reduce, eliminate, extinguish, terminate or otherwise affect the Reserved Rights of Declarant or any Unit owned by Declarant without the prior written consent and approval of Declarant, which Declarant may grant or withhold in Declarant's sole discretion.

12.3.7 No consent of any mortgage or trust deed holder shall be required to accomplish any amendment or supplement to this Declaration, the Map or any of the Condominium Governing Documents.

12.3.8 An amendment to this Declaration shall be in the form of a “First (or Second, etc.) Amendment to Declaration and Map.” With the exception of Declarant amendments, amendments to this Declaration shall be duly executed by the President and Secretary of the Association and recorded in the Official Records.

12.4 **Compliance; Enforcement.**

12.4.1 Every Owner and Occupant of a Unit in the Community shall fully and faithfully observe, abide by, comply with and perform all of the covenants, conditions and restrictions set forth in this Declaration and the Condominium Governing Document, and all approvals granted by the Board, as the same or any of them may be amended from time to time. In addition to any other rights or remedies that may be provided to any Person under the terms and provisions of this Declaration and/or any Condominium Governing Document, the Association through its Board, and every Owner (except an Owner that is delinquent in the payment of Assessments hereunder), shall have the right, acting alone or together with others having such right, to enforce, by any proceeding at law or in equity, any or all of the covenants, conditions, restrictions, assessments, charges, liens, servitudes, easements and other provisions now or hereafter imposed by this Declaration or any Condominium Governing Document, and any approvals granted by the Board. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration. This provision does not limit the remedies that may be available under this Declaration or at law or in equity. Each remedy provided under this Declaration is cumulative and not exclusive.

12.4.2 A Person seeking to enforce this Declaration or any Condominium Governing Document shall first comply with any requirements for Alternative Dispute Resolution concerning the Claim as provided for in Section 12.5. Subject to the limitations contained in Section 12.6, such enforcement rights shall include without limitation the right to bring an injunctive action for any form of injunctive relief available under Colorado law (including specific performance), or an action for damages, or both. Injunctive relief may include, without limitation, orders to stop work, orders to remove improvements constructed in violation hereof, orders to compel performance, and any other orders appropriate under the circumstances.

12.4.3 The Board shall have the following further rights and remedies:

A. The right to levy and collect, after Notice and Hearing, reasonable fines for the violation of any of the foregoing matters which shall constitute a lien upon the violator’s Unit. In the event that any Person, including an occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.

B. The right to levy and collect a Reimbursement Assessment against any Owner.

C. The right to enter upon any Unit within the Community, after giving the Owner or Occupant at least 5 days written notice of the nature of the violation (unless an emergency

exists, in which case without notice), without liability to the Owner or Occupant thereof, to enforce or cause compliance with such matters, at the cost and expense of the Owner or Occupant in violation.

D. The right to cut off or suspend any or all Association services or benefits to the subject Owner or Occupant and his Unit until the violation is cured.

E. The right to suspend an Owner's right to vote (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Assessment).

F. The right to exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents).

G. The right to record a notice of violation with respect to any Unit on which a violation exists.

12.4.4 In any action brought under this Section 12.4, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection therewith.

12.4.5 Failure by any party entitled to exercise any of the rights available to it under this Section 12.4 shall in no event be deemed a waiver of the right to do so in any other instance.

12.4.6 No Owner shall have the right to bring any claim for damages or any enforcement action against another Owner, Occupant, the Association, Declarant or an Affiliate of Declarant, until the aggrieved Owner has given the offending Owner, Occupant, the Association, Declarant or an Affiliate of Declarant written notice of the aggrieved Owner's complaint and the opportunity to resolve the problem as provided for in Section 12.5.

12.4.7 Notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of this Declaration or the Condominium Governing Documents, or to compel the removal of any building or improvement because of the violation of the terms of any such building restriction, unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

12.4.8 The decision for the Association to pursue an enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

A. the Association's position is not strong enough to justify taking any or further action;

B. the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

C. although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources;

D. the Association is precluded from bringing an action because of applicable law, this Declaration or the Condominium Governing Documents; and/or

E. that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

12.4.9 A decision by the Association and its Board not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

12.4.10 The provisions of this Section 12.4 may not be modified, amended or deleted without the prior written consent of Declarant, which may be granted or withheld in the discretion of Declarant so long as Declarant owns a Unit.

12.5 Agreement to Encourage Alternative Dispute Resolution.

12.5.1 **Bound Parties.** The Declarant, each of the Affiliates of Declarant, the Association and its officers, directors, and committee members, each Owner and all other Persons subject to this Declaration, and any Person not otherwise subject to this Declaration or any Condominium Governing Document who agrees to submit to this Chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in this Section 12.5 and has engaged in a good faith effort to resolve such Claim.

12.5.2 **Claims.** As used in this Chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

(a) the interpretation, application, or enforcement of the Declaration and/or any Condominium Governing Document;

(b) the rights, obligations, and duties of any Bound Party under the Declaration and/or any Condominium Governing Document; or

(c) the design or construction of any Improvements within the Community, other than matters of aesthetic judgment, which shall not be subject to review.

12.5.3 **Limitations on Claims.** Notwithstanding the above, the following shall not be considered "**Claims**", unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 12.5:

(a) any suit by the Association to collect assessments or other amounts due from any Owner, including the filing of a Statement of Lien against any Owner and their Unit;

(b) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the covenants and restrictions of this Declaration and/or any Condominium Governing Document;

(c) any suit that does not include the Declarant, Affiliates of Declarant or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Declaration and/or any Condominium Governing Document;

(d) any dispute which affects the material rights or obligations of a party who is not bound by the terms of the Declaration and/or any Condominium Governing Document; and

(e) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 12.5.4, unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Section.

12.5.4 **Dispute Resolution Procedures.**

(a) **Notice.** A Person bound by this Declaration and/or any Condominium Governing Document ("**Bound Party**") asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice ("**Notice**") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

- (1) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (2) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (3) the Claimant's proposed resolution or remedy; and
- (4) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the San Miguel County, Colorado area. Each Bound Party shall present the mediator with a written summary of the Claim. If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim. If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate, subject to the limitations contained in Section 12.6. Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall pay an equal share of the mediator's fees.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

12.5.5 **Limitation of Damages.** All Bound Parties agree that, in any lawsuit arising out of a Claim subject to the procedures set forth in Section 12.4 or Section 12.5, any damage award shall be specifically limited to the amount of any actual economic loss suffered by the prevailing party and shall not include consequential damages, punitive damages, exemplary damages and/or damages for physical, mental or emotional pain and suffering.

12.5.6 **Declarant to Consent to Amendments.** The provisions of this Section 12.5 may not be modified, amended or deleted without the prior written consent of Declarant, which may be granted or withheld in the discretion of Declarant during the period the Declarant owns a Unit.

12.6 **Rights of First Mortgagees.** Upon the filing of a written request therefor with the Association, the holder of a First Mortgage on any Unit in the Common Interest Community shall be entitled to:

12.6.1 Receive written notice of meetings of the Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;

12.6.2 Receive written notice from the Association that the Owner of the Unit is delinquent in the payment of Assessments thereon;

12.6.3 Upon written request, inspect the books and records of the Association during normal business hours;

12.6.4 Upon written request, receive copies of annual Association financial statements;

12.6.5 Upon written request, receive written notice of meetings of the Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;

12.6.6 Upon written request, receive written notice of the lapse of any insurance that the Association is required to maintain under this Declaration; and

12.6.7 This Declaration and the other Condominium Governing Documents may be amended or supplemented without the requirement to obtain the consent of any First Mortgagee or any other holder of a Mortgage as provided for in Section 12.3.

12.7 **Notice.** Each Owner, and each First Mortgagee if it so elects (as provided for in Section 12.6), shall register its mailing address from time to time with the Association. Except as otherwise specifically provided in this Declaration, any notice permitted or required to be given hereunder shall be in writing and may be delivered either personally, or by facsimile transmission, or by mail. Notices delivered personally or sent by facsimile transmission shall be deemed given on the date so delivered or sent. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a

copy of the same has been posted in the first-class U.S. Mail, certified and return receipt requested, with adequate postage affixed, addressed to the receiving party at the address last registered by such party with the Association, or in the case of an Owner that has not provided such an address, to the Unit of that Owner. Notices to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

12.8 **No Dedication to Public Use.** Nothing contained in this Declaration shall be deemed to be or to constitute a dedication of all or any part of the Community to the public or to any public use.

12.9 **Safety and Security.** Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, the Association, the Declarant, the Affiliates of Declarant and the Managing Agent shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any Occupants of such Owner's Unit that the Association, its Board and committees, the Declarant, the Affiliates of Declarant and the Managing Agent are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including and the contents of Units, resulting from acts of third parties.

12.10 **Interpretation of Declaration.** The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a common and general plan for the development, improvement, enhancement, protection and enjoyment of the Community, and to the extent possible, shall be construed so as to be consistent with the Act.

12.11 **Conflict With Condominium Map.** In the event of any conflict or inconsistency between the provisions of this Declaration and the Condominium Map, the provisions of said Condominium Map shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said Condominium Map.

12.12 **Conflict With the Act.** In the event of any conflict or inconsistency between the provisions of the Condominium Governing Documents and the Act and/or the Colorado Revised Nonprofit Corporation Act, the respective provisions of the Act and/or the Colorado Revised Nonprofit Corporation Act shall govern and control and the Condominium Governing Documents shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of the Act and/or the Colorado Revised Nonprofit Corporation Act

12.13 **Governing Law; Jurisdiction.** The laws of the State of Colorado shall govern the interpretation, validity, performance, and enforcement of this Declaration. Any legal action brought in connection with this Declaration shall be commenced in the District Court for Dolores County, Colorado, and by acceptance of a deed to a Unit each Unit Owner voluntarily submits to the jurisdiction of such court.

12.14 **Costs and Attorneys' Fees.** In any action or proceeding involving the interpretation or enforcement of any provision of this Declaration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith.

12.15 **Severability.** Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Where any provision of this Declaration is alleged to be or declared by a court of competent jurisdiction to be unconscionable, Association shall have the right by amendment to this Declaration to replace such provision with a new provision, as similar thereto as practicable but which in Association's reasonable opinion would be considered not to be unconscionable.

12.16 **Captions.** Captions given to various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof and shall not be considered in interpreting any of the provisions hereof.

12.17 **Singular Includes Plural.** Unless the context requires a contrary construction, as employed in this Declaration the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

EXHIBIT "A"
(Legal Description of the Real Estate)

The areas Designated in the Condominium Map recorded on _____, 2024 in Plat Book Reception No. _____ in the Official Records as Bedrock Building 3 & 4 Subassociation and as Bedrock Building 3 and Bedrock Building 4, Located on Lot 6 Bedrock Subdivision, According to the Bedrock Subdivision Plat, Town of Rico, Dolores County, State of Colorado, Recorded at Reception Number 171981, Dolores County Clerk and Records Office.

EXHIBIT B
(Allocated Interests)

Unit 3A	518 Sq Ft	13%
Unit 3B	518 Sq Ft	13%
Unit 3C	943 Sq Ft	23%
Unit 4A	559 Sq Ft	14%
Unit 4B	564 Sq Ft	14%
Unit 4C	939 Sq Ft	23%

**AMENDED AND RESTATED BYLAWS OF THE
BEDROCK 1 & 2 CONDOMINIUM SUB ASSOCIATION**

NOW THEREFORE, the Bedrock 1 & 2 Condominium Sub Association, Inc., (the “**Association**”) does hereby publish, declare, state and adopt these Bylaws pursuant to the Colorado Nonprofit Corporation Act:

BYLAW I

Definitions

1. All capitalized but undefined terms used herein shall have the same meaning as set forth in the General Declaration for Bedrock 1 & 2 Condominiums, Dolores County, Colorado recorded on _____ at Reception No. _____ in the records of the Dolores County Clerk and Recorder (“**Declaration**”).

BYLAW II

Offices

The principal office of the Association shall be at _____, _____, Colorado. The Association may also have offices and may carry on its purposes at such other places within and outside the State of Colorado as the Board of Directors may from time to time determine.

BYLAW III

Voting, Quorum and Proxies

1. Votes. Each Site shall be entitled to one (1) membership and one (1) vote with allocated interests as set forth in the Declaration. If there is more than one owner of a Site, the owners shall designate one person who is authorized to cast a vote on behalf of the owners.

2. Record Date. The Board of Directors shall have the power to fix in advance a date as a record date for the purpose of determining members entitled to notice of or to vote at any meeting or to be furnished with any other information or material, or in order to make a determination herein. The members existing on any such record date shall be deemed members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice or information or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than sixty (60) days prior to the date on which the particular action requiring determination of membership is proposed or expected to be taken or to occur. If no record date is established for a meeting, the day which is three (3) days prior to the day on which notice of such meeting is first given to any member shall be deemed the record date for the meeting, the day on which the notice is given shall be excluded

from this calculation.

3. **Quorum.** Except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, the presence in person or by proxy of members who are entitled to vote more than thirty percent (30%) of the total votes for the members shall constitute a quorum where a vote is required.

4. **Proxies.** Votes may be cast in person or by proxy. Every proxy must be in the form approved by the Board of Directors and must be executed in writing by the member or his duly authorized attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution, and every proxy shall automatically cease at such time as the member granting the proxy no longer qualifies as a member of the voting membership for which vote the proxy was given.

5. **Majority Vote.** At any meeting of members where a vote is required, if a quorum is present, the vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the action of the members unless the vote of a greater number is required by law, the Articles of Incorporation, the Declaration or these Bylaws which from time to time are in force and effect. The term "majority" as used in these Bylaws shall mean in excess of fifty percent (50%) of the votes cast at a meeting, in person or by proxy, or voting by mail.

6. **Voting by Mail.** At any Board meeting where a quorum is present, the Board may by majority vote choose to submit any issue to the members for vote by mail ballot. In the event of a vote by mail ballot on any proposed issue, the Secretary shall give notice to all owners or co-owners of each membership, which notice shall include a proposed written resolution setting forth a description of the proposed action and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) nor more than fifty (50) days after the date such notice shall have been given, on or before which all votes must be received. The quorum and percentage of approvals required for mail ballots shall be the same as required by the Declaration, Articles of Incorporation or Bylaws for the subject vote. Mail ballots shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

BYLAW IV

Property Rights and Rights of Enjoyment of Facilities and Functions

1. Each member shall be entitled to the use and enjoyment of Common Elements as set forth in the Declaration which from time to time is in force and effect, subject to such rules and regulations as may be adopted by the Association from time to time which may restrict access to common elements for violations and failure to pay dues.

BYLAW V

Administration

1. Annual Meeting. The annual meeting of the members shall be held in the month of December on a date to be established by the Board of Directors for the purpose of electing directors and for the transaction of such other business as may be necessary. The Board shall notify the members of the date and time of the meeting via U.S. Mail, facsimile or email not less than thirty (30) nor more than sixty (60) days prior to the date of the meeting.

2. Special Meetings. Special meetings of members, for any purpose, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the President at the request of the members entitled to vote 30 percent or more of the total votes.

3. Place of Meeting. The Board of Directors may designate any place, either within or outside Colorado, as the place for any annual meeting or for any special meeting called by the Board of Directors. Meetings may be conducted by electronic or telephonic means. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or outside Colorado, as the place for such meeting. If no designation is made, or if a special meeting shall be called otherwise than by the Board, the place of meeting shall be the principal office of the Association.

4. Notice of Special Meeting. Written or printed notice of any special meeting of the members stating the place, day and hour of the special meeting, and the hour of the special meeting, and the purposes for which the meeting is called, shall be delivered personally or by mail to each member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears in the office of the Association, with postage thereon prepaid. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at corporate expense.

5. Informal Action by Members. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the members, and may be stated as such in any articles or document filed with the Secretary of State of Colorado.

6. Voting By Mail. At any Board meeting where a quorum is present, the Board may by majority vote choose to submit any issue to the Members for vote by mail ballot. In the event of a vote by mail on any proposed issue, the Secretary shall give notice to all owners or co-owners of each membership, which notice shall include a proposed written resolution setting forth a description of the proposed action and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) nor more than fifty (50) days after the date such notice shall have been given, on or before which all votes must be received. The quorum and percentage of approvals required for mail ballots shall be the same as required by

the Articles of Incorporation or Bylaws for the subject vote. Mail ballots shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

BYLAW VI

Board of Directors

1. Number, Tenure and Qualifications. The business and affairs of the Association shall be managed by a Board of Directors consisting of three (3) directors who must be members of the Association. Directors shall be elected or appointed annually by the members at the annual meeting. Directors shall serve a three year term. The initial Board terms shall be staggered so as to provide for overlap of current members as follows:

Seat One: 1 year
Seat Two: 2 years
Seat Three: 3 years

2. Resignations; Vacancies. Any director may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors by reason of resignation, death or an increase in the number of directors may be filled by the vote of a majority of the directors then in office though less than a quorum. If a director resigns, his replacement shall hold office only until the next annual meeting of the Association.

3. General Powers. The Board of Directors shall have and may exercise all the powers of the Association except as are expressly conferred upon the members by law, by the Articles of Incorporation, the Declaration or these Bylaws as from time to time are in force and effect.

4. Additional Powers and Responsibilities. In addition to its general powers, the Board of Directors acting through the Association's officers, and subject to the provisions of the Declaration, shall have the authority and the responsibility to:

(A) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligation and all other provisions set forth in the Articles of Incorporation, the Declaration or the Bylaws as from time to time are in force and effect.

(B) To establish, make, amend, publish and enforce compliance with such reasonable rules and regulations governing the operation and use of Facilities and Functions and the personal conduct of the members and guests, and to establish, make, amend, publish and enforce payment of reasonable charges for the use of Facilities and Functions.

(C) To maintain in good order, condition and repair Facilities and all items of personal property used in the enjoyment of such property.

(D) To obtain and maintain insurance in connection with Facilities and related personal property in the manner and amounts provided in the Declaration, and such other insurance as the Board of Directors may consider appropriate.

(E) To fix, determine, levy and collect all assessments to meet the common expenses and costs of the Association, and to create a reasonable reserve therefor, as more fully set forth in Bylaw IX hereof.

(F) To collect promptly all delinquent assessments by suit or otherwise and to enjoin or seek damages from a member or guest.

(G) To collect the charges, sums, liquidated damages or fees set forth in the Declaration, and otherwise provided for in the Homeowner Company's Articles of Incorporation and these Bylaws, which are in effect from time to time.

(H) To issue, or cause an appropriate officer to issue, upon written demand of any member a certificate setting forth whether any assessment, charge, fine or penalty has been paid by such member. Such certificate shall be conclusive evidence against the Association for all purposes. The Association may charge a reasonable fee for such certificate.

(I) To protect and defend Facilities from loss and damage by suit or otherwise.

(J) To borrow funds in order to pay for any expenditure or outlay authorized by these Bylaws, the Declaration and the Articles of Incorporation as from time to time are in force and effect, including but not limited to funds borrowed from Declarant or any affiliate thereof, and to execute all such instruments evidencing such indebtedness as may be necessary or advisable.

(K) To enter into contracts within the scope of their duties and powers.

(L) To establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

(M) To maintain full and accurate books and records showing all of the receipts, expenses or disbursements of the Association. Any member may inspect such records upon reasonable notice at any reasonable time.

(N) To prepare and upon request deliver to any requesting member an annual statement showing all receipts, expenses or disbursements since the last such statement.

5. Compensation Reimbursement. The Board of Directors shall not be compensated for their services to the Association. Any director may be paid his reasonable expenses incurred, if any, in furtherance of the business or affairs of the Association.

6. Regular Meetings. Regular meetings of the Board of Directors may be held without call or formal notice at such places within the State of Colorado, and at such time as the Board may from time to time by vote determine. Meetings may be held by electronic or telephonic means. Any business may be transacted at a regular meeting. Until further determination, the regular meeting of the Board of Directors for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of members, or any special meeting of members at which a Board of Directors is elected.

7. Special Meetings. Special meetings of the Board of Directors may be held at any place within Colorado at any time when called by the president, or by 2 or more directors, upon prior notice of the time and place thereof being given personally to each director, or by leaving such notice with him or at his residence or usual place of business, or by mailing or telegraphing it prepaid, and addressed to him at his post office address as it appears on the books of the Association, or by telephone. Notices shall state the purpose of the meeting. No notice of any adjourned meeting of the directors shall be required.

8. Quorum. A majority of the number of directors fixed by the Bylaws shall constitute a quorum for the transaction on business, but a lesser number may adjourn any from time to time. When a quorum is present at any meeting, a majority of the directors in attendance shall, except where a larger number is required by law, by the Articles of Incorporation, the Declaration or by these Bylaws as from time to time are in force and effect, decide any question brought before such meeting.

9. Waiver of Notice. Before, at or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

10. Informal Action by Directors. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the directors.

BYLAW VII

Officer and Agents

1. General. The officers of the Association shall be a president, a vice-president, a secretary and a treasurer and shall be elected from and by the Board of Directors. The Board of Directors may appoint such other officers, assistant officers, committees and agent, including vice-presidents, assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board of Directors. The officers of the Association shall not receive a salary or any compensation. One person may hold

any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaws or by the Board of Directors, such office, agent or employee shall follow the orders and instructions of the president or his designee.

2. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purposes.

3. Vacancies. A vacancy in any office, however occurring, may be filled by the Board of Directors for the unexpired portion of the term.

4. President. The president shall be the chief executive officer of the Association. He shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents and employees.

5. Vice Presidents. The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the President or by the Board of Directors. In the absence of the president, the vice president designated by the Board of Directors or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation shall be made all vice presidents may exercise such powers and perform such duties.

6. Secretary. The secretary shall:

(a) Keep the minutes of the proceedings of the members, executive committee and the Board of Directors;

(b) See that all notices are duly given in accordance with the provisions of these Bylaws, the Articles of Incorporation, the Declaration and as required by law;

(c) Keep at its registered office or principal place of business within or outside Colorado a record containing the names and registered addresses of all members, the designation of the property owned or leased by each member, and, if such property is mortgaged and the mortgagee has given the Association notice thereof, the name and address of the mortgagee;

(d) In general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him/her by the president or by the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

7. Treasurer. The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board of Directors. He shall receive and give receipts and acquittances for monies paid in on account of the Association, and shall pay out of the funds on hand all bills,

payrolls and other just debts of the Association of whatever nature upon maturity. He shall perform all other duties incident to the office of treasurer and, upon request of the Board of Directors, shall make such reports to it as may be required at any time. He shall, if required by the Board of Directors, given the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association. He shall have such other powers and perform such other duties as may be from time to time prescribed by the Board of Directors or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

BYLAW VIII

Obligations of the Members

1. Assessments.

(a) If assessed then each Owner shall be obligated to pay to any and all assessments levied with respect to such Owner's Site, and each Owner shall comply with any determinations made by the Board of Directors with respect to such assessments.

(b) If a special assessment is validly levied, each member shall be obligated to pay and shall pay to the Association its proportionate share of such assessment based upon the determinations made by the Board of Directors with respect to such assessments.

(c) Each member shall pay all charges, fines, liquidated damages, penalties, interest, or other amount payable to the Association in connection or payable under the Declaration, the Articles of Incorporation or these Bylaws.

2. Time for Payments. The amount of any assessment, charge, fine, liquidated damage, penalty or other amount payable with respect to any member or such member's guests or Site shall become due and payable as specified in the Declaration, the Articles of Incorporation or these Bylaws, as from time to time are in force and effect, or by the Board of Directors, and any such amount which is delinquent shall bear interest at the rate of 12 percent or the highest amount allowed per law if such amount is lower, per annum from the date due and payable unless specifically specified otherwise.

3. Lien for Assessments and Other Amounts. In addition to the rights set forth in Bylaw IX hereof, the Association shall have a lien against each Site to secure payment of any assessment, charge, fine, penalty, liquidated damages or other amount due and owing to the Association with respect to the Owner of that Site or with respect to such Owner's lessees, guests or Site, plus interest from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. All such liens shall be junior to any first lien or encumbrance on a Site taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of San Miguel County, Colorado, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Site, and naming the Owner of the

Sit. Such lien may be foreclosed in the manner for foreclosures of mortgages in the State of Colorado.

4. Compliance with the Declaration, Articles of Incorporation, Bylaws and Rules and Regulations. Each Member shall comply with all provisions of the Declaration, Articles of Incorporation, these Bylaws, and any rules and regulations issued by the Board of Directors as from time to time are in force and effect. The membership rights and privileges, including, but not limited to, the right to vote and the right to use Facilities and Functions of any member or guest, may be suspended by action of the Board of Directors during the period when any assessments or other amounts due relating to such member's Site remain unpaid; but, upon payment of such assessments or other amounts, such rights and privileges shall be automatically restored. If the Board of Directors has adopted and published rules and regulations governing the use of Facilities or Functions and the personal conduct of any person related thereto, the directors or the officers of the Association may, in their discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed 30 days, or if such person is in a continuous violation of such rules and regulations for a period until such time as the violations ceases. At the time such continuous violation ceases, the 30 day suspension may be applied to such person.

5. Amendments. This Bylaw VIII may be amended only by the affirmative vote of fifty (50%) of the members.

BYLAW IX

General Provisions

1. General Provisions. Any payment or report required hereunder to be made to the Association shall be deemed to have been made in a timely fashion if sent to the principal office of the Association by first class mail, postage prepaid, and postmarked no later than the date such payment or report is due, provided the Association thereby actually receives such payment or report. The Association at its own expense shall have the right at any time during regular business hours to inspect and copy all records and to audit all accounts of any member which are reasonably related to such member's obligations hereunder to pay assessments to make reports to the Association. Unless otherwise provided for, if any portion of any assessment hereunder is not paid when due and payable, such portion shall bear simple interest at the rate of 18 percent per annum from the date due until paid, and the amount of such interest shall for all purposes hereunder (other than the computation of such interest) be added to and become part of the assessment; provided that the Board of Directors may in its discretion waive all or any part of such interest for reasonable cause shown. The Board of Directors shall have power to collect any part of any assessment not paid when due and to enforce any other obligations of any member by any legal means available to it. Each Owner shall hold harmless and indemnify the Association and its agents and employees from and against any and all costs, losses, obligations, penalties, expenses, liabilities and damages of every kind whatsoever, including court costs and all reasonable attorney's fees, incurred by or imposed upon the Association or any of its agents or employees in the collection of such Owner's or member's assessments hereunder which are not paid when due or otherwise in the enforcement of any of such Owner's or member's obligations. The Board of Directors shall have power to determine any matter and to resolve any dispute arising out of the application, determination,

payment and collection of any assessment or the making of any report provided for in this Bylaw IX, and may promulgate such additional rules and regulations which are consistent with the provisions hereof as the Board of Directors may deem necessary, useful or appropriate to the reasonable and efficient administration of such provisions.

2. Association Budget. At the first meeting of the Board of Directors following the adoption of the Association's fiscal year, the Board of Directors shall adopt an estimated budget for the remainder of that fiscal year. Such budget shall include:

(a) the estimated operating costs and expenses and proposed capital expenditures which will be chargeable to the Association to fulfill its obligations under the Declaration, the Articles of Incorporation and the Bylaws as then in force and effect;

(b) the estimated income and other funds which will be received by the Association; and

(c) the estimated total amounts required to be raised by assessments to cover such costs, expenses and capital expenditures of the Association and to provide a reasonable reserve. For each subsequent fiscal year the Board of Directors shall, prior to the beginning of such fiscal year, adopt a similar budget which shall also include all long-term or continuing commitments of the Association made in connection with or contemplated under any previously approved budget. The Board of Directors shall make copies of the proposed budget available to all interested members at the principal office of the Association. At the budget meeting, members shall have the right to be heard concerning the budget; however, the Board of Directors shall retain the sole power to approve the budget unless sixty-seven percent of the Members vote to reject the budget approved by the Board of Directors. Special meetings may be held in like manner upon notice to consider supplementation or revision of any budget. Notice of any such special meeting shall contain a reasonably detailed description of the supplement or revision proposed. Except as emergencies may require, the Association shall make no commitment or expenditures in excess of the funds reasonably expected to be available to the Association through assessments, all other sources of income and borrowing.

BYLAW X

Evidence and Determination of Membership, Registration of Mailing Address and Lien Holders

1. Evidence of Membership and Registration of Mailing Address. Any party on becoming a member shall furnish to the Association a certified property report, on a form established by the Board of Directors, and required backup information. Each such member shall at the same time give a designated representative, email address and mailing address to which notices to such member may be sent. In the event of any change in the facts reported in the original written notice, including any change of ownership, the member shall give a new written notice to the Association containing all the information required to be covered by the original notice. As against any member, the Association may, but shall not be obligated to, rely, for any and all purposes, on the information reflected in the most recent written notice furnished with respect to such member. The Association shall keep and preserve the most recent written notice received by the Association with respect to each member.

2. Association Determinations to Membership. The Association, based upon written notices furnished by members as aforesaid and based upon its own investigation, shall have the right, authority and obligation to fix and determine the number and class of votes existing with respect to each member. The Association shall make such determination at least annually and, in any event, as of any record date and shall make supplemental determinations from time to time as may be necessary after any record date in the light of changes which may come to its attention. The Association shall keep records of its determinations hereunder which shall be used and may be relied upon by it for any and all purposes. No party shall be entitled to any notice or the right to vote until it has been determined by the Association that such party is a member. Any party aggrieved by any determination of the Association with respect to its voting rights may contest action within 45 days after it has notice thereof by commencing a legal action in the District Court of Dolores County, Colorado within such 45-day period. If such action is not commenced in such period, the determination of the Association shall be final.

3. Address of the Association. The address of the Association shall be _____ Colorado (zip). Such address may be changed from time to time upon written notice to all members and all mortgagees or beneficiaries of deeds of trust whose names and address have been previously filed with the Association.

BYLAW XI

Security Interest in Membership

Members shall have the right irrevocably to constitute and appoint the mortgage or the beneficiary of a trust deed their true and lawful attorney-in-fact to vote in the Association at any all meetings of the Association and to vest in the mortgagee or the beneficiary any and all rights, privileges and powers that they have as members under the Articles of Incorporation and these Bylaws or by the virtue of the Declaration as from time to time are in force and effect. Such proxy and vesting shall become effective upon the filing of notice by the mortgagee or the beneficiary with the secretary of the Association at such time or times as the mortgagee or the beneficiary shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the Board of Directors or the members to carry out their duties as set forth in the Declaration. A release of the mortgage or other beneficiary's deed of trust shall operate to revoke such proxy and vesting. Nothing contained in this Bylaw XI shall be construed to relieve members, as mortgagors, of their duties and obligations as members or to impose upon the mortgagee or the beneficiary of the deed of trust the duties and obligations of an Owner.

EFFECTIVE DATE: _____, 2024

BEDROCK 1 & 2 CONDOMINIUMS SUB ASSOCIATION, INC.:

By: _____, President

ATTEST:

By: _____
_____, Secretary

**AMENDED AND RESTATED BYLAWS OF THE
BEDROCK 3 & 4 CONDOMINIUM SUB ASSOCIATION**

NOW THEREFORE, the Bedrock 3 & 4 Condominium Sub Association, Inc., (the “**Association**”) does hereby publish, declare, state and adopt these Bylaws pursuant to the Colorado Nonprofit Corporation Act:

BYLAW I

Definitions

1. All capitalized but undefined terms used herein shall have the same meaning as set forth in the General Declaration for Bedrock 3 & 4 Condominiums, Dolores County, Colorado recorded on _____ at Reception No. _____ in the records of the Dolores County Clerk and Recorder (“**Declaration**”).

BYLAW II

Offices

The principal office of the Association shall be at _____, _____, Colorado. The Association may also have offices and may carry on its purposes at such other places within and outside the State of Colorado as the Board of Directors may from time to time determine.

BYLAW III

Voting, Quorum and Proxies

1. Votes. Each Site shall be entitled to one (1) membership and one (1) vote with allocated interests as set forth in the Declaration. If there is more than one owner of a Site, the owners shall designate one person who is authorized to cast a vote on behalf of the owners.

2. Record Date. The Board of Directors shall have the power to fix in advance a date as a record date for the purpose of determining members entitled to notice of or to vote at any meeting or to be furnished with any other information or material, or in order to make a determination herein. The members existing on any such record date shall be deemed members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice or information or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than sixty (60) days prior to the date on which the particular action requiring determination of membership is proposed or expected to be taken or to occur. If no record date is established for a meeting, the day which is three (3) days prior to the day on which notice of such meeting is first given to any member shall be deemed the record date for the meeting, the day on which the notice is given shall be excluded

from this calculation.

3. **Quorum.** Except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, the presence in person or by proxy of members who are entitled to vote more than thirty percent (30%) of the total votes for the members shall constitute a quorum where a vote is required.

4. **Proxies.** Votes may be cast in person or by proxy. Every proxy must be in the form approved by the Board of Directors and must be executed in writing by the member or his duly authorized attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution, and every proxy shall automatically cease at such time as the member granting the proxy no longer qualifies as a member of the voting membership for which vote the proxy was given.

5. **Majority Vote.** At any meeting of members where a vote is required, if a quorum is present, the vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the action of the members unless the vote of a greater number is required by law, the Articles of Incorporation, the Declaration or these Bylaws which from time to time are in force and effect. The term "majority" as used in these Bylaws shall mean in excess of fifty percent (50%) of the votes cast at a meeting, in person or by proxy, or voting by mail.

6. **Voting by Mail.** At any Board meeting where a quorum is present, the Board may by majority vote choose to submit any issue to the members for vote by mail ballot. In the event of a vote by mail ballot on any proposed issue, the Secretary shall give notice to all owners or co-owners of each membership, which notice shall include a proposed written resolution setting forth a description of the proposed action and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) nor more than fifty (50) days after the date such notice shall have been given, on or before which all votes must be received. The quorum and percentage of approvals required for mail ballots shall be the same as required by the Declaration, Articles of Incorporation or Bylaws for the subject vote. Mail ballots shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

BYLAW IV

Property Rights and Rights of Enjoyment of Facilities and Functions

1. Each member shall be entitled to the use and enjoyment of Common Elements as set forth in the Declaration which from time to time is in force and effect, subject to such rules and regulations as may be adopted by the Association from time to time which may restrict access to common elements for violations and failure to pay dues.

BYLAW V

Administration

1. Annual Meeting. The annual meeting of the members shall be held in the month of December on a date to be established by the Board of Directors for the purpose of electing directors and for the transaction of such other business as may be necessary. The Board shall notify the members of the date and time of the meeting via U.S. Mail, facsimile or email not less than thirty (30) nor more than sixty (60) days prior to the date of the meeting.

2. Special Meetings. Special meetings of members, for any purpose, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the President at the request of the members entitled to vote 30 percent or more of the total votes.

3. Place of Meeting. The Board of Directors may designate any place, either within or outside Colorado, as the place for any annual meeting or for any special meeting called by the Board of Directors. Meetings may be conducted by electronic or telephonic means. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or outside Colorado, as the place for such meeting. If no designation is made, or if a special meeting shall be called otherwise than by the Board, the place of meeting shall be the principal office of the Association.

4. Notice of Special Meeting. Written or printed notice of any special meeting of the members stating the place, day and hour of the special meeting, and the hour of the special meeting, and the purposes for which the meeting is called, shall be delivered personally or by mail to each member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears in the office of the Association, with postage thereon prepaid. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at corporate expense.

5. Informal Action by Members. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the members, and may be stated as such in any articles or document filed with the Secretary of State of Colorado.

6. Voting By Mail. At any Board meeting where a quorum is present, the Board may by majority vote choose to submit any issue to the Members for vote by mail ballot. In the event of a vote by mail on any proposed issue, the Secretary shall give notice to all owners or co-owners of each membership, which notice shall include a proposed written resolution setting forth a description of the proposed action and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) nor more than fifty (50) days after the date such notice shall have been given, on or before which all votes must be received. The quorum and percentage of approvals required for mail ballots shall be the same as required by

the Articles of Incorporation or Bylaws for the subject vote. Mail ballots shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

BYLAW VI

Board of Directors

1. Number, Tenure and Qualifications. The business and affairs of the Association shall be managed by a Board of Directors consisting of three (3) directors who must be members of the Association. Directors shall be elected or appointed annually by the members at the annual meeting. Directors shall serve a three year term. The initial Board terms shall be staggered so as to provide for overlap of current members as follows:

Seat One: 1 year
Seat Two: 2 years
Seat Three: 3 years

2. Resignations; Vacancies. Any director may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors by reason of resignation, death or an increase in the number of directors may be filled by the vote of a majority of the directors then in office though less than a quorum. If a director resigns, his replacement shall hold office only until the next annual meeting of the Association.

3. General Powers. The Board of Directors shall have and may exercise all the powers of the Association except as are expressly conferred upon the members by law, by the Articles of Incorporation, the Declaration or these Bylaws as from time to time are in force and effect.

4. Additional Powers and Responsibilities. In addition to its general powers, the Board of Directors acting through the Association's officers, and subject to the provisions of the Declaration, shall have the authority and the responsibility to:

(A) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligation and all other provisions set forth in the Articles of Incorporation, the Declaration or the Bylaws as from time to time are in force and effect.

(B) To establish, make, amend, publish and enforce compliance with such reasonable rules and regulations governing the operation and use of Facilities and Functions and the personal conduct of the members and guests, and to establish, make, amend, publish and enforce payment of reasonable charges for the use of Facilities and Functions.

(C) To maintain in good order, condition and repair Facilities and all items of personal property used in the enjoyment of such property.

(D) To obtain and maintain insurance in connection with Facilities and related personal property in the manner and amounts provided in the Declaration, and such other insurance as the Board of Directors may consider appropriate.

(E) To fix, determine, levy and collect all assessments to meet the common expenses and costs of the Association, and to create a reasonable reserve therefor, as more fully set forth in Bylaw IX hereof.

(F) To collect promptly all delinquent assessments by suit or otherwise and to enjoin or seek damages from a member or guest.

(G) To collect the charges, sums, liquidated damages or fees set forth in the Declaration, and otherwise provided for in the Homeowner Company's Articles of Incorporation and these Bylaws, which are in effect from time to time.

(H) To issue, or cause an appropriate officer to issue, upon written demand of any member a certificate setting forth whether any assessment, charge, fine or penalty has been paid by such member. Such certificate shall be conclusive evidence against the Association for all purposes. The Association may charge a reasonable fee for such certificate.

(I) To protect and defend Facilities from loss and damage by suit or otherwise.

(J) To borrow funds in order to pay for any expenditure or outlay authorized by these Bylaws, the Declaration and the Articles of Incorporation as from time to time are in force and effect, including but not limited to funds borrowed from Declarant or any affiliate thereof, and to execute all such instruments evidencing such indebtedness as may be necessary or advisable.

(K) To enter into contracts within the scope of their duties and powers.

(L) To establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

(M) To maintain full and accurate books and records showing all of the receipts, expenses or disbursements of the Association. Any member may inspect such records upon reasonable notice at any reasonable time.

(N) To prepare and upon request deliver to any requesting member an annual statement showing all receipts, expenses or disbursements since the last such statement.

5. Compensation Reimbursement. The Board of Directors shall not be compensated for their services to the Association. Any director may be paid his reasonable expenses incurred, if any, in furtherance of the business or affairs of the Association.

6. Regular Meetings. Regular meetings of the Board of Directors may be held without call or formal notice at such places within the State of Colorado, and at such time as the Board may from time to time by vote determine. Meetings may be held by electronic or telephonic means. Any business may be transacted at a regular meeting. Until further determination, the regular meeting of the Board of Directors for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of members, or any special meeting of members at which a Board of Directors is elected.

7. Special Meetings. Special meetings of the Board of Directors may be held at any place within Colorado at any time when called by the president, or by 2 or more directors, upon prior notice of the time and place thereof being given personally to each director, or by leaving such notice with him or at his residence or usual place of business, or by mailing or telegraphing it prepaid, and addressed to him at his post office address as it appears on the books of the Association, or by telephone. Notices shall state the purpose of the meeting. No notice of any adjourned meeting of the directors shall be required.

8. Quorum. A majority of the number of directors fixed by the Bylaws shall constitute a quorum for the transaction on business, but a lesser number may adjourn any from time to time. When a quorum is present at any meeting, a majority of the directors in attendance shall, except where a larger number is required by law, by the Articles of Incorporation, the Declaration or by these Bylaws as from time to time are in force and effect, decide any question brought before such meeting.

9. Waiver of Notice. Before, at or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

10. Informal Action by Directors. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the directors.

BYLAW VII

Officer and Agents

1. General. The officers of the Association shall be a president, a vice-president, a secretary and a treasurer and shall be elected from and by the Board of Directors. The Board of Directors may appoint such other officers, assistant officers, committees and agent, including vice-presidents, assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board of Directors. The officers of the Association shall not receive a salary or any compensation. One person may hold

any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaws or by the Board of Directors, such office, agent or employee shall follow the orders and instructions of the president or his designee.

2. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purposes.

3. Vacancies. A vacancy in any office, however occurring, may be filled by the Board of Directors for the unexpired portion of the term.

4. President. The president shall be the chief executive officer of the Association. He shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents and employees.

5. Vice Presidents. The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the President or by the Board of Directors. In the absence of the president, the vice president designated by the Board of Directors or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation shall be made all vice presidents may exercise such powers and perform such duties.

6. Secretary. The secretary shall:

(a) Keep the minutes of the proceedings of the members, executive committee and the Board of Directors;

(b) See that all notices are duly given in accordance with the provisions of these Bylaws, the Articles of Incorporation, the Declaration and as required by law;

(c) Keep at its registered office or principal place of business within or outside Colorado a record containing the names and registered addresses of all members, the designation of the property owned or leased by each member, and, if such property is mortgaged and the mortgagee has given the Association notice thereof, the name and address of the mortgagee;

(d) In general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him/her by the president or by the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

7. Treasurer. The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board of Directors. He shall receive and give receipts and acquittances for monies paid in on account of the Association, and shall pay out of the funds on hand all bills,

payrolls and other just debts of the Association of whatever nature upon maturity. He shall perform all other duties incident to the office of treasurer and, upon request of the Board of Directors, shall make such reports to it as may be required at any time. He shall, if required by the Board of Directors, given the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association. He shall have such other powers and perform such other duties as may be from time to time prescribed by the Board of Directors or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

BYLAW VIII

Obligations of the Members

1. Assessments.

(a) If assessed then each Owner shall be obligated to pay to any and all assessments levied with respect to such Owner's Site, and each Owner shall comply with any determinations made by the Board of Directors with respect to such assessments.

(b) If a special assessment is validly levied, each member shall be obligated to pay and shall pay to the Association its proportionate share of such assessment based upon the determinations made by the Board of Directors with respect to such assessments.

(c) Each member shall pay all charges, fines, liquidated damages, penalties, interest, or other amount payable to the Association in connection or payable under the Declaration, the Articles of Incorporation or these Bylaws.

2. Time for Payments. The amount of any assessment, charge, fine, liquidated damage, penalty or other amount payable with respect to any member or such member's guests or Site shall become due and payable as specified in the Declaration, the Articles of Incorporation or these Bylaws, as from time to time are in force and effect, or by the Board of Directors, and any such amount which is delinquent shall bear interest at the rate of 12 percent or the highest amount allowed per law if such amount is lower, per annum from the date due and payable unless specifically specified otherwise.

3. Lien for Assessments and Other Amounts. In addition to the rights set forth in Bylaw IX hereof, the Association shall have a lien against each Site to secure payment of any assessment, charge, fine, penalty, liquidated damages or other amount due and owing to the Association with respect to the Owner of that Site or with respect to such Owner's lessees, guests or Site, plus interest from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. All such liens shall be junior to any first lien or encumbrance on a Site taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of San Miguel County, Colorado, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Site, and naming the Owner of the

Sit. Such lien may be foreclosed in the manner for foreclosures of mortgages in the State of Colorado.

4. Compliance with the Declaration, Articles of Incorporation, Bylaws and Rules and Regulations. Each Member shall comply with all provisions of the Declaration, Articles of Incorporation, these Bylaws, and any rules and regulations issued by the Board of Directors as from time to time are in force and effect. The membership rights and privileges, including, but not limited to, the right to vote and the right to use Facilities and Functions of any member or guest, may be suspended by action of the Board of Directors during the period when any assessments or other amounts due relating to such member's Site remain unpaid; but, upon payment of such assessments or other amounts, such rights and privileges shall be automatically restored. If the Board of Directors has adopted and published rules and regulations governing the use of Facilities or Functions and the personal conduct of any person related thereto, the directors or the officers of the Association may, in their discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed 30 days, or if such person is in a continuous violation of such rules and regulations for a period until such time as the violations ceases. At the time such continuous violation ceases, the 30 day suspension may be applied to such person.

5. Amendments. This Bylaw VIII may be amended only by the affirmative vote of fifty (50%) of the members.

BYLAW IX

General Provisions

1. General Provisions. Any payment or report required hereunder to be made to the Association shall be deemed to have been made in a timely fashion if sent to the principal office of the Association by first class mail, postage prepaid, and postmarked no later than the date such payment or report is due, provided the Association thereby actually receives such payment or report. The Association at its own expense shall have the right at any time during regular business hours to inspect and copy all records and to audit all accounts of any member which are reasonably related to such member's obligations hereunder to pay assessments to make reports to the Association. Unless otherwise provided for, if any portion of any assessment hereunder is not paid when due and payable, such portion shall bear simple interest at the rate of 18 percent per annum from the date due until paid, and the amount of such interest shall for all purposes hereunder (other than the computation of such interest) be added to and become part of the assessment; provided that the Board of Directors may in its discretion waive all or any part of such interest for reasonable cause shown. The Board of Directors shall have power to collect any part of any assessment not paid when due and to enforce any other obligations of any member by any legal means available to it. Each Owner shall hold harmless and indemnify the Association and its agents and employees from and against any and all costs, losses, obligations, penalties, expenses, liabilities and damages of every kind whatsoever, including court costs and all reasonable attorney's fees, incurred by or imposed upon the Association or any of its agents or employees in the collection of such Owner's or member's assessments hereunder which are not paid when due or otherwise in the enforcement of any of such Owner's or member's obligations. The Board of Directors shall have power to determine any matter and to resolve any dispute arising out of the application, determination,

payment and collection of any assessment or the making of any report provided for in this Bylaw IX, and may promulgate such additional rules and regulations which are consistent with the provisions hereof as the Board of Directors may deem necessary, useful or appropriate to the reasonable and efficient administration of such provisions.

2. Association Budget. At the first meeting of the Board of Directors following the adoption of the Association's fiscal year, the Board of Directors shall adopt an estimated budget for the remainder of that fiscal year. Such budget shall include:

(a) the estimated operating costs and expenses and proposed capital expenditures which will be chargeable to the Association to fulfill its obligations under the Declaration, the Articles of Incorporation and the Bylaws as then in force and effect;

(b) the estimated income and other funds which will be received by the Association; and

(c) the estimated total amounts required to be raised by assessments to cover such costs, expenses and capital expenditures of the Association and to provide a reasonable reserve. For each subsequent fiscal year the Board of Directors shall, prior to the beginning of such fiscal year, adopt a similar budget which shall also include all long-term or continuing commitments of the Association made in connection with or contemplated under any previously approved budget. The Board of Directors shall make copies of the proposed budget available to all interested members at the principal office of the Association. At the budget meeting, members shall have the right to be heard concerning the budget; however, the Board of Directors shall retain the sole power to approve the budget unless sixty-seven percent of the Members vote to reject the budget approved by the Board of Directors. Special meetings may be held in like manner upon notice to consider supplementation or revision of any budget. Notice of any such special meeting shall contain a reasonably detailed description of the supplement or revision proposed. Except as emergencies may require, the Association shall make no commitment or expenditures in excess of the funds reasonably expected to be available to the Association through assessments, all other sources of income and borrowing.

BYLAW X

Evidence and Determination of Membership, Registration of Mailing Address and Lien Holders

1. Evidence of Membership and Registration of Mailing Address. Any party on becoming a member shall furnish to the Association a certified property report, on a form established by the Board of Directors, and required backup information. Each such member shall at the same time give a designated representative, email address and mailing address to which notices to such member may be sent. In the event of any change in the facts reported in the original written notice, including any change of ownership, the member shall give a new written notice to the Association containing all the information required to be covered by the original notice. As against any member, the Association may, but shall not be obligated to, rely, for any and all purposes, on the information reflected in the most recent written notice furnished with respect to such member. The Association shall keep and preserve the most recent written notice received by the Association with respect to each member.

2. Association Determinations to Membership. The Association, based upon written notices furnished by members as aforesaid and based upon its own investigation, shall have the right, authority and obligation to fix and determine the number and class of votes existing with respect to each member. The Association shall make such determination at least annually and, in any event, as of any record date and shall make supplemental determinations from time to time as may be necessary after any record date in the light of changes which may come to its attention. The Association shall keep records of its determinations hereunder which shall be used and may be relied upon by it for any and all purposes. No party shall be entitled to any notice or the right to vote until it has been determined by the Association that such party is a member. Any party aggrieved by any determination of the Association with respect to its voting rights may contest action within 45 days after it has notice thereof by commencing a legal action in the District Court of Dolores County, Colorado within such 45-day period. If such action is not commenced in such period, the determination of the Association shall be final.

3. Address of the Association. The address of the Association shall be _____ Colorado (zip). Such address may be changed from time to time upon written notice to all members and all mortgagees or beneficiaries of deeds of trust whose names and address have been previously filed with the Association.

BYLAW XI

Security Interest in Membership

Members shall have the right irrevocably to constitute and appoint the mortgage or the beneficiary of a trust deed their true and lawful attorney-in-fact to vote in the Association at any all meetings of the Association and to vest in the mortgagee or the beneficiary any and all rights, privileges and powers that they have as members under the Articles of Incorporation and these Bylaws or by the virtue of the Declaration as from time to time are in force and effect. Such proxy and vesting shall become effective upon the filing of notice by the mortgagee or the beneficiary with the secretary of the Association at such time or times as the mortgagee or the beneficiary shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the Board of Directors or the members to carry out their duties as set forth in the Declaration. A release of the mortgage or other beneficiary's deed of trust shall operate to revoke such proxy and vesting. Nothing contained in this Bylaw XI shall be construed to relieve members, as mortgagors, of their duties and obligations as members or to impose upon the mortgagee or the beneficiary of the deed of trust the duties and obligations of an Owner.

EFFECTIVE DATE: _____, 2024

BEDROCK 3 & 4 CONDOMINIUMS SUB ASSOCIATION, INC.:

By: _____, President

ATTEST:

By: _____
_____, Secretary

**BYLAWS OF THE
BEDROCK CONDOMINIUM MASTER ASSOCIATION**

NOW THEREFORE, the Bedrock Condominium Master Association, Inc., (the “**Association**”) does hereby publish, declare, state and adopt these Bylaws pursuant to the Colorado Nonprofit Corporation Act:

BYLAW I

Definitions

1. All capitalized but undefined terms used herein shall have the same meaning as set forth in the General Declaration for Bedrock Condominiums, Dolores County, Colorado recorded on _____ at Reception No. _____ in the records of the Dolores County Clerk and Recorder (“**Declaration**”).

BYLAW II

Offices

The principal office of the Association shall be at _____, _____, Colorado. The Association may also have offices and may carry on its purposes at such other places within and outside the State of Colorado as the Board of Directors may from time to time determine.

BYLAW III

Voting, Quorum and Proxies

1. Votes. Each Sub Association and the Declarant/Owner of the Future Development Area shall be entitled to one (1) membership and one (1) vote with allocated interests as set forth in the Declaration.

2. Record Date. The Board of Directors shall have the power to fix in advance a date as a record date for the purpose of determining members entitled to notice of or to vote at any meeting or to be furnished with any other information or material, or in order to make a determination herein. The members existing on any such record date shall be deemed members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice or information or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than sixty (60) days prior to the date on which the particular action requiring determination of membership is proposed or expected to be taken or to occur. If no record date is established for a meeting, the day which is three (3) days prior to the day on which notice of such meeting is first given to any member shall be deemed the record date for the meeting, the day on which the notice is given shall be excluded

from this calculation.

3. **Quorum.** Except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, the presence in person or by proxy of members who are entitled to vote more than fifty percent (50%) of the total votes for the members shall constitute a quorum where a vote is required.

4. **Proxies.** Votes may be cast in person or by proxy. Every proxy must be in the form approved by the Board of Directors and must be executed in writing by the member or his duly authorized attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution, and every proxy shall automatically cease at such time as the member granting the proxy no longer qualifies as a member of the voting membership for which vote the proxy was given.

5. **Majority Vote.** At any meeting of members where a vote is required, if a quorum is present, the vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the action of the members unless the vote of a greater number is required by law, the Articles of Incorporation, the Declaration or these Bylaws which from time to time are in force and effect. The term "majority" as used in these Bylaws shall mean in excess of fifty percent (50%) of the votes cast at a meeting, in person or by proxy, or voting by mail.

6. **Voting by Mail.** At any Board meeting where a quorum is present, the Board may by majority vote choose to submit any issue to the members for vote by mail ballot. In the event of a vote by mail ballot on any proposed issue, the Secretary shall give notice to all owners or co-owners of each membership, which notice shall include a proposed written resolution setting forth a description of the proposed action and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) nor more than fifty (50) days after the date such notice shall have been given, on or before which all votes must be received. The quorum and percentage of approvals required for mail ballots shall be the same as required by the Declaration, Articles of Incorporation or Bylaws for the subject vote. Mail ballots shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

BYLAW IV

Property Rights and Rights of Enjoyment of Facilities and Functions

1. Each member shall be entitled to the use and enjoyment of Common Elements as set forth in the Declaration which from time to time is in force and effect, subject to such rules and regulations as may be adopted by the Association from time to time which may restrict access to common elements for violations and failure to pay dues.

BYLAW V

Administration

1. Annual Meeting. The annual meeting of the members shall be held in the month of December on a date to be established by the Board of Directors for the purpose of electing directors and for the transaction of such other business as may be necessary. The Board shall notify the members of the date and time of the meeting via U.S. Mail, facsimile or email not less than thirty (30) nor more than sixty (60) days prior to the date of the meeting.

2. Special Meetings. Special meetings of members, for any purpose, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the President at the request of the members entitled to vote 30 percent or more of the total votes.

3. Place of Meeting. The Board of Directors may designate any place, either within or outside Colorado, as the place for any annual meeting or for any special meeting called by the Board of Directors. Meetings may be conducted by electronic or telephonic means. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or outside Colorado, as the place for such meeting. If no designation is made, or if a special meeting shall be called otherwise than by the Board, the place of meeting shall be the principal office of the Association.

4. Notice of Special Meeting. Written or printed notice of any special meeting of the members stating the place, day and hour of the special meeting, and the hour of the special meeting, and the purposes for which the meeting is called, shall be delivered personally or by mail to each member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears in the office of the Association, with postage thereon prepaid. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at corporate expense.

5. Informal Action by Members. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the members and may be stated as such in any articles or document filed with the Secretary of State of Colorado.

6. Voting By Mail. At any Board meeting where a quorum is present, the Board may by majority vote choose to submit any issue to the Members for vote by mail ballot. In the event of a vote by mail on any proposed issue, the Secretary shall give notice to all owners or co-owners of each membership, which notice shall include a proposed written resolution setting forth a description of the proposed action and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) nor more than fifty (50) days after the date such notice shall have been given, on or before which all votes must be received. The quorum and percentage of approvals required for mail ballots shall be the same as required by

the Articles of Incorporation or Bylaws for the subject vote. Mail ballots shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

BYLAW VI

Board of Directors

1. Number, Tenure and Qualifications. The business and affairs of the Association shall be managed by a Board of Directors consisting of three (3) directors who must be members of the Association or the Declarant. Directors shall be elected or appointed annually by the members at the annual meeting. Directors shall serve a three year term. The initial Board terms shall be staggered so as to provide for overlap of current members as follows:

Seat One: 1 year
Seat Two: 2 years
Seat Three: 3 years

2. Resignations; Vacancies. Any director may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors by reason of resignation, death or an increase in the number of directors may be filled by the vote of a majority of the directors then in office though less than a quorum. If a director resigns, his replacement shall hold office only until the next annual meeting of the Association.

3. General Powers. The Board of Directors shall have and may exercise all the powers of the Association except as are expressly conferred upon the members by law, by the Articles of Incorporation, the Declaration or these Bylaws as from time to time are in force and effect.

4. Additional Powers and Responsibilities. In addition to its general powers, the Board of Directors acting through the Association's officers, and subject to the provisions of the Declaration, shall have the authority and the responsibility to:

(A) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligation and all other provisions set forth in the Articles of Incorporation, the Declaration or the Bylaws as from time to time are in force and effect.

(B) To establish, make, amend, publish and enforce compliance with such reasonable rules and regulations governing the operation and use of Facilities and Functions and the personal conduct of the members and guests, and to establish, make, amend, publish and enforce payment of reasonable charges for the use of Facilities and Functions.

(C) To maintain in good order, condition and repair Facilities and all items of personal property used in the enjoyment of such property.

(D) To obtain and maintain insurance in connection with Facilities and related personal property in the manner and amounts provided in the Declaration, and such other insurance as the Board of Directors may consider appropriate.

(E) To fix, determine, levy and collect all assessments to meet the common expenses and costs of the Association, and to create a reasonable reserve therefor, as more fully set forth in Bylaw IX hereof.

(F) To collect promptly all delinquent assessments by suit or otherwise and to enjoin or seek damages from a member or guest.

(G) To collect the charges, sums, liquidated damages or fees set forth in the Declaration, and otherwise provided for in the Homeowner Company's Articles of Incorporation and these Bylaws, which are in effect from time to time.

(H) To issue, or cause an appropriate officer to issue, upon written demand of any member a certificate setting forth whether any assessment, charge, fine or penalty has been paid by such member. Such certificate shall be conclusive evidence against the Association for all purposes. The Association may charge a reasonable fee for such certificate.

(I) To protect and defend Facilities from loss and damage by suit or otherwise.

(J) To borrow funds in order to pay for any expenditure or outlay authorized by these Bylaws, the Declaration and the Articles of Incorporation as from time to time are in force and effect, including but not limited to funds borrowed from Declarant or any affiliate thereof, and to execute all such instruments evidencing such indebtedness as may be necessary or advisable.

(K) To enter into contracts within the scope of their duties and powers.

(L) To establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

(M) To maintain full and accurate books and records showing all of the receipts, expenses or disbursements of the Association. Any member may inspect such records upon reasonable notice at any reasonable time.

(N) To prepare and upon request deliver to any requesting member an annual statement showing all receipts, expenses or disbursements since the last such statement.

5. Compensation Reimbursement. The Board of Directors shall not be compensated for their services to the Association. Any director may be paid his reasonable expenses incurred, if any, in furtherance of the business or affairs of the Association.

6. Regular Meetings. Regular meetings of the Board of Directors may be held without call or formal notice at such places within the State of Colorado, and at such time as the Board may from time to time by vote determine. Meetings may be held by electronic or telephonic means. Any business may be transacted at a regular meeting. Until further determination, the regular meeting of the Board of Directors for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of members, or any special meeting of members at which a Board of Directors is elected.

7. Special Meetings. Special meetings of the Board of Directors may be held at any place within Colorado at any time when called by the president, or by 2 or more directors, upon prior notice of the time and place thereof being given personally to each director, or by leaving such notice with him or at his residence or usual place of business, or by mailing or telegraphing it prepaid, and addressed to him at his post office address as it appears on the books of the Association, or by telephone. Notices shall state the purpose of the meeting. No notice of any adjourned meeting of the directors shall be required.

8. Quorum. A majority of the number of directors fixed by the Bylaws shall constitute a quorum for the transaction on business, but a lesser number may adjourn any from time to time. When a quorum is present at any meeting, a majority of the directors in attendance shall, except where a larger number is required by law, by the Articles of Incorporation, the Declaration or by these Bylaws as from time to time are in force and effect, decide any question brought before such meeting.

9. Waiver of Notice. Before, at or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

10. Informal Action by Directors. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the directors.

BYLAW VII

Officer and Agents

1. General. The officers of the Association shall be a president, a vice-president, a secretary and a treasurer and shall be elected from and by the Board of Directors. The Board of Directors may appoint such other officers, assistant officers, committees and agent, including vice-presidents, assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board of Directors. The officers of the Association shall not receive a salary or any compensation. One person may hold

any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaws or by the Board of Directors, such office, agent or employee shall follow the orders and instructions of the president or his designee.

2. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purposes.

3. Vacancies. A vacancy in any office, however occurring, may be filled by the Board of Directors for the unexpired portion of the term.

4. President. The president shall be the chief executive officer of the Association. He shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents and employees.

5. Vice Presidents. The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the President or by the Board of Directors. In the absence of the president, the vice president designated by the Board of Directors or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation shall be made all vice presidents may exercise such powers and perform such duties.

6. Secretary. The secretary shall:

(a) Keep the minutes of the proceedings of the members, executive committee and the Board of Directors;

(b) See that all notices are duly given in accordance with the provisions of these Bylaws, the Articles of Incorporation, the Declaration and as required by law;

(c) Keep at its registered office or principal place of business within or outside Colorado a record containing the names and registered addresses of all members, the designation of the property owned or leased by each member, and, if such property is mortgaged and the mortgagee has given the Association notice thereof, the name and address of the mortgagee;

(d) In general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him/her by the president or by the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

7. Treasurer. The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board of Directors. He shall receive and give receipts and acquittances for monies paid in on account of the Association and shall pay out of the funds on hand all bills,

payrolls and other just debts of the Association of whatever nature upon maturity. He shall perform all other duties incident to the office of treasurer and, upon request of the Board of Directors, shall make such reports to it as may be required at any time. He shall, if required by the Board of Directors, given the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association. He shall have such other powers and perform such other duties as may be from time to time prescribed by the Board of Directors or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

BYLAW VIII

Obligations of the Members

1. Assessments.

(a) If assessed then each Owner shall be obligated to pay to any and all assessments levied with respect to such Owner's Site, and each Owner shall comply with any determinations made by the Board of Directors with respect to such assessments.

(b) If a special assessment is validly levied, each member shall be obligated to pay and shall pay to the Association its proportionate share of such assessment based upon the determinations made by the Board of Directors with respect to such assessments.

(c) Each member shall pay all charges, fines, liquidated damages, penalties, interest, or other amount payable to the Association in connection with or payable under the Declaration, the Articles of Incorporation or these Bylaws.

2. Time for Payments. The amount of any assessment, charge, fine, liquidated damage, penalty or other amount payable with respect to any member or such member's guests or Site shall become due and payable as specified in the Declaration, the Articles of Incorporation or these Bylaws, as from time to time are in force and effect, or by the Board of Directors, and any such amount which is delinquent shall bear interest at the rate of 12 percent or the highest amount allowed per law if such amount is lower, per annum from the date due and payable unless specifically specified otherwise.

3. Lien for Assessments and Other Amounts. In addition to the rights set forth in Bylaw IX hereof, the Association shall have a lien against each Site to secure payment of any assessment, charge, fine, penalty, liquidated damages or other amount due and owing to the Association with respect to the Owner of that Site or with respect to such Owner's lessees, guests or Site, plus interest from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. All such liens shall be junior to any first lien or encumbrance on a Site taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of San Miguel County, Colorado, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Site, and naming the Owner of the

Sit. Such lien may be foreclosed in the manner for foreclosures of mortgages in the State of Colorado.

4. Compliance with the Declaration, Articles of Incorporation, Bylaws and Rules and Regulations. Each Member shall comply with all provisions of the Declaration, Articles of Incorporation, these Bylaws, and any rules and regulations issued by the Board of Directors as from time to time are in force and effect. The membership rights and privileges, including, but not limited to, the right to vote and the right to use Facilities and Functions of any member or guest, may be suspended by action of the Board of Directors during the period when any assessments or other amounts due relating to such member's Site remain unpaid; but, upon payment of such assessments or other amounts, such rights and privileges shall be automatically restored. If the Board of Directors has adopted and published rules and regulations governing the use of Facilities or Functions and the personal conduct of any person related thereto, the directors or the officers of the Association may, in their discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed 30 days, or if such person is in a continuous violation of such rules and regulations for a period until such time as the violations ceases. At the time such continuous violation ceases, the 30 day suspension may be applied to such person.

5. Amendments. This Bylaw VIII may be amended only by the affirmative vote of fifty (50%) of the members.

BYLAW IX

General Provisions

1. General Provisions. Any payment or report required hereunder to be made to the Association shall be deemed to have been made in a timely fashion if sent to the principal office of the Association by first class mail, postage prepaid, and postmarked no later than the date such payment or report is due, provided the Association thereby actually receives such payment or report. The Association at its own expense shall have the right at any time during regular business hours to inspect and copy all records and to audit all accounts of any member which are reasonably related to such member's obligations hereunder to pay assessments to make reports to the Association. Unless otherwise provided for, if any portion of any assessment hereunder is not paid when due and payable, such portion shall bear simple interest at the rate of 18 percent per annum from the date due until paid, and the amount of such interest shall for all purposes hereunder (other than the computation of such interest) be added to and become part of the assessment; provided that the Board of Directors may in its discretion waive all or any part of such interest for reasonable cause shown. The Board of Directors shall have power to collect any part of any assessment not paid when due and to enforce any other obligations of any member by any legal means available to it. Each Owner shall hold harmless and indemnify the Association and its agents and employees from and against any and all costs, losses, obligations, penalties, expenses, liabilities and damages of every kind whatsoever, including court costs and all reasonable attorney's fees, incurred by or imposed upon the Association or any of its agents or employees in the collection of such Owner's or member's assessments hereunder which are not paid when due or otherwise in the enforcement of any of such Owner's or member's obligations. The Board of Directors shall have power to determine any matter and to resolve any dispute arising out of the application, determination,

payment and collection of any assessment or the making of any report provided for in this Bylaw IX and may promulgate such additional rules and regulations which are consistent with the provisions hereof as the Board of Directors may deem necessary, useful or appropriate to the reasonable and efficient administration of such provisions.

2. Association Budget. At the first meeting of the Board of Directors following the adoption of the Association's fiscal year, the Board of Directors shall adopt an estimated budget for the remainder of that fiscal year. Such budget shall include:

(a) the estimated operating costs and expenses and proposed capital expenditures which will be chargeable to the Association to fulfill its obligations under the Declaration, the Articles of Incorporation and the Bylaws as then in force and effect;

(b) the estimated income and other funds which will be received by the Association; and

(c) the estimated total amounts required to be raised by assessments to cover such costs, expenses and capital expenditures of the Association and to provide a reasonable reserve. For each subsequent fiscal year the Board of Directors shall, prior to the beginning of such fiscal year, adopt a similar budget which shall also include all long-term or continuing commitments of the Association made in connection with or contemplated under any previously approved budget. The Board of Directors shall make copies of the proposed budget available to all interested members at the principal office of the Association. At the budget meeting, members shall have the right to be heard concerning the budget; however, the Board of Directors shall retain the sole power to approve the budget unless sixty-seven percent of the Members vote to reject the budget approved by the Board of Directors. Special meetings may be held in like manner upon notice to consider supplementation or revision of any budget. Notice of any such special meeting shall contain a reasonably detailed description of the supplement or revision proposed. Except as emergencies may require, the Association shall make no commitment or expenditures in excess of the funds reasonably expected to be available to the Association through assessments, all other sources of income and borrowing.

BYLAW X

Evidence and Determination of Membership, Registration of Mailing Address and Lien Holders

1. Evidence of Membership and Registration of Mailing Address. Any party on becoming a member shall furnish to the Association a certified property report, on a form established by the Board of Directors, and required backup information. Each such member shall at the same time give a designated representative, email address and mailing address to which notices to such member may be sent. In the event of any change in the facts reported in the original written notice, including any change of ownership, the member shall give a new written notice to the Association containing all the information required to be covered by the original notice. As against any member, the Association may, but shall not be obligated to, rely, for any and all purposes, on the information reflected in the most recent written notice furnished with respect to such member. The Association shall keep and preserve the most recent written notice received by the Association with respect to each member.

2. Association Determinations to Membership. The Association, based upon written notices furnished by members as aforesaid and based upon its own investigation, shall have the right, authority and obligation to fix and determine the number and class of votes existing with respect to each member. The Association shall make such determination at least annually and, in any event, as of any record date and shall make supplemental determinations from time to time as may be necessary after any record date in the light of changes which may come to its attention. The Association shall keep records of its determinations hereunder which shall be used and may be relied upon by it for any and all purposes. No party shall be entitled to any notice or the right to vote until it has been determined by the Association that such party is a member. Any party aggrieved by any determination of the Association with respect to its voting rights may contest action within 45 days after it has notice thereof by commencing a legal action in the District Court of Dolores County, Colorado within such 45-day period. If such action is not commenced in such period, the determination of the Association shall be final.

3. Address of the Association. The address of the Association shall be _____ Colorado (zip). Such address may be changed from time to time upon written notice to all members and all mortgagees or beneficiaries of deeds of trust whose names and address have been previously filed with the Association.

BYLAW XI

Security Interest in Membership

Members shall have the right irrevocably to constitute and appoint the mortgage or the beneficiary of a trust deed their true and lawful attorney-in-fact to vote in the Association at any all meetings of the Association and to vest in the mortgagee or the beneficiary any and all rights, privileges and powers that they have as members under the Articles of Incorporation and these Bylaws or by the virtue of the Declaration as from time to time are in force and effect. Such proxy and vesting shall become effective upon the filing of notice by the mortgagee or the beneficiary with the secretary of the Association at such time or times as the mortgagee or the beneficiary shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the Board of Directors or the members to carry out their duties as set forth in the Declaration. A release of the mortgage or other beneficiary's deed of trust shall operate to revoke such proxy and vesting. Nothing contained in this Bylaw XI shall be construed to relieve members, as mortgagors, of their duties and obligations as members or to impose upon the mortgagee or the beneficiary of the deed of trust the duties and obligations of an Owner.

EFFECTIVE DATE: _____, _____

BEDROCK CONDOMINIUMS MASTER ASSOCIATION, INC.:

By: _____, President

ATTEST:

By: _____

_____, Secretary

**DECLARATIONS OF COVENANTS CONDITIONS AND RESTRICTIONS
(THE BEDROCK CONDOMINIUMS MASTER ASSOCIATION)**

This Declaration of Covenants, Conditions and Restrictions for the Bedrock Condominiums Master Association (“**Declaration**”), is made effective as of this _____ day of _____, 2024 (“**Effective Date**”), is executed, made and entered into by BRD, LLC, a Colorado limited liability company (“**Declarant**”).

RECITALS

1. Declarant is the owner of that certain real property situated in The Town of Rico, Dolores County, Colorado (“**Property**”), as more particularly described on attached **Exhibit “A”**.

2. Declarant intends to establish the Property with “**Master Association Common Elements**”, four constructed buildings with ten units, within two subordinate associations as set forth below and “**Future Development Areas**” to accommodate the remaining units that can be developed on the Property at a future date. The Master Association Common Elements, Future Development Areas together with the improvements will be established as a condominium regime, entitled Bedrock Condominiums, a Colorado common interest ownership community under the Act (defined below) (“**Common Interest Community**” or “**Community**”), which shall be governed by The Bedrock Condominiums Master Owners Association, a Colorado non-profit corporation (“**Association**” or “**Master Association**”), which has been formed as a non-profit association to exercise the functions set forth herein and to own, lease, hold, operate, care for and manage certain property owned by the Association for the common benefit of Owners and Occupants of Common Interest Community.

3. In addition to the four buildings already constructed within the Subordinate Associations (defined below), Declarant has reserved the right to develop and construct one or more separate buildings (“**Building(s)**”) on the Future Development Areas. Each Building may contain either single residence or unit or multiple individual residential condominium units (“**Units**”). As Buildings and Units are substantially completed on the Future Development Areas, Declarant will file documents which will supplement this Declaration and the Map, to annex the Building, Units and other improvements into the Common Interest Community and to establish new “**Subordinate Association(s)**” (defined below) to manage the affairs of the Buildings, Units and other Improvements constructed on the Future Development Areas. It is intended that the Common Elements established within the Future Development Areas will be commonly owned and exclusively used by only the Owners of Units constructed in Building(s) and made subject to the provisions of the Subordinate Association for those Building(s). The creation of the Subordinate Association shall comply with the provisions of this Declaration, although the Declarant may include other provisions in any supplemental instrument, which are not inconsistent with these Declarations. Each Subordinate Association will have the right, power, authority and obligation to manage and maintain the development that occurs within the area designated for that particular Subordinate Association. A Subordinate Association will not have the right, power, authority and obligation to manage and maintain the development that occurs within an area designated as another Subordinate Association, unless specifically stated and designated by Declarant in this Declaration or any amendment or supplement to the Declaration or Map. Owners of Units within a Subordinate Association shall share in the cost and expense of maintaining Buildings, Improvements and Common Elements located within that Subordinate Association.

4. The Master Association has been formed to own, operate and manage common elements which are to be shared between more than one Subordinate Association, such as roads, pathways, utilities, landscaping, snow storage and similar common areas. In addition, the Master Association will monitor and enforce compliance with restrictions contained in these Declarations and shall provide for the proper payment of taxes for all Master Association Property, among other undertakings. A Subordinate Association shall not be authorized or empowered to interfere with the exercise of power and authority nor with the proper management or operation of the affairs of either the Master Association or of another Subordinate Association as such authority is granted by these Declarations.

5. Each Subordinate Association will have authority and jurisdiction to manage and administer all matters and affairs which occur within the boundaries of the particular Subordinate Association and to manage and maintain the Subordinate Association Common Elements and Subordinate Association Facilities included within the boundaries of the Subordinate Association, to the exclusion of the management and control of the Master Association or any other Subordinate Association, except in instances where these Declarations or other instrument provide for some management and control of a portion of the Subordinate Association by the Master Association in connection with the Master Association Common Elements or Master Association Facilities, and then such management and control shall be narrowly exercised and construed by the Master Association. The Declarant for so long as Declarant owns the rights to develop the Future Development Areas or a Unit in the Common Interest Community shall resolve any conflicts between the respective roles and jurisdiction of the Master Association and each Subordinate Association. Thereafter, any disputes will be resolved by mediation.

6. The Common Interest Community has been approved for development pursuant to the Town Approvals (defined below). Under the Town Approvals, a total of twenty-six bedrooms configured into various Unit mixes are approved to be constructed and as of the date of this Declaration a

total of 10 individual Units with 12 bedrooms in four buildings have been constructed. The maximum number of Units that may be created within the Common Interest Community is 24 Units/26 Bedrooms. Declarant is reserving the right for itself and its designees to construct additional Buildings, Units and other Improvements, consistent with the Town Approvals, on the Future Development Areas. The Map may indicate the general location for such future development and designate such areas as “**Future Development Areas**” although the location and footprint of improvements is not specifically designated.

7. Declarant further intends that each Subordinate Association shall be created with the filing of the initial Declaration and the initial Map for the Common Interest Community. The Future Development Areas are distinct and separate phase(s) in the Common Interest Community and may be annexed with additional units in one or more phases together or separately and may be withdrawn prior to the sale of any Units constructed in a Building within the Future Development Areas. The Future Development Areas shall be owned separately and no rights or interests in the Future Development Areas are established or vest in Owners of Units with the Subordinate Associations. The Future Development Areas may be transferred, conveyed, mortgaged or hypothecated without consent or approval of the Owners within a Subordinate Association or this Master Association.

8. Declarant desires to establish covenants, conditions and restrictions upon the Common Interest Community and certain mutually beneficial restrictions and limitations with respect to the proper use, occupancy, improvement and enjoyment thereof, all for the purposes of enhancing and protecting the value, desirability and attractiveness of the Common Interest Community and enhancing the quality of life within the Common Interest Community.

9. Declarant desires and intends that the Owners, Mortgagees, Occupants and all other Persons hereafter acquiring any interest in the Common Interest Community shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements contained in this Declaration, as it may be amended from time to time.

DECLARATION

NOW, THEREFORE, for the purposes set forth above and herein, Declarant for itself and its successors and assigns hereby declares that the Common Interest Community and any other property, if any, which becomes subject to this Declaration in the manner hereinafter provided, and each part thereof, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, improved, altered, maintained and enjoyed subject to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations, exceptions, easements, privileges, rights and other provisions hereinafter set forth, for the duration hereof, all of which are declared to be part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement, use, occupancy and enjoyment of the Common Interest Community, and all of which shall run with the land and be binding upon and inure to the benefit of (i) the Common Interest Community and every part thereof, (ii) Declarant and its successors and assigns, (iii) the Association and its successors and assigns, (iv) every Member of the Association, and (v) all Owners, Occupants and other Persons having or acquiring any right, title or interest in or to the Common Interest Community or any part thereof, or any Improvement thereon, and their respective heirs, personal representatives, successors and assigns. Provided always, that to the extent this Declaration provides that the Declarant shall not be bound by or is exempt from the application of certain covenants, conditions and restrictions contained herein, Declarant shall not be considered subject to such covenants conditions or restrictions.

ARTICLE ONE DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified.

1.1. Act. “Act” shall mean the Colorado Common Interest Ownership Act as set forth in C.R.S. 38-33.3-101, et seq., as the same may be amended from time to time.

1.2. Buildings “Buildings” means those portions of the Improvements consisting of physical building structures and appurtenant components, including, by way of illustration but not limitation, any Unit, platform, balcony, deck, terrace, porch, patio, stairs, hallway, foundations, columns, supports, exterior walls, roofs, partition walls, roof overhangs, basements, attics and parking garages and parking and storage spaces, if any accommodating Units and described as such herein and/or on the Map (as amended from time-to-time). Upon completion of the construction of a new Building, Declarant shall cause a supplement to the Map and Declaration to be prepared, executed and recorded, which will establish the dimensions, location, number and extent of the Units and Building Common Elements contained in the Building within a new Subordinate Association.

1.3. Common Interest Community. “Common Interest Community” means Bedrock Condominiums, a Colorado common interest ownership community, and any additional real property which may from time to time be annexed into the Common Interest Community and made subject to this Declaration by Supplemental Declaration and Supplemental Map, including all Units and Association Property, together with all Improvements and other amenities now or hereafter located thereon, and

together with all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. If any portion of the Property is subsequently withdrawn from the Common Interest Community pursuant to the provisions of this Declaration, the term "Common Interest Community" shall no longer apply to such withdrawn property.

1.4. Declarant. "Declarant" means BRD, LLC, a Colorado limited liability company, its successors, assigns, and affiliates. A Person shall be deemed to be a "successor and assign" of Declarant if specifically designated in a duly Recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in that written instrument. The term "affiliate of Declarant" shall have the meaning set forth in Section 38-33-103(1) of the Act.

1.5. Declaration. "Declaration" means this instrument and all Supplemental Declarations, as this instrument and such Supplemental Declarations may be amended from time to time.

1.6. Deed of Trust. "Deed of Trust" means a Mortgage.

1.7. Household Pets. "Household Pets" means generally recognized household pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles.

1.8. Improvements. "Improvements" means any improvements, structural or otherwise, alterations, additions, repairs, excavation, grading, landscaping or other work which in any way alter any property within the Common Interest Community or subject to the control of a Subordinate Association, or the improvements located thereon, from its natural or improved state existing on the date this Declaration or a Supplemental Declaration for such property was first Recorded, including, but not limited to, Buildings, landscaping, retaining walls, roads, parking structures or parking areas, pathways and the like. Once an Improvement has been constructed or accomplished on a property within the Common Interest Community, any subsequent alteration of or addition to or removal of that Improvement shall also constitute an "Improvement" hereunder.

1.9. Lease. "Lease" means and refers to any agreement for the leasing, rental, use or occupancy of a residential dwelling located on a Unit within the Common Interest Community. The required terms and procedures for Leases are more particularly set forth in Section 3.33 below.

1.10. Limited Common Element. "Limited Common Element" means a Common Element that is designated by this Declaration, a Supplemental Declaration, a Map or an amended or a Supplemental Map, for the exclusive use of one or more Units in the Common Interest Community but fewer than all of the Units.

1.11. Unit. "Unit" means any part of the Common Interest Community which is designated as a Unit on a Map or an amended or Supplemental Map, together with all Improvements thereon and appurtenances thereto.

1.12. Rules and Regulations. "Rules and Regulations" means rules and regulations adopted from time to time by the Master Association Executive Board or by the Subordinate Association Executive Board as provided for in this Declaration.

1.13. Map. "Map" means the Community Map for Bedrock Condominiums, as recorded _____, 2024 at Reception No _____ in the Official Records, as said Map may be amended from time to time. By this reference, said Final Map is incorporated in this Declaration. The term "Map" shall also mean and refer to each Supplemental Map and/or amended Map.

1.14. Master Association "Master Association" means Bedrock Condominium Master Association, a Colorado non-profit corporation, its successors and assigns.

1.15. Master Association Allocated Interests. "Allocated Interests" means the Common Expense liability and the votes in the Master Association allocated to each Subordinate Association, which interests are allocated as follows:

(a) Each Subordinate Association shall be allocated a share of the Common Expense for the Community based upon the constructed conditioned square footage within that Subordinate Association. The share each Subordinate Association shall be allocated is calculated on the basis of a fraction, the numerator of which is the constructed conditioned square footage within that Subordinate Association and the denominator of which is the total constructed conditioned square footage actually constructed from time to time within the Common Interest Community. Such fraction is then multiplied by the Common Expense or the Assessment in question to determine that Subordinate Associations share thereof. The Common Expense liability of a Subordinate Association is determined without reference to the size, location, value or use of the Subordinate Association.

(b) Initially, the Subordinate Associations where units have been constructed shall have one (1) vote in the Master Association, which vote shall be weighted on the basis of a fraction, the numerator of which is the constructed conditioned square footage within each Subordinate

Association and the denominator of which is the total constructed conditioned square footage actually constructed from time to time within the Common Interest Community. It is acknowledged that the votes assigned to the Subordinate Associations in the Master Association shall be exercised by the Subordinate Association when formed and not by the individual Owners of Units in the Subordinate Association.

(c) If the condition square footage actually constructed on the Future Development Areas or elsewhere in the Common Interest Community pursuant to the Declarants Reserved Rights, or otherwise, should increase or decrease, or Units are added to or withdrawn from the Common Interest Community, then (i) the Common Expense liability for the Common Interest Community shall be reallocated to account for the conditioned square footage of new Units actually constructed or withdrawn Units as set forth above and (ii) one vote in the Master Association shall be allocated to each new Subordinate Association in the Common Interest Community following the addition or withdrawal of Units and a new Subordinate Association.

The Allocated Interests for the Common Interest Community are specifically set forth on **Exhibit "B"** attached hereto and made a part hereof by this reference, as said **Exhibit "B"** may be amended from time to time.

1.16. Master Association Assessment. "Assessment" means a Regular Assessment, Special Assessment, or Reimbursement Assessment, as defined in this Declaration, which have been assessed or charged by the Subordinate Association Executive Board.

1.17. Master Association Budget. "Budget" means a written itemized estimate of the Common Expenses to be incurred by the Master Association in performing its functions under this Declaration and adopted respectively by the Master Association Executive Board pursuant to this Declaration.

1.18. Master Association Bylaws. "Bylaws" means the Bylaws of the Master Association which have been or will be adopted by the Executive Board of the Association, as the same may be amended from time to time.

1.19. Master Association Common Element. "Master Association Common Element" means any portion of the Common Interest Community designated in this Declaration or on a Map or any Supplemental Plan as a Master Association Common Element or a Master Association Limited Common Element. Master Association Common Element may also be such other property which is owned or leased or maintained by the Master Association for the common use and enjoyment of the Owners and Occupants, such as pathways, utilities, utility and other easements, common roads and parking areas, landscaping and the like. Any beneficial rights, if any, under easements granted and conveyed to the Master Association shall be deemed to be a Master Association Common Element.

1.20. Master Association Common Expenses. "Master Association Common Expenses" means any expenditures made or liabilities incurred by or on behalf of the Master Association, together with any allocations to reserves, if any, including, but not limited to the following:

(a) The costs of maintenance, management, operation, repair and replacement of the Master Association Property, and of all other parts of the Common Interest Community which are managed or maintained by the Master Association;

(b) The costs of Improvements constructed from time to time by the Master Association on or in connection with the Master Association Property, if such costs were included within a duly adopted Master Association Budget;

(c) Unpaid assessments;

(d) The costs of management and administration of the Master Association, including, but not limited to, compensation paid by the Master Association to managers, accountants, attorneys and employees;

(e) The costs of utilities and services (including, but not limited to, treated or untreated water, electricity, gas, sewer, trash pick-up and disposal and recycling), which may be provided to the Master Association or the Common Interest Community or parts thereof and not individually metered or assessed to Units, landscaping maintenance, and other services which generally benefit and enhance the value and desirability of the Common Interest Community or parts thereof and which are provided by or on behalf of the Association;

(f) The costs of insurance maintained by the Master Association as required or permitted herein;

(g) Reasonable reserves for contingencies, replacements and other proper purposes as deemed appropriate by the Master Association Executive Board to meet anticipated costs and expenses including, but not limited to, maintenance, repair and replacement of Master Association Property that must be maintained, repaired or replaced on a periodic basis. The foregoing shall not be construed as creating any obligation on the part of the Master Association, including the period

of time when the Master Association is controlled by the Declarant, to establish, impose and/or maintain any reserves, rather, this provision is intended to authorize the Master Association to collect such reserves should the Master Association in its sole discretion determine that reserves should be maintained;

(h) The costs of bonding the members of the Master Association Executive Board, the officers of the Master Association, any professional managing agent or any other Person handling the funds of the Master Association;

(i) Taxes paid by the Master Association;

(j) Amounts paid by the Master Association for the discharge of any lien or encumbrance levied against Association Property or any portion thereof;

(k) The costs and expenses incurred by the Master Association Executive Board, and compensation that may be paid by the Master Association to members of the Master Association Executive Board;

(l) The costs and expenses incurred by any committees that may be established from time to time by the Master Association Executive Board, and compensation that may be paid by the Master Association to members of such committees;

(m) The costs of any security or security systems or services that may be installed, operated, monitored or contracted for by the Master Association for the benefit of the Common Interest Community or any part thereof;

(n) The costs of maintaining, operating and replacing informational, recreational, cultural, health-related or similar facilities or enterprises available to or for the benefit of all of the Common Interest Community;

(o) All expenses expressly declared to be Common Expenses by this Declaration or by a Supplemental Declaration, and all expenses lawfully determined to be Common Expenses by the Master Association Executive Board; and

(p) Other expenses incurred by the Master Association for any reason whatsoever in connection with Master Association Property, or the costs of any other item or service provided or performed by the Master Association pursuant to this Declaration, the Master Association Articles, Master Association Bylaws, Master Association Rules and Regulations or in furtherance of the purposes of the Master Association or in the discharge of any duties or powers of the Master Association, including any duties and obligations established in accordance with the Town Approvals. In the event that any common services furnished to the Common Interest Community are part of services that are provided to or benefit property in addition to the Common Interest Community, Common Expenses shall only include the cost of such services reasonably allocated to the services provided to the Common Interest Community.

1.21. Master Association Executive Board. “Master Association Executive Board” means the Master Association Executive Board of the Master Association as provided for in this Declaration and in the Master Association Bylaws.

1.22. Master Association Facilities. “Master Association Facilities” means Improvements made, which are designated as Master Association Facilities in these Declarations or on the Map. Master Association Facilities will be managed and maintained by the Master Association. Each Owner of a Unit in the Community will have the right to use and enjoy the Master Association Facilities.

1.30. Master Association Property. “Master Association Property” means, to the extent of the Master Association’s interest therein: (a) all real and personal property, including Buildings and Improvements, if any, now or hereafter owned or leased by the Association, (b) all Common Elements now or hereafter owned, leased or maintained by the Association, together with the Improvements thereon; (c) all easements created or reserved on any Map, or Supplemental Map, or in this Declaration or in any separate agreement, for the use and benefit of the Association and/or the Owners, and (d) any utilities, facilities and/or features (or interests therein) that may be owned, leased or maintained by the Master Association or which the Master Association and/or the Owners are entitled to use. Master Association Property may be located within or outside the Common Interest Community. Ownership of the Master Association Property is subject to the Permitted Exceptions. Subordinate Association Property is not Master Association Property.

1.23. Member. “Member” means each Unit Owner, including the Declarant. Membership in the Master Association and a Subordinate Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

1.24. Mortgage. “Mortgage” means any mortgage, deed of trust or other security instrument, given voluntarily by the Owner of a Unit, creating a real property security interest in a Unit and Recorded in the records of the Clerk and Recorder of Dolores County. “First Mortgage” means a mortgage which is

the first and most senior of the Mortgages on the same Unit. The term “Mortgage” does not mean a statutory, tax or judicial lien. The term “Deed of Trust” when used herein shall be synonymous with the term “Mortgage.”

1.25. Mortgagee. “Mortgagee” means a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee.

1.26. Mortgagor. “Mortgagor” means the maker, obligor or grantor of a Mortgage. The term “Mortgagor” includes a trustor or grantor under a Deed of Trust.

1.27. Notice and Hearing. “Notice and Hearing” means a written notice and public hearing before the Executive Board, or a panel appointed by the Executive Board, as set forth in the Bylaws.

1.28. Occupant. “Occupant” means any Person who is a tenant in a residence on a Unit pursuant to a Lease with the Owner thereof. “Occupant” also means any Person who is present within the Common Interest Community as a family member, guest or invitee of an Owner, an Occupant, the Declarant, or the Association.

1.31. Official Records “Official Records” shall mean the Office of the Clerk and Recorder for Dolores County, Colorado.

1.32. Owner. “Owner” means the Person, including Declarant, or, if more than one, all Persons collectively, who hold fee simple title of record to a Unit, including sellers under executory contracts of sale and excluding buyers thereunder. The term “Owner” shall be analogous to the term “Unit Owner”, as that term is defined in the Act.

1.33. Bedrock 1 & 2 Subordinate Association. “Bedrock 1 & 2 Subordinate Association” shall mean the Subordinate Association which may be formed to manage and administer any Buildings and other Improvements which are constructed and designated as Bedrock 1 & 2 Condominiums, to own, maintain and manage the Bedrock 1 & 2 Common Elements (also referred to as Subordinate Association Common Elements) and to exercise and perform the other rights, duties, powers and authorities granted hereunder to a Subordinate Association.

1.34. Bedrock 3 & 4 Subordinate Association “Bedrock 3 & 4 Subordinate Association” shall mean the Subordinate Association which may be formed to manage and administer any Buildings and other Improvements which are constructed and designated as Bedrock 3 & 4 Condominiums, to own, maintain and manage the Bedrock 3 & 4 Common Elements (also referred to as Subordinate Association Common Elements) and to exercise and perform the other rights, duties, powers and authorities granted hereunder to a Subordinate Association.

1.35. Official Records means the Office of the Clerk and Recorder of Dolores County, Colorado

1.36. Permitted Exceptions. “Permitted Exceptions” means all liens, encumbrances, reservations, restrictions, conditions, easements and other matters of record which encumber the title to all or any part of the Common Interest Community, as of the date this Declaration or a Supplemental Declaration is Recorded. This Declaration and shall be subject to such Permitted Exceptions.

1.37. Person. “Person” means a natural person, a corporation, a partnership, a limited liability company, a trust, or any other entity capable of holding title to real property pursuant to the laws of the State of Colorado.

1.38. Plat. “Plat” means that Bedrock Subdivision Plat recorded at Reception No 171981, in the official records which creates Lot 6 which is subject to the Master Community Governing Documents

1.39. Record or Recorded. “Record” or “Recorded” means an instrument of record in, or the act of recording an instrument with, the office of the Clerk and Recorder of Dolores County.

1.40. Regular Assessment. “Regular Assessment” means a charge against an Owner and the Owner’s Unit for purposes of covering the annual costs of operating and administering the Master Association and/or a Subordinate Association and all other Common Expenses. Regular Assessments are based on a Budget adopted by the Master Association Executive Board and/or a Subordinate Association Executive Board in accordance with the Declaration and are allocated to the Subordinate Associations in accordance with the respective Master Association Allocated Interests and to the Units in accordance with the respective with the respective Subordinate Association Allocated Interests. A Common Expenses that in the judgment of the Master Association Executive Board benefits fewer than all of the Subordinate Associations in the Common Interest Community maybe allocated exclusively to the Subordinate Associations so benefited. A Common Expenses that in the judgment of a Subordinate Association Executive Board benefits fewer than all of the Units in the Subordinate Associations may be allocated exclusively to the Unit or Units so benefited.

1.41. Reimbursement Assessment. “Reimbursement Assessment” means a charge against a particular Owner and the Owner’s Unit for the purpose of reimbursing the Master Association and/or a

Subordinate Association for costs and expenses incurred by the Master Association and/or a Subordinate Association in connection with the enforcement of any provision hereof or the remedying of any violation by the Owner or an Occupant of this Declaration or any amendment hereto or, the Articles, Bylaws, Rules and Regulations of the respective Master Association and/or a Subordinate Association, or any approvals granted by the Master Association Executive Board and/or a Subordinate Association Executive Board, or for other purposes set forth in the Declaration, together with late charges and interest as provided for herein. Reimbursement Assessment shall include without limitation any Common Expense caused by the misconduct of any Owner or of such Owner's Occupants.

1.42. Special Assessment. "Special Assessment" means a charge against an Owner and the Owner's Unit for purposes of reimbursing the Master Association and/or a Subordinate Association for costs and expenses incurred or to be incurred by the Master Association and/or a Subordinate Association for the purpose of paying for the construction, reconstruction, repair, maintenance or replacement of capital improvements to or upon or serving the Common Interest Community for which the Master Association and/or a Subordinate Association has authority, the costs of which were not included in a Regular Assessment, or for excess reconstruction costs or other extraordinary expenses, or to acquire Master Association Property and/or Subordinate Association Property, or for funding any operating deficit of the Master Association and/or a Subordinate Association, as authorized by the Master Association Executive Board and/or a Subordinate Association Executive Board from time to time as provided herein. Special Assessments shall be based on a Budget adopted by the Master Association Executive Board and/or a Subordinate Association Executive Board in accordance with these Declarations.

1.43. Subordinate Association "Subordinate Association" means each separate association that is formed to manage and maintain Buildings, Improvements and Common Elements located and designated as a Subordinate Association.

1.44. Subordinate Association Allocated Interests. "Subordinate Association Allocated Interests" means the Common Expense liability and the votes in the Subordinate Association allocated to each Unit, which interests are allocated as follows:

(a) The Common Expense liability for each Unit is calculated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units within the Subordinate Association. Such fraction is then multiplied by the Common Expense or the Assessment in question to determine that Unit's share thereof. The Common Expense liability of a Unit is determined without reference to the size, location, value or use of the Unit. The Common Expense liability shall also be deemed to include an obligation for each Owner of a Unit within the Subordinate Association to a prorata share of the Master Association Common Expenses allocated to the Subordinate Association, which cost shall be allocated to each Owner of a Unit within the Subordinate Association in accordance with the Units Subordinate Association Allocated Interests.

(b) Each Owner of a Unit within the Subordinate Association shall be allocated a vote in the Subordinate Association which shall be weighted in accordance with the Allocated Interest assigned to the Unit and as may be further provided for in the Declaration and for a Supplemental Declaration for the Subordinate Association.

(c) Voting on Master Association matters assigned to a Subordinate Association shall be exercised by the Subordinate Association Executive Board and not by the individual Owners of Units in the Subordinate Association.

(d) The foregoing allocations may not discriminate in favor of Units owned by Declarant or an affiliate of Declarant.

(e) If Units are added to or withdrawn from the Subordinate Association or the Common Interest Community, (i) the Common Expense liability for each Unit shall be reallocated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units in the Common Interest Community following the addition or withdrawal of such Units, and (ii) one (1) vote in the Association shall continue to be allocated to each Unit in the Common Interest Community following the addition or-withdrawal of such Units.

(f) The Allocated Interests for the Subordinate Association will be stated in the Supplemental Map and/or Supplemental Declaration.

1.45. Subordinate Association Assessment. "Subordinate Association Assessment" means a Regular Assessment, Special Assessment, or Reimbursement Assessment, as defined in these Declarations, which have been assessed or charged by the Subordinate Association Executive Board.

1.46. Subordinate Association Budget. "Subordinate Association Budget" means a written itemized estimate of the Common Expenses to be incurred by the Subordinate Association in performing its functions under this Declaration and adopted by the Subordinate Association Executive Board pursuant to this Declaration.

1.47. Subordinate Association Bylaws. “Bylaws” means the Bylaws of the Subordinate Association, as the same may be amended from time to time.

1.48. Subordinate Association Common Element. “Subordinate Association Common Element” means any portion of the Common Interest Community designated in this Declaration or on a Map or any Supplemental Plan as a Subordinate Association Common Element or Subordinate Association Limited Common Element or other property which is owned or leased or maintained by the Subordinate Association for the common use and enjoyment of the Owners and Occupants or some of them within the Subordinate Association.

1.49. Subordinate Association Common Expenses. “Subordinate Association Common Expenses” means any expenditures made or liabilities incurred by or on behalf of the Subordinate Association, together with any allocations to reserves, including, but not limited to the following:

(a) The costs of maintenance, management, operation, repair and replacement of the Subordinate Association Property and any other property within the Common Interest Community which is managed or maintained by the Subordinate Association, if any;

(b) The costs of Improvements constructed from time to time by the Subordinate Association on or in connection with Subordinate Association Property, if such costs were included within a duly adopted Budget;

(c) Unpaid assessments;

(d) The costs of management and administration of the Subordinate Association, including, but not limited to, compensation paid by the Subordinate Association to managers, accountants, attorneys and employees;

(e) The costs of utilities and services (including, but not limited to, treated or untreated water, electricity, gas, sewer, trash pick-up and disposal and recycling), which may be provided to the Subordinate Association, not individually metered or assessed to Units within the Subordinate Association, landscaping maintenance, and other services which generally benefit and enhance the value and desirability of the Subordinate Association or parts thereof and which are provided by or on behalf of the Subordinate Association;

(f) The costs of insurance maintained by the Subordinate Association as required or permitted herein;

(g) Reasonable reserves for contingencies, replacements and other proper purposes as deemed appropriate by the Subordinate Association Executive Board to meet anticipated costs and expenses including, but not limited to, maintenance, repair and replacement of Subordinate Association Property that must be maintained, repaired or replaced on a periodic basis. The foregoing shall not be construed as creating any obligation on the part of the Subordinate Association, including the period of time when the Subordinate Association is controlled by the Declarant, to establish, impose and/or maintain any reserves, rather, this provision is intended to authorize the Subordinate Association to collect such reserves should the Subordinate Association in its sole discretion determine that reserves should be maintained;

(h) The costs of bonding the members of the Subordinate Association Executive Board, the officers of the Subordinate Association, any professional managing agent or any other Person handling the funds of the Subordinate Association;

(i) Taxes paid by the Subordinate Association;

(j) Amounts paid by the Subordinate Association for the discharge of any lien or encumbrance levied against Subordinate Association Property or any portion thereof;

(k) The costs and expenses incurred by the Subordinate Association Executive Board, and compensation that may be paid by the Association to members of the Subordinate Association Executive Board;

(l) The costs and expenses incurred by any committees that may be established from time to time by the Subordinate Association Executive Board, and compensation that may be paid by the Subordinate Association to members of such committees;

(m) The costs of any security or security systems or services that may be installed, operated, monitored or contracted for by the Subordinate Association for the benefit of the Common Interest Community or any part thereof;

(n) The costs of maintaining, operating and replacing informational, recreational, cultural, health-related or similar facilities or enterprises available to or for the benefit of all or a portion of the Subordinate Association;

(n) All expenses expressly declared to be Subordinate Association Common Expenses by this Declaration or by a Supplemental Declaration, and all expenses lawfully determined to be Common Expenses by the Subordinate Association Executive Board; and

(o) Master Association Common Expenses duly assessed against the Subordinate Association.

(p) Other expenses incurred by the Subordinate Association for any reason whatsoever in connection with Subordinate Association Property, or the costs of any other item or service provided or performed by the Subordinate Association pursuant to this Declaration, the Subordinate Association Articles, Subordinate Association Bylaws, Subordinate Association Rules and Regulations, or other duly adopted documents, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Subordinate Association, including any duties and obligations established in accordance with the Town Approvals. In the event that any common services furnished to the Subordinate Association are part of services that are provided to or benefit property in addition to the Subordinate Association, Subordinate Association Common Expenses shall only include the cost of such services reasonably allocated to the services provided to the Subordinate Association.

1.50. Subordinate Association Executive Board. “Subordinate Association Executive Board” means the Executive Board of the Subordinate Association as provided for in this Declaration and any Supplemental Declaration for the Subordinate Association.

1.51. Subordinate Association Facilities. “Subordinate Association Facilities” means Improvements made to the Community, which are designated as Subordinate Association Facilities in this Declaration or on the Map. Subordinate Association Facilities will be managed and maintained by the particular Subordinate Association having jurisdiction. Each Owner of a Unit in the Subordinate Association will have the right to use and enjoy the Subordinate Association Facilities.

1.52. Subordinate Association Property. “Subordinate Association Property” means, to the extent of the Subordinate Association’s interest therein: (a) all real and personal property, including Buildings and Improvements, now or hereafter owned or leased by the Subordinate Association, (b) all Subordinate Association Common Elements and/or Subordinate Association Facilities now or hereafter owned, leased or maintained by the Subordinate Association, together with the Improvements thereon; (c) all easements created or reserved on any Map, or Supplemental Map, or in this Declaration or in any separate agreement, for the use and benefit of the Subordinate Association and/or the Owners within that particular Subordinate Association, and (d) any water systems, sewer systems, facilities and/or features (or interests therein), if any, that may be owned, leased or maintained by the Subordinate Association or which the Subordinate Association and/or the Owners within a particular Subordinate Association are entitled to use. Subordinate Association Property may be located within or outside the Common Interest Community. Subordinate Association Property does not include the Units constructed thereon and its ownership is subject to the Permitted Exceptions.

1.53. Supplemental Declaration. “Supplemental Declaration” means an amendment to this Declaration which, among other things, annexes real property into the Common Interest Community and subjects such real property to this Declaration, establishes a Subordinate Association, and/or sets forth such other amendments to this Declaration and such additional covenants, conditions, uses and restrictions as may be applicable to the annexed property and/or the Subordinate Association as deemed appropriate by Declarant in its sole discretion.

1.54. Supplemental Map. “Supplemental Map” means an amendment to the Map which, among other things, annexes real property described therein into the Common Interest Community, establishes Subordinate Association Property, Subordinate Association Common Elements, Subordinate Association Facilities, Buildings, Building Common Elements and Units, and/or sets forth such other amendments to the Map and such additional designations as may be applicable to the annexed property and/or the Subordinate Association as deemed appropriate by Declarant in its sole discretion.

1.55. Town. “Town” shall mean the Town of Rico, including all boards, commissions, councils, employees and staff.

1.56. Town Approvals. “Town Approvals” shall mean any and all approvals, as may be amended, which have been granted or may be granted by the Town creating entitlements relating to the Property enabling Declarant to develop, improve and construct the Common Interest Community and any Improvements thereon, which Town Approvals are maintained by the Town of Rico. The term Town Approvals shall also include future plan and permit approvals, which are required by the Town in accordance with applicable Town codes, regulations and design guidelines.

ARTICLE TWO

GENERAL RESTRICTIONS APPLICABLE TO THE COMMON INTEREST COMMUNITY

It is the intention of Declarant to establish and impose a common and general plan for the improvement, development, use and occupancy of the Common Interest Community, all in order to enhance the value, desirability, and attractiveness of the Common Interest Community and to promote the marketing,

development and enjoyment thereof. Accordingly, Declarant hereby declares that the entire Common Interest Community, including but not limited to the Future Development Areas and Units, shall be owned, held, used, occupied, improved, altered, maintained, conveyed, leased, encumbered and enjoyed subject to the following covenants, conditions, restrictions, reservations, easements, rights and other provisions, and to the further requirements and restrictions set forth in the Design Guidelines, subject to such Declarant exemptions as may be set forth herein.

Declarant further intends that the Declarant and the respective Executive Board of the Master Association or a Subordinate Association having jurisdiction over the particular property, Building, Unit or other Improvement shall alone have the authority to review, monitor, enforce and apply the following rules and restrictions.

2.1. Development and Design Control. Except as otherwise expressly provided in this Declaration or in a Supplemental Declaration, (i) no Building or Improvements shall be commenced, made, done, permitted, located, erected, improved, altered or removed within the Common Interest Community without the prior written approval of the Town of Rico and Declarant for so long as Declarant owns or controls the Future Development Areas, or a Unit in the Common Interest Community, and (ii) all subsequent additions to or changes or alterations in any Building, Unit or Improvements shall also be subject to the prior approval of the Town of Rico and Declarant for so long as Declarant owns or controls the Future Development Areas or a Unit in the Common Interest Community. No separate or additional design review or other approval by the Master Association or a Subordinate Association shall be required to construct any Building, Unit or any Improvements.

Declarant or designee is expressly authorized to construct any and all such additional Buildings, Units and other Improvements in the Common Interest Community (as may be expanded), as such future development rights are noted in this Declaration and/or in the Map, which development and construction shall be subject to and completed in accordance with the Town Approvals. By the acceptance of a deed to a Unit and/or by the recordation of this Declaration, each Owner, Occupant, Person, Master Association and/or Subordinate Association agrees that it is prohibited from undertaking or causing to be undertaken any act or action which will in any way interfere with or otherwise attempt to limit or restrict the right or ability of Declarant or designee to undertake construction of such additional Buildings, Unit or any Improvements within the Common Interest Community, including, without limitation, appearing and objecting to any development application or permit application with the Town of Rico. Declarant may seek an order enjoining any Owner, Occupant, Person, Master Association and/or Subordinate Association from acting in a manner that violates this restriction and may further recover damages incurred as a consequence of such actions.

2.2. Violation of Law, Insurance, Etc. No Owner or Occupant or Person shall do any act or cause or permit anything to be done or kept in or upon a Unit or Common Element, or the Master Association Property or the Subordinate Association Property, which would result in the increase of, or cancellation of, insurance maintained by the Master Association or the Subordinate Association or would be in violation of any federal, state, Dolores County, Town or other law, ordinance, regulation or code of any governmental body having jurisdiction, or of any Rule or Regulation promulgated by the Association or the Subordinate Association, or of any provision of this Declaration.

2.3. General Maintenance of Common Interest Community. All property within the Common Interest Community, including without limitation all, Units, the Future Development Areas (including unimproved areas or areas on which Improvements are under construction), Master Association Property, Subordinate Association Property, Improvements, and landscaping, shall be kept and maintained in a clean and attractive condition and in good order, condition and repair.

(a) **Units.** Except as specifically set forth in this Section or in a Supplemental Declaration, maintenance, repair, and upkeep of each Unit shall be the responsibility of the Owner of the Unit. Such maintenance and repair shall be performed by each Owner whenever necessary or appropriate and at regular intervals in order to keep the Unit in substantially the same condition and appearance as existed at the time of acquisition of the Unit or completion of construction of the Unit, subject to normal wear and tear that cannot be avoided. Said Owner's obligations shall include all maintenance, repair or replacement required as a consequence of any fire, wind, snow, rain, vandalism, theft or other casualty. Unsightly conditions on Unit shall constitute a nuisance under this Declaration.

(b) **Master Association Property.** All Master Association Property shall be maintained by the Master Association and the cost thereof shall be a Common Expense which shall be allocated among the Subordinate Associations in accordance with these Declarations, provided, that if any Master Association Property is damaged by an Owner or Occupant, the expense of repairing the damage may be charged to that Unit Owner as a Reimbursement Assessment. The Master Association may enter into contracts to have these maintenance responsibilities performed by third parties.

(c) **Subordinate Association Property.** All Subordinate Association Property shall be maintained by the Subordinate Association and the cost thereof shall be a Subordinate Association Common Expense which shall be allocated among the Unit Owners in the Subordinate

Association in accordance with these Declarations or any Supplemental Declaration or Supplemental Map, provided, that if any Subordinate Association Property is damaged by an Owner or Occupant, the expense of repairing the damage may be charged to that Unit Owner as a Reimbursement Assessment. The Subordinate Association may enter into contracts to have these maintenance responsibilities performed by third parties.

(d) The individual Owners and the Master Association Executive Board and/or the Subordinate Association Executive Board shall each use a reasonable standard of care in providing for the repair, management and maintenance of the properties for which they are responsible so that the entire Common Interest Community will reflect a pride of ownership.

(d) If an Owner fails to perform any obligations under this Section within ten (10) days following receipt of a written notice from the Executive Board having jurisdiction, requesting the same, the Executive Board shall have the right to enter upon Unit of the Owner to cure the violation, to perform any needed repairs or maintenance, or to otherwise cause compliance with this Section, and to levy and collect a Reimbursement Assessment upon the Owner and its Unit for the costs and expenses incurred by the Master Association Property or the Subordinate Association Property in connection therewith. The Executive Board having jurisdiction shall have no right to enter into the interior of a residence without the consent of the Owner except in the case of a clear emergency.

2.4. Residential Use and Occupancy; Parking.

(a) Each Unit shall be improved, occupied and used only for private residential purposes, consistent with these Declarations, Town Approvals and applicable zoning.

(b) No business, professional or other non-residential or commercial use shall be made of any Units, excepting in-home businesses or occupations which do not involve: (i) employees, (ii) the solicitation or invitation of the general public, or (iii) the servicing of customers, employees, contractors or subcontractors and which activities are conducted entirely within the residence and do not cause any additional traffic or parking within the Community or otherwise create a nuisance for neighboring Subordinate Associations, Units or the Community.

(c) Declarant may use Future Developments Areas and Units for sales and marketing purposes and for construction staging.

2.5. New Construction Required; No Temporary Buildings or Occupancy. All Buildings and Improvements constructed within or placed upon the Common Interest Community shall be new. No mobile homes (single or double wide), and no used or temporary house, structure, tent, teepee, or non-permanent out-building (specifically including without limitation mobile homes and trailers) shall ever be placed, erected or allowed to remain within the Common Interest Community except temporary structures or construction trailers used for construction purposes during the construction of the Buildings and Improvements, which temporary facilities shall be removed following completion of construction. The work of constructing, altering or remodeling any Building, Unit or Improvement within the Common Interest Community shall be prosecuted diligently from the commencement thereof until the completion thereof. The foregoing shall not restrict the use and placement of temporary construction trailers, offices and showrooms on the Property by Declarant or designees in connection with the development, construction, sales and marketing of the Project.

2.6. Annoying Light, Sound or Odor. All exterior lighting installed or maintained in the Common Interest Community shall be placed so that the light source is reasonably screened or shielded from other Units and from the Master Association Property and/or Subordinate Association Property. No light shall be emitted from any part of the Common Interest Community (including any Unit), which is unreasonably bright or causes unreasonable glare. The Executive Board having jurisdiction may establish additional standards for exterior lighting including, without limitation, standards for hue and intensity. The foregoing shall not restrict Declarant or designee from installing and using temporary lights of any type or size to maintain security during construction of the Project, which would otherwise be in violation of this Section.

No sound shall be emitted from any part of the Common Interest Community (including without limitation any Unit), which is unreasonably loud or annoying to others, and no odor shall be emitted from any part of the Common Interest Community (including without limitation any Unit), which is noxious or unreasonably offensive to others. Again without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells (excepting chimes), or other sound devices, other than security devices used exclusively for security purposes, shall be located or used within the Common Interest Community except with the prior written approval of the Executive Board. The foregoing shall not restrict Declarant or designee from constructing the Project and in the course of such construction, emitting noises, which would otherwise be in violation of this Section.

The Executive Board in its sole discretion shall have the right and authority to determine the existence of any violation of this Section including the reasonableness of any light, sound or odor.

2.7. Noxious or Offensive Activities; Nuisances; Construction Activities. No noxious or offensive activity shall occur or be allowed at any time on any property within the Common Interest

Community, nor shall anything be done or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to Owners, Occupants, Declarant or the Master Association Property or the Subordinate Association Property, or which causes damage to neighboring property, or which interferes with the peaceful enjoyment or possession and proper use of the Common Interest Community, or any part thereof, by Owners or Occupants. The Executive Board in its sole discretion, shall have the right and authority to determine the existence of any nuisance or unreasonable embarrassment, disturbance or annoyance under this Section. Each Owner shall comply with the Rules and Regulations and the requirements of all health authorities and other governmental authorities having jurisdiction over the Common Interest Community.

2.8. No Hazardous or Unsafe Activities. No activity shall be conducted on, and no Improvement shall be constructed on, any property within the Common Interest Community, which is or might be unsafe or hazardous to any Person or property.

2.9. No Solid Fuel Burning Fireplaces. Outside Burning; Fire Hazards. No solid fuel burning fireplaces or other devices shall be allowed within the Common Interest Community, unless an Owner obtains a permit therefore pursuant to Town regulations. No exterior fires shall be lighted or permitted on any property within the Common Interest Community except in a contained barbecue unit while attended and in use for cooking purposes. No Owner shall cause or permit any condition on his Unit which creates a fire hazard or is in violation of fire prevention regulations, or which would increase insurance rates for either the Master Association Property or the Subordinate Association Property or for other Owners. Notwithstanding the foregoing, the Declarant shall have the right to perform burning activities in connection with the development, marketing and maintenance of the Common Interest Community.

2.10. No Firearms or Hunting. The use or discharge of firearms, including but not limited to BB guns and pellet guns, on any part of the Common Interest Community is expressly prohibited. Hunting on any part of the Common Interest Community is expressly prohibited.

2.11. No Unsightliness; Outside Personal Property Storage and Clothes Drying. Other than property of the Declarant, all unsightly structures, facilities, equipment, objects, and conditions, all sporting equipment (e.g., skis, snowboards, bikes, mountain bikes, kayaks, etc.), and all snow removal, garden or maintenance equipment except when in actual use, shall be kept in an enclosed or covered structure or in screened area approved in writing by the Executive Board having jurisdiction. No laundry or wash shall be dried or hung outside on any Unit.

2.12. Master Association and Subordinate Association Roads, Streets and Facilities.

The roads, streets, pathways, within the Community as shown on the Map and designated as Master Association Facilities or Master Association Common Elements will be owned and managed by the Master Association. The Master Association will maintain and repair these facilities and the costs of such maintenance and repair will be assessed as a Common Expense. Declarant reserves the right to enlarge, reduce, terminate and/or relocate any or all of the Master Association Facilities and/or the Master Association Common Elements. This right is deemed a Reserved Rights of Declarant under Article Eighteen and may be exercised in accordance with the provisions of Article Eighteen.

The roads, streets and pathways, within the Community as shown on the Map and designated as Subordinate Association Facilities will be owned and managed by the particular Subordinate Association. The respective Subordinate Association having jurisdiction will maintain and repair these facilities and the costs of such maintenance and repair will be assessed as a Common Expense. Declarant reserves the right to enlarge, reduce, terminate and/or relocate any or all of the Subordinate Association Facilities and/or the Subordinate Association Common Elements. This right is deemed a Reserved Rights of Declarant under Article Eighteen and may be exercised in accordance with the provisions of Article Eighteen.

2.13. Vehicle Parking, Storage, Operation and Repair.

(a) The Executive Board having jurisdiction shall allow for parking of permitted vehicles (passenger automobiles, including without limitation vans and SUVs, and/or one ton or smaller pick-up trucks) within the Common Interest Community at locations designated for parking.

(b) No boats, trailers, buses, motor homes, mobile homes, campers (on or off supporting vehicles), motorcycles, snowmobiles, recreational vehicles, all terrain vehicles, trucks, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger automobiles and one ton or smaller pick-up trucks) shall be parked or stored within the Common Interest Community except with that advance approval by the Executive Board.

(c) No motorized vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt on Association Property or Subordinate Association Property.

(d) An "abandoned or inoperable vehicle" shall mean any motorized vehicle which does not display a current motor vehicle license or which has not been driven under its own

propulsion for a period of one (1) week or longer (excepting otherwise permitted vehicles parked by Owners or Occupants on their Unit driveways while on vacation or during a period of illness), or which does not have an operable propulsion system within the vehicle. In the event that the Executive Board or the Executive Board shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this Section 2.16, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Executive Board or Executive Board (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the owner of the vehicle if the vehicle is located on a street, or at the sole expense of the Owner of the Unit on which the vehicle is located, and to enter upon an Owner's Unit for such purpose, all without liability on the part of the Executive Board or the Executive Board.

2.14. Garbage; Trash; Compost; Containers. No refuse, garbage, trash, grass, shrub, or tree clippings, plant waste, compost, metal, bulk materials, scrap, rubbish, or debris of any kind shall be kept, stored, maintained or allowed to accumulate or remain within the Common Interest Community, except within an enclosed structure or in areas designated within the Building 3 and 4 Common Elements as designated by that Sub-Association Executive Board. Garbage containers shall comply with all applicable Town requirements concerning type and location of containers.

2.15. Animals. Each Unit shall be entitled to a maximum of no more than three (3) dogs or cats (or any combination thereof) and a reasonable number of other Household Pets, so long as the total number of Household Pets shall not exceed six (6), such dogs, cats or other Household Pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise or odor, or do not otherwise become a nuisance or threat to other Owners or Occupants. The foregoing notwithstanding, a Person shall only keep a Household Pet in the Common Interest Community in accordance with all applicable laws, regulations and restrictions promulgated by the Town. The Executive Board shall be responsible for enforcing the restrictions set forth in this Section 3.18, and shall have, and is hereby given, the right and authority to determine in its sole discretion that any one or more dogs, cats and other Household Pets are being kept for commercial purposes, or are being kept in unreasonable numbers, or are causing an unreasonable amount of noise or odor, or are otherwise a nuisance to other Owners or Occupants, or that an Owner or Occupant is otherwise in violation of this Section 3.18, and to take such action or actions as it deems reasonably necessary to remedy the violation, including without limitation the levying of fines and/or Reimbursement Assessments as provided in Section 11.9 hereof. Also without limiting the generality of the foregoing, the Executive Board may require the owner or custodian of a dog that barks or howls excessively, or of a dog, cat, or other Household Pet that exhibits threatening behavior or that has other offensive habits or that otherwise violates the restrictions set forth in this Section 3.18, to confine such animal indoors, or to permanently remove such animal from the Common Interest Community, and may adopt Rules and Regulations governing pets.

2.16. Use of Easement Areas; Utility Installation. All easements shown on the Map or a Supplemental Map or other instrument covering any portion of the Common Interest Community have been created or reserved for the purposes indicated on such Map, other instrument and/or elsewhere these Declarations. No Owner or Occupant or other Association may erect any structure of any type whatsoever in such easement areas, nor may an Owner or Occupant or other Association use the surface of such easement areas for any private use, other than driveways or landscaping which will not interfere with the use of said easement by the Persons or entities for whose benefit it has been created or reserved and which receives the prior written approval of the Executive Board of the Association burdened by the easement.

2.17. Restoration of Improvements in the Event of Damage or Destruction. In the event of damage to or destruction of any Improvement on any Unit, the Owner thereof shall cause the damaged or destroyed Improvement to be promptly restored or replaced to its original condition or such other condition as may be approved in writing by the Executive Board of the Association owning or maintaining the Improvement, or the Owner shall cause the damaged or destroyed Improvement to be promptly demolished and the Unit to be suitably landscaped, subject to the approval of the Executive Board, so as to present a pleasing and attractive appearance. Such Improvements shall be repaired, restored or otherwise demolished and suitably landscaped within such reasonable time frame as may be established by the Executive Board.

2.18. Leases. Any Owner shall have the right to Lease the residential dwelling on his Unit under the following conditions:

(a) All Leases shall be in writing, and must cover the entire Unit, i.e., no Leases of bedrooms alone or otherwise covering less than all of the residence shall be permitted.

(b) All Leases shall provide (i) that the terms of the Lease and the tenant's use of the residence shall be subject in all respects to the provisions of this Declaration, and the Articles, the Bylaws, the Rules and Regulations, and the Town Approvals, (ii) that the Occupant has received and reviewed copies of said documents, and (iii) that any failure by the Occupant to comply with any of the aforesaid documents, in any respect, shall be a default by Occupant under the Lease and a default by Occupant and Owner under said documents which may be enforced against Occupant and/or Owner by the Executive Board.

(c) The Owner shall notify the Association immediately upon the leasing of his residence and shall provide the Association with a copy of the Lease and with the name and mailing address of the Occupant and the mailing address (if changed) of the Owner.

(d) Each Owner who leases a residence shall be responsible for assuring compliance by the Occupant with all of the provisions of this Declaration, any pertinent Supplemental Declaration, the Articles, the Bylaws, the Rules and Regulations, and the Town Approvals, and shall be jointly and severally responsible with the Occupant for any violations thereof by the Occupant.

(e) Each Lease shall expressly provide that the Association (via the Executive Board) shall have the right to give the Occupant written notice that the Occupant is in violation of one or more of the documents listed in subsection (c) above, which notice shall specify a period of time (at least 5 days) in which the Occupant may cure the violation. If the violation continues uncured, or if it is repeated within the 3-month period following the date of the first notice, the Lease shall provide that the Owner gives to the Association an irrevocable power of attorney to act on the Owner's behalf to give such statutory notices to the Occupant and to take such other actions as may be necessary or appropriate to terminate the Lease and to evict the Occupant from the Premises. If a Lease does not contain such provisions, the Owner hereby irrevocably appoints the Association as its attorney-in-fact to act on its behalf as set forth herein.

2.19. Restrictions on Re-Subdivision, Property Restrictions, Rezoning, and Time Sharing.

Except as expressly permitted in this Declaration, (i) no Unit shall ever be further subdivided or replatted by an Owner into smaller Units, (ii) no physical portion less than all of any such Unit, nor any easement or divided interest therein, shall be conveyed, transferred or encumbered by the Owner, and (iii) no Unit may be combined with any other Unit nor the boundary lines adjusted between any two Units.

(a) Declarant reserves the right to revise the boundaries of a Building or a Unit, or to combine two Units owned by Declarant or to adjust or remove boundary lines between Units owned by Declarant, provided any necessary Town Approvals are obtained, all Declaration and Map amendments required by the Act and/or local land use laws are prepared, executed and Recorded, and the necessary reallocation of Allocated Interests of the Owners is accomplished. In the case of the combination of two Units, such interests shall be reallocated to reflect the fact that two Units have been eliminated and one Unit created in its place, unless the Executive Board requires that the combined Units continue to pay two Assessments. All costs relating to the foregoing activities shall be the sole responsibility and obligation of Declarant. Declarant's rights under this subsection (a) shall terminate upon the first to occur of (i) the date which is 30 years after the Recording of this Declaration, or (ii) Declarant's relinquishing of these rights by a Recorded instrument.

(b) The boundaries between adjoining Units may also be adjusted or removed (*i.e.* the Units combined) by the Owner(s) thereof other than Declarant, if (i) the written consent of the Executive Board having jurisdiction over the property is first obtained, in the sole discretion of the Executive Board, (ii) all applicable regulations and codes are complied with and all necessary Town Approvals are obtained, (iii) the proposed adjustment or removal does not violate the terms of any document evidencing a security interest in the subject Units, (iv) all Declaration and Map amendments required by the Act and/or local land use laws are prepared, executed and Recorded, and (v) the necessary reallocation of Allocated Interests of the Owners is accomplished pursuant to the guidelines set forth above or as otherwise required by the Executive Board. All costs relating to such activity (including the attorneys' fees and costs incurred by the Executive Board in reviewing and acting upon the matter) shall be the sole responsibility and obligation of the Owner(s) applying for the same.

(c) No further covenants, conditions, restrictions or easements shall be Recorded by any Owner (except Declarant in the exercise of its reserved rights) or other Person against any Unit without the provisions thereof having been first approved in writing by the Executive Board for consistency with the Declaration and the general plan of development for the Common Interest Community. Any covenants, conditions, restrictions or easements Recorded without such approvals being evidenced thereon shall be null and void. This provision does not apply to Mortgages.

(d) No application for rezoning of any Unit, and no application for any variance or special use permit for any Unit, shall be filed with any governmental authority by any Owner (except Declarant in the exercise of any reserved rights) unless the proposed use of the Unit has first been approved in writing by the Executive Board and the proposed use otherwise complies with the Declaration.

(e) No form of time-share or interval ownership or use program shall ever be created or allowed in connection with any Unit in the Common Interest Community, and any such attempted ownership or use program shall be null and void and unenforceable.

2.20. Health, Safety and Welfare. In the event any uses, activities, or facilities within the Common Interest Community are deemed by the Executive Board having jurisdiction over the property to be an unreasonable annoyance or nuisance, or to adversely affect the health, safety or welfare of Owners

or Occupants, the Executive Board may adopt Rules and Regulations governing the same in order to appropriately restrict and regulate such uses, activities or facilities within the Common Interest Community. Such rules shall be consistent with the purposes and provisions of this Declaration.

2.21. Implementation and Variances. The Executive Board having jurisdiction over the property may implement the restrictions set forth in this Article 2, or otherwise restrict and regulate the use and occupancy of the Common Interest Community and the Units by reasonable Rules and Regulations of general application adopted by the Executive Board from time to time. The Executive Board may, in its sole discretion and in extenuating circumstances, grant variances from any of the restrictions set forth in this Article 2 (excepting any such restrictions with respect to which the Executive Board has the authority to grant variances under this Declaration), if the Executive Board determines, in its sole discretion, (a) either (i) that a particular restriction creates a substantial hardship or burden on an Owner or Occupant, which hardship or burden was not caused by said Owner or Occupant, or (ii) that a change of circumstances since the Recordation of this Declaration has rendered such restriction obsolete, and (b) that the activity permitted under the variance, in the judgment of the

Executive Board, will not have any material adverse effect on the Owners and Occupants of the Common Interest Community (including neighboring Units) and is consistent with the high quality of living intended to be promoted hereby throughout the Common Interest Community. When an Owner applies for a variance, the Board must give at least ten (10) days advance written notice of the variance hearing, and of the nature of the variance requested, postage prepaid, by certified mail, return receipt requested, to all Owners of Units within the Common Interest Community, at the current addresses for such Owners reflected in the Association files. The applying Owner must provide the Committee with an accurate list of the Owners to be so notified. If the foregoing notice requirements are complied with, it is not necessary that the Owners actually receive the notice that is mailed to them, such notices being deemed received upon mailing. No variance shall conflict with the Town Approvals or with ordinances or regulations of the Town. If a variance from the Town Approvals or Town laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such variance before submitting a variance application to the Executive Board.

2.22. Declarant Activities or to restrict in any way Declarant's right and ability to develop, improve, maintain, repair, regulate, operate, administer, manage, market, sell, lease, encumber or dispose of the Common Interest Community, the Units, the Association Property or any part thereof, including the right to construct Improvements, place construction and office trailers, and install signs thereon, all in the complete discretion of Declarant.

ARTICLE THREE MASTER ASSOCIATION

3.1. Master Association. The Master Association has been formed as a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act to manage the affairs of the Common Interest Community. As used in this Article, the term Association or Master Association shall each mean and refer to the Master Association. Subject to the power, authority and rights, duties and obligations of each Subordinate Association that is expected to be formed, the Master Association shall serve as the master governing body for all of the Owners and Occupants in the Common Interest Community, for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of Master Association Property, the levying and collection of Assessments for Master Association Common Expenses and other expenses of the Master Association, and such other matters as may be provided in this Declaration, the Articles, Bylaws, and Rules and Regulations. The Master Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it on behalf of the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

3.2. Master Association Executive Board. The affairs of the Master Association shall be managed by the Master Association Executive Board. The number and term of the members of the Master Association Executive Board shall be fixed in the Articles of Incorporation or the Bylaws, provided, however, that at least one member of the Master Association Executive Board must be a Member from and in each Subordinate Association that has been formed pursuant to these Declarations. A quorum shall be deemed present throughout any meeting of the Master Association Executive Board if persons entitled to cast at least fifty percent (50%) of the votes on the Executive Board are present at the beginning of the meeting or grant their proxy as provided in C.R.S. Section 7-128-205(4). With the exception of matters that may be discussed in executive session, as set forth in Section 38-33.3-308(3-7) of the Act, all regular and special meetings of the Master Association Executive Board or any committee thereof shall be open to attendance by all Members of the Association or their representatives. Without limiting the generality of the foregoing, no Rule or Regulation may be validly adopted during an executive session. Agendas for meetings of the Master Association Executive Board shall be made reasonably available for examination by all Members of the Association or their representatives. The Master Association Executive Board shall have all of the powers, authority and duties granted or delegated to it by the Act, this Declaration, the Articles or Bylaws. Except as provided in the Act, this Declaration, the Articles or Bylaws, the Master Association Executive Board may act in all instances on behalf of the Master Association, but not for a duly established Subordinate Association. The Master Association Executive Board may not, however, act on behalf of the Master Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Master Association Executive Board or determine the qualifications, powers and duties, or terms of office of Master Association Executive Board members, but

the Master Association Executive Board may fill vacancies in its membership for the unexpired portion of any term. The Master Association Executive Board may, by resolution, delegate portions of its authority to officers of the Master Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Master Association. If appointed by Declarant, in the performance of their duties, the members of the Master Association Executive Board and the officers of the Master Association are required to exercise the care required of fiduciaries of the Unit Owners. If not appointed by Declarant, no member of the Master Association Executive Board and no officer shall be liable for actions taken or omissions made in the performance of such member's or officer's duties except for wanton and willful acts or omissions.

3.3. Membership in Master Association. There shall be one Membership in the Master Association for each Subordinate Community within the Common Interest Community and one Membership for the owner of the Future Development Areas. Declarant shall hold a Membership in the Master Association so long as the Declarant has the right to develop the Future Development Area. Membership in the Master Association, other than the membership of the Declarant tied to the Future Development Area, shall not be assignable separate and apart from fee simple title to a Unit, and may not otherwise be separated from ownership of a Unit.

3.4. Voting Rights of Members.

(a) **By Declarant for Future Development Areas.** Initially the Declarant as the owner of the Future Development Area (prior to the time that a new Subordinate Association for the Future Development Area has been formed) shall be entitled to one (1) vote in the Master Association, which will be allocated the additional conditioned square footage which is actually constructed on the Future Development Areas divided by the total amount of conditioned square footage which is actually constructed within the Common Interest Community. The vote allocated to a Future Development Area may be cast pursuant to a proxy duly executed by the Declarant.

(b) **By the Subordinate Association.** Upon the formation of a Subordinate Association, the Subordinate Association Executive Board shall be entitled to one (1) vote in the Master Association, which will be allocated as provided for in the definition of Master Association Allocated Interests and by the Subordinate Association Allocated Interests. Occupants of Units shall not have voting rights. The Subordinate Association Executive Board will designate a member of the Subordinate Association Executive Board to exercise the vote for the Subordinate Association Executive Board and the Subordinate Association Executive Board may instruct the designated member on how to vote on some or all of the matters presented to the Master Association. The individual owners of Units within a Subordinate Association shall not be entitled to cast a vote in Master Association matters, rather their interests are being represented by the Subordinate Association Executive Board.

3.5. Termination of Contracts and Leases of Declarant. The following contracts and leases, if entered into before the Master Association Executive Board elected by the Owners pursuant to Section 38-33.3-303(7) takes office, may be terminated without penalty by the Master Association at any time after the Master Association Executive Board elected by the Owners or Subordinate Association(s) pursuant to said Section 38-33.3-303(7) takes office, upon not less than ninety (90) days notice to the other party: (i) Any management contract, employment contract or lease of recreational or parking areas or facilities; (ii) Any other contract or lease between the Master Association and Declarant or an affiliate of Declarant; or (iii) Any contract or lease that is not bona fide or was unconscionable to the Owners at the time entered into under the circumstances then prevailing.

3.6. Period of Declarant Control of Master Association. Notwithstanding any other provisions hereof, Declarant shall have and hereby reserves the power to appoint and remove, in its sole discretion, the members of the Master Association Executive Board and the officers of the Master Association during the period commencing upon the Recording of this Declaration and terminating no later than the earlier of (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Owners other than Declarant; or (b) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business;

During said Period of Declarant Control of the Master Association:

(a) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Master Association Executive Board must be elected by Unit Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Master Association Executive Board must be elected by Unit Owners other than Declarant.

At any time prior to the termination of the Period of Declarant Control of the Master Association, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Master Association Executive Board, but in such event Declarant may require, for the duration of the Period of Declarant Control of the Master Association, that specified actions of the Master

Association or the Master Association Executive Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole discretion and option, and its disapproval shall invalidate any such action by the Master Association Executive Board or the Master Association. Not later than the termination of the Period of Declarant Control of the Master Association, the Owners (including Declarant) shall elect an Master Association Executive Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant, and the Master Association Executive Board shall elect the officers, with such Master Association Executive Board members and officers to take office upon election. Pursuant to Section 38-33.3-303(9) of the Act, within sixty (60) days after Owners other than Declarant elect a majority of the members of the Master Association Executive Board, Declarant shall deliver to the Master Association all property of the Owners and of the Association held or controlled by Declarant, including without limitation the following items:

- (a) The original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;
- (b) An accounting for Master Association funds and financial statements from the date the Master Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Master Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefore. The expense of the audit shall not be paid for or charged to the Master Association.
- (c) The Master Association funds or control thereof;
- (d) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Master Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of Master Association Property, and inventories of these properties;
- (e) A copy, for the nonexclusive use by the Master Association, of any plans and specifications used in the construction of the improvements in the Common Interest Community;
- (f) All insurance policies then in force, in which the Owners, the Master Association, or its directors and officers are named as insured persons;
- (g) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Common Interest Community;
- (h) Any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one year prior to the date on which Unit Owners other than the Declarant took control of the Master Association;
- (i) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (j) A roster of Owners and Occupants and Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records.
- (k) Employment contracts in which the A Master Association is a contracting party;
and
- (l) Any service contract in which the Master Association is a contracting party or in which the Master Association or the Owners have any obligation to pay a fee to the persons performing the services.

ARTICLE FOUR SUBORDINATE ASSOCIATION

4.1. **Subordinate Association.** As used in this Article, the terms Subordinate Association and Association shall each mean and refer to the Subordinate Association. Declarant has established two (2) Subordinate Associations as set forth herein and on the Map. There shall be established any number of separate Subordinate Associations for any future improvements on the Future Development Areas. Each Subordinate Association shall be formed as a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act to manage the affairs of the Subordinate Association Property. Subject to the power, authority and rights, duties and obligations of the Subordinate Association to manage the Common Interest Community, the Subordinate Association shall serve as the governing body for all of the Owners and Occupants in a Subordinate Association, for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Subordinate Association and the Subordinate

Association Property, the levying and collection of Assessments for Common Expenses and other expenses of the Subordinate Association, and such other matters as may be provided in this Declaration, any Supplemental Declaration and/or Supplemental Map acknowledging the Subordinate Association, the Articles, Bylaws, and Rules and Regulations for the Subordinate Association. A Subordinate Association shall not be deemed to be conducting a business of any kind, and all funds received by the Subordinate Association shall be held and applied by it on behalf of the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

4.2. **Subordinate Association Executive Board.** The affairs of the Subordinate Association shall be managed by a Subordinate Association Executive Board. The number, term, and qualifications of the members of the Subordinate Association Executive Board shall be fixed in the Articles of Incorporation or the Bylaws for the Subordinate Association. A quorum shall be deemed present throughout any meeting of the Subordinate Association Executive Board if persons entitled to cast at least fifty percent (50%) of the votes on the Subordinate Association Executive Board are present at the beginning of the meeting or grant their proxy as provided in C.R.S. Section 7-128-205(4). With the exception of matters that may be discussed in executive session, as set forth in Section 38-33.3-308(3-7) of the Act, all regular and special meetings of the Subordinate Association Executive Board or any committee thereof shall be open to attendance by all Members of the Subordinate Association or their representatives. Without limiting the generality of the foregoing, no Rule or Regulation may be validly adopted during an executive session. Agendas for meetings of the Subordinate Association Executive Board shall be made reasonably available for examination by all Members of the Subordinate Association or their representatives. The Subordinate Association Executive Board shall have all of the powers, authority and duties granted or delegated to it by the Act, this Declaration, the Articles or Bylaws for the Subordinate Association. Except as provided in the Act, this Declaration, the Articles or Bylaws for the Subordinate Association or by separate agreement, the Subordinate Association Executive Board may act in all instances on behalf of the Association, but not for any other duly established Subordinate Association or for the Master Association. The Subordinate Association Executive Board may not, however, act on behalf of the Subordinate Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Subordinate Association Executive Board or determine the qualifications, powers and duties, or terms of office of Subordinate Association Executive Board members, but the Subordinate Association Executive Board may fill vacancies in its membership for the unexpired portion of any term. The Subordinate Association Executive Board may, by resolution, delegate portions of its authority to officers of the Subordinate Association, but such delegation of authority shall not relieve the Subordinate Association Executive Board of the ultimate responsibility for management of the affairs of the Association. If appointed by Declarant, in the performance of their duties, the members of the Subordinate Association Executive Board and the officers of the Subordinate Association are required to exercise the care required of fiduciaries of the Unit Owners. If not appointed by Declarant, no member of the Subordinate Association Executive Board and no officer shall be liable for actions taken or omissions made in the performance of such member's or officer's duties except for wanton and willful acts or omissions.

4.3. **Subordinate Association Common Elements.** All common elements and limited common elements associated within a Subordinate Association shall be designated as "Subordinate Association Common Elements Associated with (the name of the Subordinate-Association)" on a Supplemental Map and/or Supplemental Declaration for the Subordinate-Association. Ownership of the Subordinate Association Common Elements and Subordinate Association Facilities, however, shall vest only in the Owners of Units within that Subordinate Association alone and shall not vest in the Owners of Units created on the Future Development Areas in the Community.

4.4. **Powers and Duties of the Subordinate Association.** The purposes, powers, duties and obligations of a Subordinate Association, in addition to the powers, duties and obligations allowed under the Act and as contained these Declarations and Rules and Regulations as the same uniquely apply to the Subordinate Association, which powers shall include, without limitation the following powers, which shall be administered by the Subordinate Association Executive Board: (a) Maintain, repair, replace, insure, manage and control the Subordinate Association Property; (b) Prepare and adopt a Subordinate Association Budget, providing for the cost, operation, repair, replacement and management of the Subordinate Association, including Buildings, Improvements, facilities, landscaping and lands associated with the Subordinate Association and the Subordinate Association Property attributable to the Subordinate Association; (c) Impose and collect Subordinate Association Assessments, whether general assessments, special assessments or reimbursement assessments from owners of the Units in the Subordinate Association in accordance with the Subordinate Association Budget; (d) Collect duly assessed Master Association Assessments, whether general assessments, special assessments or reimbursement assessments from owners of the Units in the Subordinate Association in accordance with the Master Association Budget; and (e) all other and necessary powers appropriate for the proper management of the Subordinate Association and consistent with these Declarations and the Act.

4.5. **Membership in Subordinate Association.** There shall be one Membership in the Subordinate Association for each Unit within the Subordinate Association. The Person or Persons who constitute the Owner of a Unit shall automatically be the holder of the Membership appurtenant to that Unit, and shall collectively be the "Member" of the Subordinate Association with respect to that Unit, and the Membership appurtenant to that Unit, automatically pass with fee simple title to the Unit. Declarant shall hold a Membership in the Subordinate Association for each Unit owned by Declarant. Membership in the Subordinate Association shall not be assignable separate and apart from fee simple title to a Unit,

and may not otherwise be separated from ownership of a Unit.

4.6. **Allocated Interests of Members in The Subordinate Association.** A Supplemental Declaration and Supplemental Map for a Subordinate Association shall establish the Allocated Interest for each Unit in the Subordinate Association which shall be calculated on the basis of the square footage for the Units in the particular Subordinate Association (measured in accordance with the provisions of this Declaration) using the following formula, the numerator of which will be the square footage of a particular Unit and the denominator of which is the total square footage of all of the Units in the Subordinate Association. The Allocated Interest shall be used to establish the voting rights of each Unit Owner for the Subordinate Association, the Unit Owner's share of common expenses established for the Subordinate Association and the relative interests of the Unit Owner in the Subordinate Association Property.

4.7. **Separate Unit Owner Classes for Multiple Building in a Subordinate Association.** In instances where a Subordinate Association consists of more than one Building, the Declarant or the Subordinate Association Executive Board may establish separate classes of Unit Owners for each Building within that Subordinate Association and, in such instance, the costs and expenses of maintaining that particular Building would be assessed against the Owners of Units in that particular Building.

4.8. **Voting in a Subordinate Association.** If only one of the multiple owners of a Unit is present at a Subordinate Association meeting, such owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple owners is present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the owners. There is majority agreement if any of the multiple owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. In the event of a protest being made by one or more multiple owners, and a majority of the multiple owners of the Unit cannot agree on how to cast their vote, any vote cast for that Unit shall be null and void with regard to the issue being voted upon. Such multiple owners and their Unit shall nevertheless be counted in determining the presence of a quorum with respect to the issue being voted upon. In accordance with Section 38-33.3-309 of the Act, and except as may otherwise be provided in the Bylaws, a quorum is deemed present throughout any meeting of the Members of the Subordinate Association if persons entitled to cast at least twenty percent (20%) of the total allocated votes in the Subordinate Association are present, in person or by proxy, at the beginning of the meeting. Provided a quorum of allocated votes entitled to vote is present in person or by proxy, the affirmative vote of a majority of the total allocated votes so present shall constitute approval of any matter voted upon unless a different number is required on a particular matter by the Act, this Declaration, the Articles, or the Bylaws. The vote allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each owner of the Unit may vote or register protest to the casting of a vote by the other owners of the Unit through a duly executed proxy. A Unit Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy shall terminate eleven (11) months after its date, unless a different termination date is otherwise set forth on its face. No vote allocated to a Unit owned by the Subordinate Association may be cast. The Unit Owners, by a vote of sixty-seven percent (67%) of all allocated votes present and entitled to vote at any meeting of the Unit Owners of the Subordinate Association at which a quorum is present, may remove any member of the Subordinate Association Executive Board with or without cause, other than a member appointed by Declarant.

4.9. **Payment of Assessments of the Subordinate Association.** All Owners of Units within a Subordinate Association shall be obligated to pay the Assessments imposed by the Subordinate Association Executive Board to meet the Common Expenses of maintenance, operation and management of the Subordinate Association Property and the Subordinate Association. In addition, all Owners of Units within a Subordinate Association shall be obligated to pay their prorata share of the Assessments imposed by the Master Subordinate Association Executive Board to meet the Common Expenses of maintenance, operation and management of the Master Association Property and the Master Association. The Declarant shall pay all Subordinate Association Common Expenses for each Unit it owns within the Subordinate Association until that Unit is sold to a third party. A Supplemental Declaration and Supplemental Map for a Subordinate Association may provide to the establishment of a working fund and/or a capital reserve fund upon the initial sale of each Unit from the Declarant to a third party. Assessments shall be made by the Subordinate Association no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Subordinate Association. All Owners shall be obligated to pay the Assessments imposed by the Board to meet the Common Expenses of maintenance, operation and management of the Community. The Declarant shall pay all Common Expenses for each Unit it owns, until that Unit is sold to a third party. Upon the initial sale of each Unit from the Declarant to a third party, the third party purchaser shall make the working fund contribution specified in Section 18.4 below. Assessments shall be made by the Association no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association. In addition to paying all properly levied assessments imposed by the Community under the Governing Documents, the Owners of units within such Subordinate-Subordinate Association shall be responsible for paying for all of the common expenses attributable to the costs and expenses associated with the Subordinate Association. The Subordinate Association is empowered to impose, collect and enforce Subordinate Association Assessments in the same manner that the Master Association may impose, collect and enforce Assessments for the Master Association as the same is provided for in this Declaration.

4.10. **Period of Declarant Control of Association.** A Supplemental Declaration and Supplemental Map for a Subordinate Association may provide for a period of Declarant Control in accordance with the Act.

ARTICLE FIVE
MASTER ASSOCIATION PROPERTY

5.1. **Use and Enjoyment of Master Association Property.** With the exception of Master Association Limited Common Elements, and except as otherwise provided in this Declaration or in the Master Association Rules and Regulations, each Owner shall have the non-exclusive right to use and enjoy Master Association Property in common with all other Owners. This right shall not extend to Subordinate Association Property, whose use and enjoyment is limited to the Owner, Occupant, and the family members, guests and invitees of each Owner of a Unit within the Subordinate Association, as provided for in Article Four. The right to use and enjoy Master Association Property shall extend to each Owner, Occupant, and the family members, guests and invitees of each Owner, and to such other users as may be authorized by this Declaration or by the Executive Board from time to time, and shall be appurtenant to each Unit, subject at all times to the provisions of this Declaration (including Declarant's reserved rights hereunder) or the Articles, Bylaws, and the Rules and Regulations. No Owner or Occupant shall place any structure or store or leave any materials or personal property upon Master Association Property, nor shall any Owner or Occupant engage in any activity which will temporarily or permanently impair free and unobstructed access to all parts of the Master Association Property (excepting Limited Common Elements) by all Owners. With respect to Limited Common Elements, each Owner and Occupant of a Unit designated by Declaration or Map for the use of such Limited Common Element shall have the non-exclusive right to use and enjoy the same in common with all other Owners and Occupants of Units so designated, for all purposes for which the Limited Common Element was created, subject to any Rules and Regulations relating thereto.

5.2. **Association May Regulate Use of Master Association Property.** The Master Association, acting through the Master Association Executive Board, shall have the right and authority to regulate the use of Master Association Property by the promulgation, enforcement and interpretation from time to time of such Rules and Regulations relating thereto as the Master Association considers necessary or appropriate for the protection and preservation of Master Association Property and the enhancement of the use and enjoyment thereof by Owners and Occupants and other authorized users. The Master Association, acting through the Executive Board, may for good cause suspend the right of any person to use and enjoy Master Association Property, including without limitation the right of a Member who or which is delinquent in the payment of any Master Association Assessments, and the right of any Member or other authorized user who is in violation of the terms and provisions of this Declaration or the Master Association Articles, Master Association Bylaws, Master Association Rules and Regulations or the terms and provisions of any approvals granted by the Master Association Executive Board.

5.3. **Master Association to Maintain and Improve Master Association Property.** The Master Association, its agents and employees, shall maintain and repair, snowplow as necessary, and otherwise manage the Master Association Property (including the Master Association Limited Common Elements), including, but not limited to, any Buildings or other Improvements. The Master Association may construct, alter and remove such Improvements and landscaping upon Master Association Property as the Master Association in its discretion considers necessary, desirable or appropriate from time to time, and may do all such other and further acts which the Master Association Executive Board deems necessary or appropriate to preserve, protect and enhance the Association Property and the beauty thereof in accordance with the general objectives for the Common Interest Community reflected in this Declaration. Separate bids shall be let for the maintenance of Limited Common Elements so that the costs thereof can be assessed exclusively to the Units benefited thereby. The Master Association may contract with third parties to perform any of the foregoing responsibilities.

5.4. **No Partition of Master Association Property.** No Owner or other Person shall have any right to partition or to seek the partition of Master Association Property or any part thereof.

5.5. **Owner Liability for Owner or Occupant Damage to Association Property.** Each Owner shall be liable to the Master Association for any damage to Master Association Property or for any expense, loss or liability suffered or incurred by the Association in connection with Subordinate Association Property arising from (a) the negligence or willful misconduct of such Owner or of any Occupant, agent, employee, family member, guest or invitee of such Owner, or (b) any violation by such Owner or any Occupant, agent, employee, family member, guest or invitee of such Owner of any law, regulation, or code, including without limitation any environmental law, or of any provisions of this Declaration, or the Master Association Rules and Regulations relating to Master Association Property. Each Owner shall indemnify, defend and hold the Master Association harmless from any loss, damage, expense or liability arising from the circumstances described in subsections (a) or (b) immediately above. The Master Association shall have the power to levy and collect a Reimbursement Assessment against an Owner to recover the costs, expenses, damages, losses or liabilities incurred by the Master Association as a consequence of any such negligence, willful misconduct or violations.

5.6. **Damage or Destruction to Master Association Property.** In the event of damage to or destruction of Master Association Property, including Improvements thereon, by fire, snow, rain, high winds or other casualty, the Master Association shall repair or replace the same in accordance with the provisions of this Declaration. Repair, reconstruction, or replacement of Master Association Property shall be accomplished under such contracting and bidding procedures as the Association shall determine are appropriate. If insurance proceeds available to the Master Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Master Association may use the same for future maintenance, repair, improvement, and operation of Master Association Property or for any other use deemed appropriate by the Master Association Executive Board.

5.7. **Condemnation of Master Association Property.** If any Master Association Property or part thereof or interest therein is taken under exercise of the power of eminent domain or by purchase in lieu thereof, the portion of any award in condemnation or the price payable for the deed in lieu that is attributable to the Master Association Property taken or purchased shall be paid to the Subordinate Association. The Master Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners and Occupants and other Persons therein. Any award or funds received by the Master Association shall be held by the Master Association for the purposes stated hereinabove or as a reserve for future maintenance, repair, reconstruction, or replacement of Master Association Property or may be used for Improvements or additions to or operation of Master Association Property or for such other uses as may be deemed appropriate by the Master Association Executive Board. Except as may otherwise be provided by the Act, no Owner or other Person shall be entitled to participate as a party or otherwise in any condemnation proceedings nor to receive any proceeds therefrom.

5.8. **Title to Master Association Property Upon Dissolution of Master Association.** In the event of dissolution of the Master Association, the Master Association Property shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agency or organization or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners of Units within the Master Association for the purposes for which the Master Association Property was held by the Master Association. If the foregoing is not possible, the Master Association Property shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Owners in proportion to each Owner's Allocated Interest in the Common Expenses of the Master Association.

5.9. **Mechanic's Liens on Master Association Property.** Declarant shall be responsible for the release of mechanics' liens filed with respect to Master Association Property, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Likewise, the Master Association shall be responsible for the release of mechanics' liens filed with respect to Master Association Property, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of the Subordinate Association, its directors, officers, agents, contractors or subcontractors. No labor performed or materials furnished with respect to a or Unit at the instance of the Unit Owner within a Master Association shall be the basis for filing a lien against Master Association Property. No labor performed or materials furnished with respect to Master Association Property at the instance of the Master Association Executive Board shall be the basis for filing a lien against any Unit.

ARTICLE SIX SUBORDINATE ASSOCIATION PROPERTY

6.1. **Use and Enjoyment of Subordinate Association Property.** Each Owner of a Unit within a particular Subordinate Association shall have the non-exclusive right to use and enjoy Subordinate Association Property in common with all other Owners of Units within the same Subordinate Association. An Owner of a Unit within the Common Interest Community who is not a Member of a Subordinate Association, shall have a limited right to gain access to other Subordinate Association Property, subject to reasonable rules which may be promulgated by the Subordinate Association managing the Subordinate Association Property. In the absence of an agreement, an Owner of a Unit within the Common Interest Community who is not a Member of a Subordinate Association and/or a different Subordinate Association shall not be entitled to otherwise use and shall have no ownership rights or interests in the Subordinate Association Property of another Subordinate Association. The right to use and enjoy Subordinate Association Property shall extend to each Owner, Occupant, and the family members, guests and invitees of each Owner within a particular Subordinate Association, and to such other users as may be authorized by this Declaration or by the a particular Subordinate Association Executive Board from time to time, and shall be appurtenant to each Unit in the Subordinate Association, subject at all times to the provisions of this Declaration (including Declarant's reserved rights hereunder) or the Articles, Bylaws, and the Rules and Regulations. No Owner or Occupant shall place any structure or store or leave any materials or personal property upon Subordinate Association Property, nor shall any Owner or Occupant engage in any activity which will temporarily or permanently impair free and unobstructed access to all parts of the Subordinate Association Property (excepting Limited Common Elements within the Subordinate Association as designated by the Map) by all Owners. With respect to Limited Common Elements within the Subordinate Association, each Owner and Occupant of a Unit designated by Declaration or Map for the use of such Limited Common Element within the Subordinate Association shall have the non-exclusive right to use and enjoy the same in common with all other Owners and Occupants of Units so designated, for all purposes for which the Limited Common

Element within the Subordinate Association was created, subject to any Rules and Regulations relating thereto.

6.2. Subordinate Association May Regulate Use of Subordinate Association Property.

The Subordinate Association, acting through the Subordinate Association Executive Board, shall have the right and authority to regulate the use of Subordinate Association Property by the promulgation, enforcement and interpretation from time to time of such Rules and Regulations relating thereto as the Subordinate Association considers necessary or appropriate for the protection and preservation of Subordinate Association Property and the enhancement of the use and enjoyment thereof by Owners and Occupants and other authorized users. The Subordinate Association, acting through the Subordinate Association Executive Board, may for good cause suspend the right of any person to use and enjoy Subordinate Association Property, including without limitation the right of a Member who or which is delinquent in the payment of any Subordinate Association Assessments, and the right of any Member or other authorized user who is in violation of the terms and provisions of this Declaration or the Articles, Bylaws, Rules and Regulations, Design Guidelines or the terms and provisions of any approvals granted by the Subordinate Association Executive Board.

6.3. Subordinate Association to Maintain and Improve Subordinate Association Property. The Subordinate Association, its agents and employees, shall maintain and repair, snowplow as necessary, and otherwise manage the Subordinate Association Property (including the Limited Common Elements), including, but not limited to, any Improvements, Project Roads, postal kiosks, landscaping, paths, trails, parking areas, drives, lighting, signage, and recreational and other facilities located thereon. The Subordinate Association may construct, alter and remove such Improvements and landscaping upon Subordinate Association Property as the Subordinate Association in its discretion considers necessary, desirable or appropriate from time to time, and may do all such other and further acts which the Subordinate Association Executive Board deems necessary or appropriate to preserve, protect and enhance the Subordinate Association Property and the beauty thereof in accordance with the general objectives for the Common Interest Community reflected in this Declaration. Separate bids shall be let for the maintenance of Limited Common Elements so that the costs thereof can be assessed exclusively to the Units benefited thereby. The Subordinate Association may contract with third parties to perform any of the foregoing responsibilities.

6.4. No Partition of Subordinate Association Property. No Owner or other Person shall have any right to partition or to seek the partition of Subordinate Association Property or any part thereof.

6.5. Owner Liability for Owner or Occupant Damage to Subordinate Association Property. Each Owner shall be liable to the Subordinate Association for any damage to Subordinate Association Property or for any expense, loss or liability suffered or incurred by the Subordinate Association in connection with Subordinate Association Property arising from (a) the negligence or willful misconduct of such Owner or of any Occupant, agent, employee, family member, guest or invitee of such Owner, or (b) any violation by such Owner or any Occupant, agent, employee, family member, guest or invitee of such Owner of any law, regulation, or code, including without limitation any environmental law, or of any provisions of this Declaration, or the Rules and Regulations relating to Subordinate Association Property. Each Owner shall indemnify, defend and hold the Subordinate Association harmless from any loss, damage, expense or liability arising from the circumstances described in subsections (a) or (b) immediately above. The Subordinate Association shall have the power to levy and collect a Reimbursement Assessment against a Unit Owner to recover the costs, expenses, damages, losses or liabilities incurred by the Subordinate Association as a consequence of any such negligence, willful misconduct or violations.

6.6. Damage or Destruction to Subordinate Association Property. In the event of damage to or destruction of Subordinate Association Property, including Improvements thereon, by fire, rockfall, other geohazard condition, or other casualty, the Subordinate Association shall repair or replace the same in accordance with the provisions of this Declaration. Repair, reconstruction, or replacement of Subordinate Association Property shall be accomplished under such contracting and bidding procedures as the Subordinate Association shall determine are appropriate. If insurance proceeds available to the Subordinate Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Subordinate Association may use the same for future maintenance, repair, improvement, and operation of Subordinate Association Property or for any other use deemed appropriate by the Subordinate Association Executive Board.

6.7. Condemnation of Subordinate Association Property. If any Subordinate Association Property or part thereof or interest therein is taken under exercise of the power of eminent domain or by purchase in lieu thereof, the portion of any award in condemnation or the price payable for the deed in lieu that is attributable to the Subordinate Association Property taken or purchased shall be paid to the Association. The Subordinate Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners and Occupants and other Persons therein. Any award or funds received by the Subordinate Association shall be held by the Subordinate Association as a reserve for future maintenance, repair, reconstruction, or replacement of Subordinate Association Property or may be used for Improvements or additions to or operation of Subordinate Association Property or for such other uses as may be deemed appropriate by the Subordinate Association Executive Board. Except as may otherwise be provided by the Act, no Owner or other Person shall be entitled to participate as a party or otherwise in any condemnation proceedings nor to receive any proceeds therefrom.

6.8. **Title to Subordinate Association Property Upon Dissolution of Association.** In the event of dissolution of the Subordinate Association, the Subordinate Association Property shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agency or organization or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for the purposes for which the Subordinate Association Property was held by the Association. If the foregoing is not possible, the Subordinate Association Property shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Owners in proportion to each Owner's Allocated Interest in the Common Expenses of the Subordinate Association.

6.9. **Mechanic's Liens on Subordinate Association Property.** Declarant shall be responsible for the release of mechanics' liens filed with respect to Subordinate Association Property, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Likewise, the Subordinate Association shall be responsible for the release of mechanics' liens filed with respect to Subordinate Association Property, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of the Association, its directors, officers, agents, contractors or subcontractors. No labor performed or materials furnished with respect to a Unit at the instance of the Unit Owner shall be the basis for filing a lien against Subordinate Association Property. No labor performed or materials furnished with respect to Subordinate Association Property at the instance of the Subordinate Association Executive Board shall be the basis for filing a lien against any Unit.

6.10. **Owner to Maintain Limited Common Elements.** Each Owner shall be responsible for the day-to-day cleaning and upkeep of the Subordinate Association Limited Common Elements, including the Building Common Elements, reserved for the use of such Owner and any other Owners. Any and all cost associated with said day-to-day care, cleaning and upkeep of said Subordinate Association Limited Common Elements shall be paid and discharged by the Owner or Owners entitled to the exclusive use of said Subordinate Association Limited Common Elements. The expense of maintaining, repairing, replacing or reconstructing a Subordinate Association Limited Common Element shall be assessed equally against the Unit or Units to which such Subordinate Association Limited Common Element is assigned.

ARTICLE SEVEN EASEMENTS

7.1. **Easements for Incidental Encroachments.** If any portion of an Improvement approved by the Master Association Executive Board or the Subordinate Association Executive Board encroaches in its approved location respectively upon Master Association Property or Subordinate Association Property, including any future encroachments arising or resulting from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist for such incidental encroachment.

7.2. **Blanket Association Utility and Drainage Easement Over Roads and Association Property.** There is hereby created, granted and reserved to the Master Association for the Master Association Property and, consistent with this Declaration, the Common Interest Community, its agents, employees and assigns, a perpetual, non-exclusive blanket easement over, across, upon and under all Master Association Property at locations shown on the Map for "Master Association Utility Easements" for the construction, installation, testing, operation, monitoring, management, administration, maintenance, repair, removal and replacement of utilities and utility lines, irrigation lines and systems, drainage systems, pipes, wires, circuits, conduits, meters, facilities and systems for the benefit of the Common Interest Community or any part thereof or neighboring lands, including but not limited to drainage, domestic water, irrigation water, sewer, gas, telephone, electricity, cable TV and other master TV and communication systems, if any, together with an easement for access, ingress and egress to accomplish such purposes, and together with the right to grant any such easement rights to utility companies. The Master Association or other person or entity exercising such utility and drainage easement rights shall be obligated to restore, reseed, replant and/or re-landscape the surface of the disturbed area to as close to its original condition as possible, as promptly as possible following completion of any utility or drainage work.

There is hereby created, granted and reserved to each Subordinate Association, with respect to its associated Subordinate Association Property, its agents, employees and assigns, a perpetual, non-exclusive blanket easement over, across, upon and under all Subordinate Association Property at locations shown on the Map for "Subordinate Association Utility Easements" for the construction, installation, testing, operation, monitoring, management, administration, maintenance, repair, removal and replacement of utilities and utility lines, irrigation lines and systems, drainage systems, pipes, wires, circuits, conduits, meters, facilities and systems for the benefit of the Subordinate Association or any part thereof or neighboring lands, including but not limited to drainage, domestic water, irrigation water, sewer, gas, telephone, electricity, cable TV and other master TV and communication systems, if any, together with an easement for access, ingress and egress to accomplish such purposes, and together with the right to grant any such easement rights to utility companies. The Subordinate Association or other person or entity exercising such utility and drainage easement rights shall be obligated to restore, reseed, replant and/or re-landscape the surface of the disturbed area to as close to its original condition as possible, as promptly as possible following completion of any utility or drainage work.

7.3. Association Administrative Easement Over Roads, Private Driveways and Association Property. There is hereby created, granted and reserved to the Master Association and each the Subordinate Association, its agents, employees and assigns, a perpetual, non-exclusive easement over, across, upon and under all paths, roads and private driveways (as-built) in the Common Interest Community and all Master Association Property and Subordinate Association Property, a right to use the same for purposes of enabling the Master Association or Subordinate Association, as the case may be and as authorized by the Declarations, to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

7.4. Declarant Easement Over Roads, Paths and Association Property. There is hereby created, granted and reserved to Declarant and its successors and assigns a non-exclusive easement over, across, upon and under all roads in the Common Interest Community and all Master Association Property and all Subordinate Association Property (including without limitation all easements benefiting the Master Association or the Subordinate Association), including a right of access, ingress and egress thereto, and a right to use such roads and paths and Master Association Property and all Subordinate Association Property, and each and every part thereof, for all purposes reasonably related to (a) Declarant's development, improvement, maintenance, management, marketing and sale of the Common Interest Community and all portions thereof and/or (b) Declarant's exercise and implementation of the rights reserved to Declarant under this Declaration, and/or (c) the discharge by Declarant of any of its obligations under this Declaration or under the SIA or any other Declarant obligations relating to the Common Interest Community. Declarant's rights with respect to this easement shall terminate upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Declaration, or (ii) Declarant's relinquishment of all or a portion of this easement right by Recorded instrument.

7.5. Utility. There is hereby created, granted and reserved for the use and benefit of the Declarant, the Master Association, Subordinate Association and appropriate public utilities, perpetual, non-exclusive easements over, upon, across and under those portions of the Common Interest Community that are designated "Utility Easement" on the Map. Utility Easements may be used for the installation, operation, maintenance, repair, removal or replacement of underground utility lines and related surface facilities. Drainage Easements may be used for the installation, operation, maintenance, repair, removal or replacement of drainage systems and facilities. Except as may otherwise be provided in any Development Agreement between Declarant and the Town or in any other separate agreement between Declarant and a utility supplier, the party causing the disturbance shall be obligated to restore, repair, reseed and/or re-landscape any area disturbed by the exercise of these easement rights to as close to its original condition as possible, as promptly as possible following the completion of any work within a Utility or Drainage Easement.

7.6. Blanket Emergency Services Easement. There is hereby created, granted and reserved for the use and benefit of all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter serving the Common Interest Community and its Owners and Occupants, a perpetual, non-exclusive blanket Emergency Services Easement over, upon, along and across all streets, roads, properties and areas within the Common Interest Community, for use in the lawful performance of their duties.

7.7. Easements Deemed Created. All conveyances of Units and Association Property hereafter made, whether by Declarant or otherwise, shall be deemed and construed to grant and reserve all of the easements referred to in this Article 7 and elsewhere in this, even though no specific reference to such easements appears in the conveyancing instruments.

7.8. Restrictions on Owners in Easement Areas. Neither the Declarant, the Master Association, the Subordinate Associations, or the Owners Units that are subject to any easements created by this Declaration or by the Map shall acquire no right, title or interest in any cables, conduits, mains, lines, or other equipment or facilities or improvements that may be installed upon, over or under the easement area by a beneficiary of said easement rights. Moreover, Owners and Occupants of Units that are subject to any such easements are hereby prohibited from (i) constructing any Improvements upon the easement areas excepting driveways and any other Improvements expressly approved in writing in advance by the Executive Board, (ii) altering or obstructing the flow of any water or drainage thereon, or (iii) landscaping the same, in any manner that might interfere with the full and proper exercise of said easement rights by any beneficiary thereof. Finally, said Owners and Occupants are hereby prohibited from violating any of the restrictions relating to the use of the easement areas as may be set forth in this Declaration. Any Owner or Occupant violating any of these restrictions shall be obligated to remove the offending improvement or landscaping and to restore the surface of the area to its original condition at the Owner's cost and expense, or otherwise to remedy the violation, within 30 days following a written request therefore from any easement beneficiary. If said Owner or Occupant fails to comply with the request in a timely manner, the respective Master Association and the Subordinate Associations shall have the right to enter upon the Owner's Unit to perform the necessary work and may assess the costs thereof against the Owner and the Owner's Unit in the form of a Reimbursement Assessment.

ARTICLE NINE
POWERS AND DUTIES OF ASSOCIATION AND SUBODINATE ASSOCIATIONS

9.1. General Powers and Duties of Association. The respective Master Association and Subordinate Association shall each have and may exercise all of the powers and rights and duties of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act, and all of the powers and duties provided for in the Act including those enumerated in Section 38-33.3-302 of the Act, as such laws may be amended from time to time, subject only to the limitations upon such powers as are contained in this Declaration. More specifically, and without limiting the generality of the foregoing, the respective Master Association and Subordinate Association shall have all of the powers and duties necessary (i) for the administration, management, governance and operation of the Common Interest Community and the respective Master Association and Subordinate Association, (ii) to own, operate, improve, maintain, repair, manage, lease, encumber, and otherwise deal with respective Master Association Property and Subordinate Association Property, (iii) to improve, maintain and repair the respective Master Association Limited Common Elements or Subordinate Association Limited Common Elements, and (iv) to do any and all lawful things that may be authorized, required or permitted to be done by the respective Master Association and Subordinate Association under the Act and/or under the provisions of this Declaration.

As used in this Article, the term Association shall be deemed to mean both the Master Association and each duly formed Subordinate Association, as the case may be and the context intends and the Executive Board shall be deemed to mean both the Executive Board for the Master Association and the Executive Board for each duly formed Subordinate Association as the case may be and the context intends. The powers and authority herein granted shall extend only to such extent and to such property as this Declaration assigns jurisdiction, therefore, the Master Association is not granted powers and authority to regulate matters that have been assigned to a Subordinate Association, nor may a Subordinate Association exercise powers and authority over the Master Association or over another Subordinate Association.

9.2. Power to Grant Easements. The respective Master Associations and each Subordinate Association shall have the power to grant access, utility, drainage, irrigation, and such other easements upon, over, across or under the Master Association Property and Subordinate Association Property as it deems necessary or desirable for the benefit of the respective Master Association Property or the Subordinate Association Property or parts thereof, or for the benefit of all or less than all of the Owners in the Master Association or the Subordinate Association, or for the benefit of lands situated outside the Common Interest Community. The respective Master Associations and each Subordinate Association shall have the power to grant access, utility, drainage, irrigation, and such other easements upon, over, across or under the Master Association Property and Subordinate Association Property as it deems necessary or desirable for the benefit of its Members, or for the benefit of all or less than all of the Owners, or for the benefit of lands situated outside the Common Interest Community.

9.3. Power to Convey or Encumber Association Property. The respective Master Associations and/or each Subordinate Association shall have the power to convey, or subject to a security interest, portions of the Master Association Property and Subordinate Association Property if Owners entitled to cast at least sixty-seven percent (67%) of the allocated votes in the respective Master Association Property and Subordinate Association Property, including sixty-seven percent (67%) of the votes allocated to Units not owned by Declarant, agree to that action, except that all Owner(s) of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or to subject it to a security interest. Proceeds of the sale are an asset of the respective Master Association and/or Subordinate Association. An agreement to convey, or subject to a security interest, Association Property must be evidenced by the execution of an agreement, in the same manner as a deed, by the respective Master Association and/or Subordinate Association. The agreement must specify a date after which the agreement will be void unless approved by the required percentage of allocated votes. Any grant, conveyance or deed executed by the respective Master Association and/or Subordinate Association must be recorded in Dolores County and is effective only upon Recordation. The respective Master Association and/or Subordinate Association, on behalf of the Owners, may contract to convey an interest in a Master Association Property or Subordinate Association Property, but the contract is not enforceable against the Association until approved, executed and ratified pursuant to this Section. Thereafter, the respective Master Association and/or Subordinate Association shall have all the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments. Unless in compliance with this Section any purported conveyance, encumbrance, judicial sale, or other transfer of Master Association Property or Subordinate Association Property is void. A conveyance or encumbrance of Master Association Property or Subordinate Association Property pursuant to this Section shall not deprive any Unit of its rights of (i) access, ingress and egress to the Unit, and (ii) support of the Unit. A conveyance or encumbrance of Association Property pursuant to this Section shall not affect the priority or validity of preexisting encumbrances.

9.4. General Power to Provide Services and Facilities to Owners. The respective Master Associations and/or each Subordinate Association shall have the power, but not the obligation, to acquire, construct, operate, manage, maintain, repair and administer services and facilities for the benefit of the Owners, or some of them, including, without limitation, security, animal control, rockfall mitigation, noise attenuation, vegetation control, insect and pest control, television service, parking facilities, transportation facilities, snow removal, signage, (including entry monuments), lighting, (including seasonal lighting), fencing, landscape walls, landscaping services and facilities, drainage facilities, including retention and detention ponds, irrigation facilities, water features, trash and solid waste disposal services, including recycling programs, utility services, recreational facilities and services, maintenance, and such other services, functions and facilities as are deemed appropriate by the Executive Board of the respective Master

Associations and/or each Subordinate Association. The foregoing list shall not be deemed to be a representation by Declarant of services or facilities that will in fact be available for use by the Owners. The respective Master Associations and/or each Subordinate Association may enter into such agreements and arrangements as it may deem appropriate with any provider of utilities or services to the Common Interest Community or any portion thereof and may form or join any districts created to provide such services.

9.5. Power to Provide Special Services to Owners. The respective Master Associations and/or each Subordinate Association shall have the power to provide services to an Owner or group of Owners. Any service or services to an Owner or group of Owners shall be provided pursuant to an agreement in writing which shall provide for payment to the respective Master Associations and/or each Subordinate Association by such Owner or group of Owners of the costs and expenses of the respective Master Associations and/or each Subordinate Association in providing such services, including a fair share of the overhead expenses of the respective Master Associations and/or each Subordinate Association, and shall contain reasonable provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Owner or group of Owners and that the payment for such services shall, in the discretion of the Executive Board of the respective Master Associations and/or each Subordinate Association, be secured by a lien on the Unit(s) of the Owner or group of Owners.

9.6. Power to Charge for Special Association Property Uses and Special Association Services. The respective Master Associations and/or each Subordinate Association shall have the power to establish reasonable admission or other fees or charges for any special or extraordinary Master Association Property or Subordinate Association Property uses or for any Master Association or Subordinate Association services such as special parking privileges, special recreation facilities, conference rooms, instruction, or similar uses beyond the ordinary use of Master Association Property uses or Subordinate Association Property and ordinary Master Association or Subordinate Association services. Such charges or fees shall be set forth in schedules of charges and fees adopted from time to time by the Master Association Executive Board or the Subordinate Association Executive Board.

9.7. Power to Acquire Property and Construct Improvements. The respective Master Associations and/or each Subordinate Association may acquire, hold, encumber and/or convey any right, title or interest in or to real or personal property, including Improvements. The Master Association and the Subordinate Association may construct Improvements on respective Master Association Property or Subordinate Association Property and may demolish existing Improvements thereon.

9.8. Power to Adopt Rules and Regulations. The respective Master Association and/or each Subordinate Association may adopt, amend, repeal, and enforce such Rules and Regulations as the respective Executive Board may consider necessary, desirable or appropriate from time to time with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the respective Master Association Property or Subordinate Association Property (including Limited Common Elements), and the use of any other property within the Common Interest Community, including Units. Any such Rules and Regulations shall be effective only upon adoption by resolution at an open meeting of the respective Master Association Executive Board and/or each Subordinate Association Executive Board. Notice of the adoption, amendment, or repeal of any Rule or Regulation shall be given in writing to each Owner, and copies of the currently effective Rules and Regulations shall be made available to each Owner and Occupant upon request and payment of the reasonable expense of copying the same. Each Owner and Occupant (and all other Persons who are authorized users of Master Association Property or Subordinate Association Property) shall comply with such Rules and Regulations, and each Owner shall see that Occupants claiming through such Owner comply with such Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall govern. Such Rules and Regulations may establish reasonable and uniformly applied penalties (including the levying and collection of fines) for the violation of such Rules and Regulations or of any provision of this Declaration, the Articles, or the Bylaws.

9.9. Power to Contract with Employees, Agents, Contractors, Districts, Consultants and Managers. The respective Master Association and/or each Subordinate Association shall have the power to contract with, and/or to employ and discharge employees, agents, independent contractors and consultants, including lawyers and accountants, and special districts, to perform any of the responsibilities of the respective Master Association and/or each Subordinate Association under this Declaration, including without limitation maintenance responsibilities. The respective Master Association and/or each Subordinate Association shall also have the power to retain and pay for the services of a manager or managers, which may be an affiliate of Declarant, to undertake any of the administrative or managerial responsibilities for which the Association may have responsibility under this Declaration, to the extent deemed advisable by the Association, and may delegate any of its duties, powers, or functions to any such manager. Notwithstanding any delegation to a manager of any duties, powers, or functions of the respective Master Association and/or each Subordinate Association and its Executive Board shall remain ultimately responsible for the performance and exercise of such duties, powers, and functions.

9.10. Power to Assign Future Income. The respective Master Association and/or each Subordinate Association shall have the power to assign its right to future income, including the right to

receive Regular Assessments, but only following the affirmative vote of at least fifty-one (51) percent of the total allocated votes in the respective Master Association and/or each Subordinate Association, at a duly-called meeting of the Members of the respective Master Association and/or each Subordinate Association.

9.11. Duty to Accept Property and Facilities Transferred by Declarant. The respective Master Association and/or each Subordinate Association shall accept title to any real property, or interests in real property, including any Improvements and personal property thereon, transferred to the respective Master Associations and/or each Subordinate Association by Declarant, or Declarant's successors or assigns. Property interests transferred to the respective Master Association and/or each Subordinate Association by Declarant or its successors or assigns may include fee simple title, undivided interests, easements, leasehold interests and licenses to use. Any property or interest in property transferred to the respective and/or each Subordinate Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Executive Board, be transferred to the respective Master Association and/or each Subordinate Association free and clear of all monetary obligations, liens and encumbrances (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration and all easements, covenants, conditions, restrictions, and equitable servitudes or other encumbrances of record or otherwise in existence. Except as otherwise specifically approved by resolution of the Executive Board, no property or interest in property transferred to the respective Master Association and/or each Subordinate Association by Declarant shall impose upon the respective Master Association and/or each Subordinate Association any obligation to make monetary payments to Declarant or any affiliate of Declarant, including, but not limited to, any purchase price, rent, charge, or fee. Any Improvements or personal property transferred to the respective Master Association and/or each Subordinate Association by Declarant shall be in good working order, ordinary wear and tear excepted, and at the time of transfer Declarant shall make any repairs reasonably required to bring the transferred property into good working order. Subject only to the foregoing, the respective Master Association and/or each Subordinate Association shall accept all properties transferred to it by Declarant in their "Where Is, As Is" condition, without recourse of any kind, and Declarant disclaims and shall not be deemed to make or to have made any representations or warranties, express or implied, by fact or law, with respect to the transferred properties or any aspect or element thereof, including without limitation warranties of merchantability, habitability, fitness for a particular purpose, or workmanlike construction.

9.12. Duty to Manage and Care for Association Property. The respective Master Association and/or each Subordinate Association shall manage, operate, care for, maintain, repair and replace all respective Master Association Property and Subordinate Association Property and keep the same in a functional, clean and attractive condition for the benefit and enjoyment of the Owners. Except as otherwise specifically provided in this Declaration the respective Master Association and/or each Subordinate Association shall also manage, operate, care for, maintain and repair the respective Limited Common Elements.

9.13. Owner's Duty to Manage and Care for Limited Common Elements. Each Owner shall be responsible for the day-to-day cleaning and upkeep of the Limited Common Elements, including any Building Common Elements, reserved for the use of such Owner and any other Owners. Any and all costs associated with said day-to-day care, cleaning and upkeep of said Limited Common Elements shall be paid and discharged by the Owner or Owners entitled to the exclusive use of said Limited Common Elements. The expense of maintaining, repairing, replacing or reconstructing a Limited Common Element shall be assessed equally against the Unit or Units to which such Limited Common Element is assigned. Should an Owner fail to discharge these duties and obligations, then the Association may, but is not obligated to discharge said duties and obligations and to assess the Units charged with these duties and obligations as a Reimbursable Assessment.

9.14. Duty to Pay Taxes. The respective Master Association and/or each Subordinate Association shall pay any taxes and assessments levied upon Association Property (excepting Limited Common Elements) and any other taxes and assessments payable by the Association and the Subordinate Association before they become delinquent. The respective Master Association and/or each Subordinate Association shall have the right to contest any such taxes or assessments by appropriate legal proceedings provided no sale or foreclosure of any lien for such tax or assessment occurs and provided further that the respective Master Association and/or each Subordinate Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

9.15. Duty to Keep Association Records. The respective Master Association and/or each Subordinate Association shall keep financial records in sufficient detail to enable the respective Master Association and/or each Subordinate Association to carry out its responsibilities under this Declaration and to comply with the requirements of the Act, including, but not limited to, current records of paid and unpaid Assessments for each Unit. All financial and other records of the respective Master Association and/or each Subordinate Association shall be made reasonably available for examination by the Owners and the authorized agents of the Owners.

9.16. Duty to Support Executive Board. The respective Master Association and/or each Subordinate Association shall take such actions, provide such funds, and do such other things as may be necessary or appropriate from time to time to support and assist the respective Executive Board in the performance of its responsibilities under this Declaration, and shall cooperate with said Committee to the

fullest extent possible in such matters.

9.17. Insurance. Commencing not later than the time of the first conveyance of a Unit to a Person other than Declarant, the Master Association and, when Units are constructed and conveyed to third parties, the Subordinate Association, shall maintain and keep in effect at all times the following types of insurance, and the cost of said coverage shall be paid by the Master Association and the Subordinate Association as a Common Expense, provided that the Declarant may include terms and conditions in any Supplemental Declaration providing for different insurance coverage requirements for a Subordinate Association for the completed Buildings and Units being annexed into the Common Interest Community at the time the Supplemental Declaration is being recorded. As used in this Section the term "Association" shall mean and apply to both the Master Association and the Subordinate Association, term "Association Property" shall mean and apply to both the Master Association Property and the Subordinate Association Property and the term "Executive Board" shall mean and refer to both the Master Association Executive Board and the Subordinate Association Executive Board as the context and meaning intends.

(a) **Casualty Insurance.** To the extent reasonably available, property insurance on all Master Association Property and the Subordinate Association Property, including but not limited to Improvements and personalty, owned or leased by the Master Association and the Subordinate Association, and on all property that must become Master Association Property and the Subordinate Association Property. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and extended coverage insurance including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonably obtainable, be for the full insurable replacement cost of the insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.

(b) **Liability Insurance.** Comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of the Master Association Property and the Subordinate Association Property (including the Master Association and the Subordinate Association Limited Common Elements), and covering public liability or claims of liability for injury to persons and/or property, and death of any person or persons, and, if the Association owns or operates motor vehicles, public liability or claims of liability for bodily injury (including death) and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonably obtainable, (a) have limits of not less than Five Million Dollars (\$5,000,000.00) per person and Five Million Dollars (\$5,000,000.00) per occurrence; (b) insure the Master Association Executive Board, the Subordinate Association Property Executive Board, the Master Association and the Subordinate Association and its officers, the manager, if any, and their respective employees, agents and all Persons acting as agents; (c) include the Declarant as an additional insured as its interests may appear; (d) include the Owners as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of Master Association Property and the Subordinate Association Property; (e) cover claims of one or more insured parties against other insured parties; (f) be written on an occurrence basis; and (g) shall name as additional insureds such other parties as may be required by specific agreements.

(c) **Contractual Liability Insurance.** To the extent reasonably available, contractual liability insurance covering such contractual obligations and liabilities, indemnifications, hold harmless agreements, and agreements to defend, as the Master Association and the Subordinate Association may have or be a party to from time to time, with coverage of at least Two Million Dollars (\$2,000,000.00) or such greater amount as the Master Association Executive Board and the Subordinate Association Property Executive Board shall determine to be appropriate from time to time.

(d) **Fidelity Bonds.** To the extent reasonably available, fidelity bond coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or volunteers responsible for handling funds belonging to or administered by the Master Association and the Subordinate Association. If funds of the Master Association and the Subordinate Association are handled by a management agent, then fidelity bond coverage may also be obtained for the officers, employees, or agents thereof handling or responsible for Master Association and the Subordinate Association funds. The fidelity bond or insurance must name the Master Association and the Subordinate Association as the named insured and shall be written to provide protection in an amount no less than the lesser of (a) one-half times the Master Association and the Subordinate Association's estimated annual operating expenses and reserves, (b) a sum equal to three (3) months aggregate Regular Assessments, plus reserves, as calculated from the current Budget of the Association; or (c) the estimated maximum amount of funds, including reserves, in the custody of the Master Association and the Subordinate Association (and its management agent) at any one time. In connection with such coverage, an appropriate endorsement to the policy to cover any person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

(e) **Worker's Compensation.** A Worker's Compensation policy, if necessary, to meet the requirements of law.

(f) **Directors and Officers Liability Insurance.** Directors and officers liability insurance with coverage of at least Two Million Dollars (\$2,000,000.00) or such greater amount as the Executive Board shall approve for all Association, Master Association Executive Board, the Subordinate Association

Property Executive Board and its officers, members and managers, for any and all errors and/or omissions and other covered actions that occur during their tenure in office or employment. This insurance coverage shall be mandatory.

(g) **Other Insurance.** Such other insurance in such amounts as the Master Association Executive Board and the Subordinate Association Property Executive Board shall determine, from time to time, to be appropriate to protect the Master Association and the Subordinate Association or the Owners, or as may be required by the Act.

(h) **General Provisions Respecting Insurance.** Insurance obtained by the Master Association and the Subordinate Association may contain such deductible provisions as good business practice may dictate. If the insurance described is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefore having been obtained by it, the Association and the Subordinate Association shall promptly cause notice of that fact to be delivered or sent prepaid by U.S. Mail to all Owners.

Insurance policies carried pursuant to Sections 10.16(a) and 10.16(b) above shall provide that (i) each Owner is an insured Person under the policy with respect to liability arising out of such Owner's interest in the Master Association Property and the Subordinate Association Property or membership in the Association and the Subordinate Association; (ii) the insurer waives its rights of subrogation under the policy against the Master Association and the Subordinate Association, each Owner, and any Person claiming by, through, or under such Owner or any other director, agent, or employee of the foregoing; (iii) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Master Association and the Subordinate Association, will void the policy or be a condition to recovery under the policy; and (iv) if at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy shall be the primary insurance. An insurer that has issued an insurance policy for the insurance described in Sections 10.16(a) and 10.16(b) above shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a security interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and each Owner and holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses.

Any loss covered by the property insurance policy described in Section 10.16(a) above must be adjusted with the Master Association and the Subordinate Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Master Association and the Subordinate Association shall hold any insurance proceeds in trust for the Association and the Subordinate Association, Owners and lienholders as their interests may appear. Subject to the provisions of Section 38.33.3-313(9) of the Act, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Common Interest Community is terminated.

The Master Association and the Subordinate Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Master Association and the Subordinate Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Master Association and the Subordinate Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Master Association and the Subordinate Association. Insurance obtained by the Master Association and the Subordinate Association shall, to the extent reasonably possible, and provided Declarant reimburses the Master Association and the Subordinate Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant.

Insurance policies and insurance coverage shall be reviewed at least annually by the Master Association Executive Board and the Subordinate Association Executive Board to ascertain whether coverage under the policies is sufficient in light of the current values of the Association Property and in light of the possible or potential liabilities of the Association and the Subordinate Association and other insured parties. The aforementioned insurance may be provided under blanket policies covering the Association Property and property of Declarant.

In no event shall insurance coverage obtained or maintained by the Master Association and the Subordinate Association obviate the need for Owners and Occupants to obtain insurance for their own benefit.

Furthermore, to the extent reasonably available, insurance policies obtained by the Association shall contain the following provisions:

- (i) The coverage afforded by such policies shall not be brought into

contribution or proration with any insurance which may be purchased by an Owner, Occupant or Mortgagee.

(i) The conduct of any one or more Owners or Occupants shall not constitute grounds for avoiding liability on any such policies.

(ii) Each policy must contain a waiver of any defenses based on co- insurance or on invalidity arising from the acts of the insured.

(iii) A “severability of interest” endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner or Occupant because of the conduct or negligent acts of the Association and its agents or other Owners or Occupants.

(iv) Any “no other insurance” clause shall exclude insurance purchased by Owners, Occupants or Mortgagees.

(v) Coverage must not be prejudiced by (i) any act or neglect of Owners or Occupants when such act or neglect is not within the control of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Common Interest Community over which the Association has no control.

(vi) Coverage may not be canceled or substantially modified without at least thirty (30) days (or such lesser period as the Association may reasonably deem appropriate) prior written notice to the Association.

(vii) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such election is not exercisable without the prior written approval of the Association, or when in conflict with the insurance trust provisions contained herein, or any requirement of law.

(viii) A recognition of any insurance trust agreement entered into by the Association.

(ix) Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating as designated in *Best's Key Rating Guide* of Class VI or better, or if such rating service be discontinued, an equivalent rating by a successor thereto or a similar such rating service. Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Colorado.

(f) **Nonliability of Association or Executive Board.** Notwithstanding the duty of the Association to obtain insurance coverage, as stated herein, neither the Association and the Subordinate Association nor any Executive Board member, nor the Declarant, shall be liable to any Owner, Occupant, Mortgagee or other Person, if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner and Occupant to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner or Occupant may desire.

(g) **Premiums.** Premiums for insurance policies purchased by the Master Association and the Subordinate Association and other expenses connected with acquiring such insurance shall be paid by the Master Association and the Subordinate Association as a Master Association Common Expense and as a Subordinate Association Common Expense, except that (i) liability insurance on Limited Common Elements shall be separately bid and the cost thereof shall only be included in the Regular Assessments of the Units entitled to use such Limited Common Elements, and (ii) the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances, or Association Property, by an Owner or Occupant, may at the Executive Board's election, be assessed against that particular Owner and its Unit as a Reimbursement Assessment.

(h) **Insurance Claims.** The Master Association and the Subordinate Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Master Association and the Subordinate Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Master Association Executive Board and the Subordinate Association Executive Board has full and complete power to act for the Master Association and the Subordinate Association in this regard, and may, in its discretion, appoint an authorized representative, or enter into an insurance trust agreement, wherein the trustee shall have the authority to negotiate losses under any policy purchased by the Master Association and the Subordinate Association.

(i) **Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Master Association and the Subordinate Association or any insurance trustee shall be held or disposed of in trust for the Master

Association and the Subordinate Association, the Owners, or the Occupants, as their interests may appear.

(j) **Other Insurance to be Carried by Unit Owners.** Insurance coverage on the furnishings and other items of personal property belonging to an Owner or Occupant, public liability insurance coverage upon each Unit, and casualty insurance coverage for the Units, shall be the responsibility of the Owner or Occupant of the Unit. No Unit Owner or Occupant shall maintain any insurance which would limit or reduce the insurance proceeds payable under the casualty insurance maintained by the Master Association and the Subordinate Association in the event of damage to the Improvements or fixtures on Master Association Property and the Subordinate Association Property.

9.18. Damage to Common Interest Community. Any portion of the Common Interest Community for which insurance is required under Section 38-33.3-313 of the Act which is damaged or destroyed must be repaired or replaced promptly by the Association unless: (i) the Common Interest Community is terminated; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; (iii) sixty-seven percent (67%) of the Unit Owners, including owners of every Unit that will not be rebuilt, vote not to rebuild; or (iv) prior to the conveyance of any Unit to a person other than Declarant, a Mortgagee on the damaged portion of the Common Interest Community rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Common Interest Community is not repaired or replaced, the insurance proceeds attributable to the damaged Master Association Property and the Subordinate Association Property must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community, and, except to the extent that other Persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all Owners or lienholders as their interests may appear in proportion to the Common Expense liabilities of all the Units.

In the event of damage to or destruction of all or a portion of the Master Association Property and the Subordinate Association Property due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Master Association and the Subordinate Association to such reconstruction and repair. If the insurance proceeds with respect to such Master Association Property and the Subordinate Association Property damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Master Association and the Subordinate Association may levy a Special Assessment in the aggregate amount of such deficiency, or if any Owner or group of Owners is liable for such damage, may levy a Reimbursement Assessment against the Owner or group of Owners responsible therefore, and shall proceed to make such repairs or reconstruction. Such Assessment shall be due and payable as provided by resolution of the respective Executive Board, but not sooner than sixty (60) days after written notice thereof. The Assessment provided for herein shall be a debt of each Owner assessed and a lien on the Owner's Unit, and may be enforced and collected in the same manner as any Assessment Lien provided for in this Declaration. If the entire damaged Association Property is not repaired or replaced, the insurance proceeds attributable to the damaged Association Property must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community. No distributions of insurance proceeds shall be made unless made jointly payable to the Owners and first Mortgagees of their respective Units, if any.

9.19. Limited Liability. Neither the Master Association and the Subordinate Association nor its past, present or future officers or directors, nor any employee, agent or committee member of the Master Association and the Subordinate Association or of the respective Executive Board shall be liable to any Owner or Occupant or to any other Person for actions taken or omissions made except for wanton and willful acts or omissions. Without limiting the generality of the foregoing, the Master Association and the Subordinate Association, the respective Executive Board shall not be liable to any Owner or Occupant or other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Master Association and the Subordinate Association for such purposes shall not be adequate, the Owners severally agree to indemnify and to defend the Master Association, and the Subordinate Association and the respective Executive Board against claims, damages or other liabilities resulting from such good faith action or failure to act.

ARTICLE TEN ASSESSMENTS

10.1. Assessment Obligation and Lien. Declarant, on behalf of each Unit and with the recordation of each Supplemental Declaration and Supplemental Map for each Unit, shall be deemed to covenant and agree, and each Unit Owner, by acceptance of a deed therefore (including a public trustee's or sheriff's deed), whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) Regular Assessments or charges, (2) Special Assessments, and (3) Reimbursement Assessments, such assessments to be established and collected as hereinafter provided (collectively the "Assessments").

The Assessments shall mean Assessments properly imposed by the Master Association and/or each Subordinate Association duly created hereunder. As used in this Article, Association shall be deemed

to mean both the respective Master Association and each duly formed Subordinate Association, as the case may be and the context intends, and the Executive Board shall be deemed to mean both the Executive Board for the Master Association and the Executive Board for each duly formed Subordinate Association as the case may be and the context intends, except that the Master Association through its Master Association Executive Board may only impose, collect and enforce Master Association Assessments and each Subordinate Association through its Subordinate Association Executive Board may only impose, collect and enforce Subordinate Association Assessments assessed by the particular Subordinate Association.

No Owner shall have any right to set-off against an Assessment any claims that the Owner may have or may claim to have against the Association.

The Assessments, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a continuing lien and security interest upon the Unit against which each such Assessment is charged. The obligation for such payments by each Unit Owner to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction of any kind or nature. Each Unit Owner is liable for Assessments made against such Owner's Unit during his period of ownership of the Unit. Each Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the joint, several and personal obligation of each Person who was an Owner of such Unit at the time when the Assessment became due. Upon the transfer of title to a Unit, the transferor and the transferee shall be jointly, severally and personally liable for all unpaid Assessments and other charges due to the Association prior to the date of transfer, and the transferee shall be personally liable for all such Assessments and charges becoming due thereafter.

10.2. Statutory Lien. The Association has a statutory lien pursuant to Section 38-33.3-316 of the Act on the Unit of an Owner for all Assessments levied against such Unit or fines imposed against such Unit's Owner from the time the Assessment or fine becomes due (the "**Assessment Lien**"). Fees, charges, late charges, attorneys' fees, fines and interest charged by the Association pursuant to the Act or this Declaration are enforceable as Assessments. The amount of the lien shall include all such items from the time such items become due. If an Assessment is payable in installments, the Association has an Assessment Lien for each installment from the time it becomes due, including the due date set by the Executive Board's acceleration of installment obligations. An Assessment Lien is extinguished unless proceedings to enforce the lien are instituted within 6 years after the full amount of Assessments becomes due.

10.3. Lien Superior to Homestead and Other Exemptions. An Assessment Lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

10.4. Priority of Lien. An Assessment Lien is prior to all other liens and encumbrances on a Unit except as follows:

- (a) Liens and encumbrances Recorded before the recordation of this Declaration;
- (b) A security interest on the Unit which has priority over all other security interests on the Unit and which was Recorded before the date on which the Assessment sought to be enforced became delinquent. An Assessment Lien is prior to the security interest described in the preceding sentence to the extent of an amount equal to the Regular Assessments (based on a Budget adopted by the Association pursuant to Section 11.7 below) which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by the Association or any party holding a lien senior to any part of the Association lien created under this Article 11 of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien;
- (c) Liens for real estate taxes and other governmental assessments or charges against the Unit; and
- (d) As may otherwise be set forth in the Act. The priority of mechanics' and materialmen's liens is not affected by the Act.

This Article 11 does not prohibit an action or suit to recover sums for which this Article 11 creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the lien for an Assessment.

10.5. Perfection of Lien. The Recording of this Declaration constitutes record notice and perfection of the statutory lien. No further Recordation of any claim of lien for Assessments is required; however, a claim may be Recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Unit as a Reimbursement Assessment.

10.6. Regular Assessments.

(a) A Regular Assessment shall be made annually against each Unit, based upon an annual Budget prepared by the Executive Board, for purposes of paying (i) the annual costs of operating and administering the Association and all other Common Expenses, (ii) reasonable reserves for contingencies, replacements, and other proper purposes, (iii) the costs of services rendered or expenditures incurred by the Association to or for less than all Units, (iv) the costs of improving or maintaining Limited Common Elements, and reasonable reserves for such costs, which costs shall be assessed only to the Units designated for the use of said Limited Common Elements, (unless such costs are for the general benefit of the Common Interest Community), and (v) such other matters as may be reasonably determined by the Executive Board to be the subject of a Regular Assessment;

(b) Regular Assessments shall be allocated in accordance with the Allocated Interests of each Unit in the Common Interest Community. Any Common Expense or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited. If Common Expense liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be reallocated in accordance with the reallocated Common Expense liabilities.

(c) Regular Assessments shall be levied on a calendar year basis, except that the initial Regular Assessment period shall commence on the first day of the calendar month or quarter in which the first Unit is conveyed by Declarant to a Person other than Declarant. Regular Assessments shall be paid in installments on a monthly, quarterly or semi-annual basis, as the Executive Board may determine from time to time, and shall be due either on the first day of each calendar month or on the first day of each calendar year quarter (January 1, April 1, July 1 and October 1), or on the first day of a semi-annual period (e.g. January 1, July 1) as appropriate. Unless and until changed to a monthly or semi-annual system by the Executive Board, Regular Assessments shall be due and payable on the first day of each calendar quarter. Any Unit Owner acquiring a Unit between installment due dates shall pay a pro rata share of the immediately preceding installment.

(d) The Executive Board shall fix the amount of the Regular Assessment, using the Budget procedure described below, at least thirty (30) days before the end of each calendar year. Written notice of the Regular Assessment shall be sent to each Owner. Failure of the Executive Board timely to fix and levy the Regular Assessments for any year or to send a notice thereof to any Owner shall not relieve or release any Owner from liability for payment of Regular Assessments or any installments thereof for that or subsequent years as soon as the Executive Board levies the Regular Assessment and provides notice thereof. If a duly adopted Budget is amended during the calendar year, the Executive Board shall provide written notice to the Owners of any changes caused thereby in the remaining Regular Assessments due during that year.

(e) The Executive Board shall also mail to each Owner at least ten (10) days prior to the due date thereof a written notice of the amount of the next quarterly (or monthly or semi annual, as the case may be) installment of Regular Assessment that is due from such Owner, and the date on which such installment is due pursuant to paragraph 11.6(d) above. Failure of the Executive Board to send timely notice to any Owner of an installment of Regular Assessment due shall not relieve or release any Owner from liability for payment of that installment as soon as the Executive Board in fact provides such notice.

(f) In accordance with Section 38-33.3-314 of the Act, any surplus funds remaining after payment of or provision for Association expenses and any prepayment of or provision for reserves shall be carried forward as a credit against the next year's budget.

10.7. Association Budget. Commencing in 2024, and during the last three (3) months of each year thereafter, the Executive Board shall prepare or cause to be prepared an operating budget (the "**Budget**") for the next calendar year. The Budget shall provide for the allocation of any surplus funds remaining from any previous Budget period. The annual Budget may provide for a Special Assessment in any calendar year, if considered necessary or appropriate by the Executive Board. Alternatively, the Executive Board may at any time adopt a Special Budget that provides for a Special Assessment. Within thirty (30) days after adoption of any proposed Budget for the Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the Budget not less than fourteen (14) nor more than sixty (60) days after the mailing or other delivery of the summary. Such meeting may, but need not be, concurrent with the annual meeting of the Members as provided in the Bylaws. Unless at that meeting sixty-seven percent (67%) of all allocated votes in the Association reject the Budget, the Budget shall be ratified, whether or not a quorum of Owners is present. In the event that the proposed Budget is rejected, the Budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent Budget proposed by the Executive Board.

If the Executive Board considers it necessary or appropriate, a duly adopted Budget may be amended during the calendar year by the Executive Board, provided the same notice and ratification

procedure is followed for the Amended Budget as is required for the annual Budget.

10.8. Special Assessments. In addition to the other Assessments authorized in this Article 11, the Executive Board may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, maintenance or replacement of capital improvements (including related fixtures and personal property and including without limitation irrigation systems), to or upon or serving the Common Interest Community, or for excess reconstruction costs or other extraordinary expenses, or to acquire Association Property, or for funding any operating deficit of the Association. Special Assessments shall be allocated in the same manner as Regular Assessments, that is, in accordance with the Allocated Interests of each Unit in the Common Interest Community, and shall be due and payable to the Association on the due date fixed by the Executive Board in the notice given to the Owners of such Special Assessment, which due date shall be no earlier than thirty (30) days after the giving of such notice. Any Special Assessment for an Improvement or other expenditure which will benefit fewer than all of the Units shall only be levied against the Units benefited; provided, that expenditures in connection with Association Property (excepting Limited Common Elements) shall be deemed for the general benefit of all Units, wherever located. If fewer than all of the Units will be subject to the Special Assessment, then such Special Assessment shall be allocated equally amongst those Units.

10.9. Reimbursement Assessments. In addition to the other Assessments authorized in this Article 11, the Executive Board may levy against any Owner or Owners, at any time and from time to time, a Reimbursement Assessment for purposes of reimbursing the Association for all costs and expenses incurred by it in enforcing any provision of or in remedying any violation of this Declaration, the Articles, Bylaws, Rules and Regulations or Design Guidelines, or any approvals granted by the Executive Board, by such Owner or Owners, their Occupant(s), or their agents, employees or contractors. Reimbursement Assessments may also be made by the Executive Board for any other purposes for which this Declaration provides for the levying of a Reimbursement Assessment. Finally, and in addition to the foregoing, a Reimbursement Assessment may also be levied in the form of a reasonable fine against an Owner for a violation of this Declaration, the Articles, Bylaws, or the Rules and Regulations, but only after the Owner(s) to be so fined have been provided with Notice and Hearing. Reimbursement Assessments shall be due and payable to the Association on the due date fixed by the Executive Board in the notice given to the Owner(s) of such Reimbursement Assessment, which date shall be no earlier than thirty (30) days after the giving of such notice.

10.10. Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment or portion or installment thereof which is not paid when due (or for which a bad check is issued) shall be deemed delinquent and shall bear interest from and after the due date at the rate of interest set by the Executive Board from time to time, which shall not exceed the maximum amount set by law, and the Executive Board may also assess a bad check charge in the amount of 10 percent (10%) of the bad check or \$50.00, whichever is greater. The Executive Board may also suspend the delinquent Owner's use of Association Property and Association services or benefits, as provided in Section 13.4. The delinquent Owner shall also be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting a delinquent Assessment, which collection costs shall be added to the delinquent Assessment. The Executive Board may but shall not be required to record a Notice of Delinquent Assessment or charge against any Unit as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Executive Board, and shall set forth the amount of the unpaid Assessment or charge, the name of the delinquent Owner and a description of the Unit.

The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property. The Association shall be entitled to purchase the Unit at foreclosure. The Association may also bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Unit in the discretion of the Association. No Owner may exempt himself or otherwise avoid liability for the Assessments provided for herein by waiver of the use or enjoyment of any of the Association Property or by abandonment of the Unit against which the Assessments are made.

In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver to collect all sums alleged to be due from the Unit Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Regular Assessments.

10.11. Statement of Unpaid Assessments. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by facsimile transmittal or by certified mail, first class postage prepaid, return receipt requested, to the Association, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit, whether delinquent or not. The statement shall be furnished within fourteen (14) days after receipt of the request and is binding on the Association, the Executive Board, and every Owner. If no statement is furnished either delivered personally or by facsimile transmission or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request.

10.12. Assessments for Tort Liability. In the event of any tort liability against the Association

which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Special Assessment. The Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions.

10.13. Working Capital Fund. In addition to the various Assessments provided for above, at the time of closing of each conveyance of a Unit in the Common Interest Community, including initial conveyances to the Unit Owners, and all subsequent resales, the Unit purchaser shall be obligated to pay to the Association a non-refundable contribution to the Association's working capital fund in the amount of two (2) times the most recently adopted regular monthly assessment. Said working capital fund may be used by the Association from time to time for any Association purpose deemed appropriate by the Executive Board, and need not be segregated or accumulated. Such payment shall not be deemed to be a prepayment of any Assessment, and shall not relieve the Owner from the obligation to pay all Assessments as and when due. At the time of closing of a reconveyance of an Owner's Unit to a new Owner, the selling Owner shall forfeit any right to the working capital fund and the new Owner shall pay an additional non-refundable contribution to the working capital fund in the amount calculated as above set forth.

Notwithstanding the foregoing, any builder acquiring an undeveloped Unit from Declarant for the purpose of constructing a residential dwelling thereon and selling the same in the ordinary course of the builder's business, and not for the builder's own residence, shall not be required to pay the above-described contribution to the working capital fund until the first to occur of the following: (a) the new residence on the Unit is occupied by a tenant or otherwise; or (b) the Unit is sold to a third party, in which case the purchaser shall make the payment to the working capital fund.

The following conveyances shall be exempt from the working capital fund contribution obligation: Gift transfers and other transfers for no consideration, transfers for estate planning purposes or public purposes, transfers by court order (including foreclosure sales) or by will or intestacy, and transfers to a successor or assign of Declarant or an affiliate of Declarant.

If a working capital fund contribution is not timely paid to the Association as above required, the delinquent contribution shall bear interest at the rate of eighteen percent (18%) per annum from the date of the conveyance until paid in full, shall constitute the personal, joint and several obligation and liability of the transferee(s), and the Association shall have a lien and security interest on the title to the transferee's Unit in the amount of the delinquent contribution, accrued interest thereon, and costs and attorneys' fees incurred in collecting the same, which may be foreclosed by the Association in the same manner as a mortgage on real property.

10.13. Statement of Assessments. The Association shall furnish to a Owner or such Owner's designee or to a holder of a security interest or its designee upon written request by the Owner, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. The statement shall be furnished within ten business days after receipt of the request by the Association and is binding on the Association, the Board, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid Assessments which were due as of the date of the request.

10.14. Grantee and Grantor Both Responsible. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments (including fees, charges, late charges, attorney fees, fines and interest) against the latter for the Assessments provided herein up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore, subject only to the limitations set forth in Section 22.1 above. The term "grantee" as used in this section shall not apply to the holder of any first Mortgage upon a Unit, or to any person or entity acquiring title to a Unit, by either sheriffs or public trustee's deed through foreclosure, or who acquires title by a deed given in lieu of foreclosure of a Mortgage, deed of trust, or other security instrument encumbering such Unit.

ARTICLE ELEVEN EMINENT DOMAIN

11.1. Definitions. The term "taking", as used in this Article, shall mean condemnation by eminent domain or sale under threat of condemnation.

As used in this Article, as the case may be and the context intends, the term "Association" shall be deemed to mean both the Master Association and each duly formed Subordinate Association, the term "Executive Board" shall be deemed to mean both the Executive Board for the Master Association and the Executive Board for each duly formed Subordinate Association and the term "Association Property" shall be deemed to mean both the Master Association Property and/or Subordinate Association Property.

11.2. Representation in Condemnation Proceedings of Association Property. In the event of a threatened taking of all or any portion of the Association Property, the Owners hereby appoint the Association through such persons as the Executive Board may designate to represent the Association and all of the Owners in connection therewith. The Association shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the

condemnor in lieu of engaging in a condemnation action. Service of process on the Association shall constitute sufficient notice to all Owners, and service of process on each individual Owner shall not be necessary. As used in this Article, Association shall be deemed to mean both the Association and each duly formed Subordinate Association, as the case may be and the context intends and the Executive Board shall be deemed to mean both the Executive Board for the Association and the Executive Board for each duly formed Subordinate Association as the case may be and the context intends

11.3. Award for Association Property. Any awards received by the Association on account of the taking of Association Property shall be paid to the Association. The Association may, in its sole discretion, retain any award in the general funds of the Association or distribute all or any portion thereof to the Owners as their interests may appear. The rights of an Owner and the Mortgagee of a Unit as to any such distribution shall be governed by the provisions of the Mortgage encumbering the Unit.

11.4. Taking of Units. If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Owner for that Unit and its Allocated Interests whether or not any Association Property was acquired. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units (as appropriate) in proportion to the respective Allocated Interests of those Units before the taking. Any remnant of a Unit remaining after part of a Unit is taken is thereafter Association Property. Otherwise, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit and its interest in the Association Property whether or not any Association Property was acquired. Upon acquisition, unless the decree otherwise provides:

- (a) That Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and
- (b) The portion of Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units (as appropriate) in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

11.5. Miscellaneous. The court decree shall be recorded in Dolores County. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

ARTICLE TWELVE UNITS

12.1. Inseparability of a Unit.

A Unit and its appurtenant undivided interest in the Master Association Common Elements, the easements appurtenant thereto, and the exclusive use of the Master Limited Common Elements, designated for such Unit shall together comprise one Unit which shall be inseparable and may be conveyed, assigned, leased, devised or encumbered only as a Unit.

When a Building has been constructed and a Supplemental Map and a Supplemental Declaration for the pertinent Subordinate Association has been executed and recorded in conformance with this Declaration, a Unit and its appurtenant undivided interest in the Master Association Common Elements, the Subordinate Association Common Elements, the Building Common Elements, the easements appurtenant thereto, and the exclusive use of the Master Limited Common Elements, the Subordinate Association Limited Common Elements, the Building Limited Common Elements designated for such Unit shall together comprise one Unit which shall be inseparable and may be conveyed, assigned, leased, devised or encumbered only as a Unit.

12.2. Owner's Maintenance Responsibility for a Unit. Each Owner shall have the obligation to maintain and keep in good repair his/her Unit and all Improvements installed or constructed by the Owner within his Unit, including, but not limited to, the interior surfaces of walls, ceilings and floors (including any Owner interior finish, dry wall or wallboard surfaces, carpeting, tile, wallpaper, paint or other covering), internally installed utility distribution services such as water, light, gas, power, sewer, telephone and air conditioning, and all doors, windows, and window panes, lamps and accessories installed by an Owner, as well as all fixtures and appliances located within such Owner's Unit. An Owner shall reimburse the Association for any expenditure incurred for replacing and repairing of any Common Element and related facility, damaged through fault of Owner, or the Owner's guests, invitees, or tenants, and the Association shall be entitled to assess such Owner for such amounts which shall be payable, collectible and enforceable in the same manner as Assessments pursuant to these Declarations. No Owner shall alter any Common Element without the prior written consent of the Association; provided, however, that an Owner of a Limited Common Element may modify the same provided all Owners with an interest therein agree and such modification does not interfere with the rights of other Owners.

12.3. Maintenance Responsibility of the Association.

The Master Association, through the Master Association Executive Board, shall maintain, replace,

improve and keep in good repair, as a Master Association Common Expense, all Master Association Property.

The Subordinate Association, through the Subordinate Association Executive Board, shall maintain, replace, improve and keep in good repair, as a Subordinate Association Common Expense, all Subordinate Association Property.

12.4. **Reservation of Access.**

The Master Association Executive Board, shall have the right of access to each Sub Association's Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of Master Association Common Elements, or at any time deemed necessary by the Master Association for the making of emergency repairs to prevent damage to the Master Association Property.

The Subordinate Association Executive Board, shall have the right of access to each Unit and its appurtenant Limited Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of Subordinate Association Common Elements, or at any time deemed necessary by the Subordinate Association for the making of emergency repairs to prevent damage to the Subordinate Association Property.

12.5. **Owner Remodeling of a Unit.** An Owner shall have the right to redecorate, remodel or reconstruct the interior of such Owner's Unit, provided that no reconstruction or remodeling shall be made without the prior written consent of the Declarant during the Marketing Period and the Subordinate Association Executive Board. No such alteration shall materially affect the structural integrity, Common Elements, or exterior appearance of the Building. Such right to repair, alter and remodel shall carry the obligation to replace any finished materials removed with similar or other types or kinds of finishing materials.

12.6. **Mechanic's Liens.** Subsequent to the completion of the Buildings, Units and/or Improvements described on the Map, no labor performed or materials furnished and incorporated into a Unit with the consent or at the request of the Owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the Unit of another Owner not expressly consenting to or requesting the same, or against any of the Common Elements, except as to the undivided interest of the Owner for whom such labor or materials shall have been furnished.

12.7. **Indemnification.** Each Owner shall indemnify and hold harmless each of the other Owners from and against any and all liability, loss or damage, including reasonable attorney's fees, that the other Owners incur as a result of the claims of any lien against the indemnifying Owner's Unit or any part thereof for labor performed, or for materials furnished in work on such Owner's Unit.

ARTICLE THIRTEEN
MAPS AND SUPPLEMENTAL MAPS

13.1. **Filing of Supplemental Map for the Buildings and Units,** At such time as a Building has been substantially completed and prior to any conveyance by Declarant of a Unit, Declarant shall cause to be filed for record in the office of the Clerk and Recorder of Dolores County, Colorado, a Supplemental Map which shall contain a sufficient survey description of the air space of each Unit so as to locate the same accurately and properly. The Supplemental Map may be filed in whole or in parts or sections, from time to time, as stages of construction of the Buildings, Units and other Improvements are substantially completed. Each section of the Supplemental Map filed subsequent to the first filed Map shall be termed a Supplemental Community Map to the Community Map and the numerical sequence of such Supplement shall be shown thereon.

13.2. **Contents of a Map.** The initial Map shall depict and show at least the following:

- (a) The name and a general schematic map of the entire Common Interest Community;
- (b) The location and dimensions of all land not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing Buildings and other Improvements within the Common Interest Community;
- (c) The location and dimensions of the Future Development Areas located within the Common Interest Community;
- (d) A legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each Unit;
- (e) The extent of any existing encroachments across any Common Interest Community boundary;

- (f) To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Common Interest Community;
- (g) A legally sufficient description of any real estate in which the Owners will own only an estate for years, labeled as “leasehold real estate”;
- (h) The distance between noncontiguous parcels of real estate comprising the Common Interest Community;
- (i) The location and dimensions of the horizontal and vertical boundaries of each Unit, if any, being established, together with the location and dimensions of the Common Elements and Limited Common Elements within the Common Interest Community, with reference to all established data of each Unit and that Unit's identifying number;
- (j) Any portion of the Common Interest Community in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately; and
- (k) Any other information as may be included in the discretion of the Declarant.

13.3. **Contents of a Supplemental Map Reflecting Completed Condominium Units Within a New Subordinate Association.** Each new Supplemental Map shall depict and show at least the following:

- (l) The name and a general schematic map of the entire Common Interest Community and the particular Subordinate Association;
- (m) The location and dimensions of all land not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing Buildings and other Improvements within the particular Subordinate Association;
- (n) A legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to and within the Subordinate Association;
- (o) The extent of any existing encroachments across any Subordinate Association boundary;
- (p) To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Subordinate Association;
- (q) A legally sufficient description of any real estate in which the Owners will own only an estate for years, labeled as “leasehold real estate”;
- (r) The distance between noncontiguous parcels of real estate comprising the Subordinate Association;
- (s) The location and dimensions of the horizontal and vertical boundaries of each Unit within the Subordinate Association being established, together with the location and dimensions of the Common Elements and Limited Common Elements within the Subordinate Association, with reference to all established data of each Unit and that Unit's identifying number;
- (t) Any portion of the Subordinate Association in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately; and
- (u) Any other information as may be included in the discretion of the Declarant.

13.4. **Certification of Map.** All plats or maps must contain a certification by a registered land surveyor that the plat or map contains all the information required by Section 38-33.3-209 of the Act.

13.5. **Supplemental Maps.** Supplemental Community Maps shall be filed prior to the conveyance of any Units shown thereon and any Supplemental Community Map shall contain the same requirements as set forth for the original Community Map.

ARTICLE FOURTEEN DESCRIPTION OF A UNIT

14.1. **Legal Description of Unit.** Every instrument affecting the title to a Unit shall describe that Unit by its identifying Unit designation followed by the words “Unit _____, Bedrock 1 & 2 Subordinate Association, Bedrock Condominiums in accordance with the recorded Condominium Declaration and Map, Town of Rico, Dolores County, Colorado.” Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit, but also the General and Limited Common Elements and Subordinate Association Common Elements and any Building Common Elements, appurtenant thereto. Each such description shall be construed to include a nonexclusive easement for ingress to and egress from the Unit, and use (consistent with the Community Map and this Declaration) of the General and Limited Common Elements and Subordinate Association

Common Elements and any Building Common Elements.

14.2. **Unit Boundaries.** At such time as the construction of a Building has been substantially completed and a Supplemental Map and Supplemental Declaration is being prepared, the following criteria is established and shall be used in all instances to describe and designate the boundaries of each Building and Unit:

(a) **Upper Horizontal Boundaries.** The horizontal plane of the bottom surface of the lower of (i) the unfinished joists, or (ii) any common Building mechanical, plumbing, fire safety and/or electrical improvements, extended to an intersection with the vertical perimeter boundaries.

(b) **Lower Horizontal Boundaries.** The horizontal plane of the unfinished surface of the concrete, gypcrete or plywood subflooring, extended to an intersection with the vertical perimeter boundaries.

(c) **Vertical Perimeter Boundaries.** The planes defined by the unfinished interior surface face of studs and framing or face of concrete on all demising and exterior walls, extended to an intersection with the horizontal perimeter boundaries.

(d) Where walls, floors, and ceilings are designated as boundaries of a Unit, (i) all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials constituting any part of the finished surfaces thereof are part of the Unit, and (ii) all other portions of the walls, floors, or ceilings are part of the Common Elements.

(e) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the General Common Elements.

(f) Subject to the provision of Section 6.2.3 above, all spaces, interior partitions, and other fixtures and Improvements within the boundaries of a Unit are a part of the Unit.

(g) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, decks, ski lockers, storage rooms, parking spaces and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

(h) In the event of any conflict between any provisions of this Declaration and depictions contained on the Community Map, with respect to any Unit boundary, the depictions on the Community Map shall control.

14.3. **Amendment Deemed Included.** The reference to the Map and the Declaration in any instrument shall be deemed to include any recorded supplements or amendments to the Map or the Declaration, whether or not specific reference is made thereto.

14.4. **Conveyance of a Unit.** Upon the purchase of any Unit from Declarant, a copy of each instrument of conveyance shall be furnished by Declarant to the Master Association and the Subordinate Association. Upon any subsequent conveyance of a Parcel or a Unit, a copy of the instrument of conveyance shall be furnished to the Master Association or the Subordinate Association by the grantee.

ARTICLE FIFTEEN TITLE AND OWNERSHIP

15.1. **Title.** The title to any Unit may be held and owned by one or more person, firm, corporation, partnership, association, trust or other legal entity including Declarant, or any number of combinations thereof. By acceptance by any grantee of his deed or other instrument of conveyance from the Declarant or any prior Owner, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the General Common Elements. Each Owner specifically agrees not to institute any action therefor. Furthermore, each Owner agrees that Section 15.1 may be pleaded as a bar to the maintenance of such an action. A violation of this provision shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs and other damages the Association incurs in connection therewith.

15.2. **Transfer of General Common Elements.** All Owners and the Master Association and the Subordinate Association, covenant that they shall neither by act nor omission, seek to abandon, subdivide, encumber, sell or transfer the Common Elements without the consent of: (i) the Owners representing an aggregate ownership interest of 66% or more of the Common Elements in the Master Association or within the Subordinate Association should the Common Element sought to be transferred is within a Subordinate Association; (ii) the First Mortgagees representing an aggregate of 66% of the then-outstanding balances of such Mortgages covering or affecting any or all Units; and (iii) during the period of Reserved Declarant Rights as provided for herein, the consent of the Declarant. Any such action without the written consent of said Owners, First Mortgagees and, if applicable, the Declarant, shall be null and

void. Notwithstanding the foregoing, nothing contained in this shall be construed to limit or prohibit a proportionate adjustment in the percentage ownership in the General Common Elements in connection with the combination, division, or partition of any Unit pursuant to the right of combination, division, or partition of a Unit by the Owner or between Owners thereof for the purpose of sale, use, or improvement of such Unit. Nothing to the foregoing withstanding, the Master Association and the Subordinate Association shall not abandon, subdivide, encumber, sell or transfer a portion of the General Common Elements which has been properly designated as a Limited Common Element or a Building Common Element without the consent of the Owner(s) of the Unit(s) to which the Limited Common Element or Building Common Element has been assigned.

15.3. Right to Mortgage a Unit. Each Owner shall have the right to mortgage or otherwise encumber a Unit without restriction. No Owner, however, shall attempt to or shall have the right to mortgage or otherwise encumber the Common Elements or any part thereof except the undivided interest therein appurtenant to Unit. Any Mortgage or other encumbrance of any or any Unit within the Community shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through the foreclosure by private power of sale, judicial foreclosure, or otherwise.

15.4. Right to Mortgage the Future Development Area. The Declarant shall have the right to mortgage or otherwise encumber the Future Development Area without restriction.

ARTICLE SIXTEEN ASSESSMENTS AND TAXATION

16.1. **Separate Assessments and Taxation - Notice to Assessor.** The Declarant shall give written notice to the Assessor of Dolores, Colorado, of the creation of this Community, as provided by the Act, so that each Unit when such Unit is constructed and annexed into the Community, together with its undivided interest in the Common Elements and its interest in the Common Elements appurtenant thereto, shall be deemed a separate parcel and subject to separate assessment and taxation.

16.2. **Assessments and Taxation.** Each Unit, when annexed into the Common Interest Community, shall be separately assessed for all taxes and assessments of the State of Colorado, Dolores County or any other political subdivision or district having authority to tax. For the purpose of such assessment, the valuation of the Common Elements shall be apportioned among the Units in proportion to the percentage undivided interest in the Common Elements appurtenant to such Units.

ARTICLE SEVENTEEN OBSOLESCENCE

17.1. **Definitions.** As used in this Article, as the case may be and the context intends, the term "Association" shall be deemed to mean both the Master Association and each duly formed Subordinate Association, the term "Executive Board" shall be deemed to mean both the Executive Board for the Master Association and the Executive Board for each duly formed Subordinate Association and the term "Association Property" shall be deemed to mean both the Master Association Property and/or Subordinate Association Property.

17.2. **Renewal and Reconstruction.** The Owners representing an aggregate percentage ownership interest of 66% or more (according to the percentage interest in General Common Elements), and holders of duly recorded first Mortgages representing an aggregate of 66% of the outstanding aggregate principal balance of said Mortgages, may agree that the Community is obsolete and adopt a plan for the renewal and reconstruction.

If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses or Limited Common Expenses; provided, however, that an Owner, who is not a party to such a plan for renewal or reconstruction, may give written notice to the Association within fifteen days after the date of adoption of such plan that his Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have 30 days within which to cancel such plan. If such plan is not canceled, the Unit of the requesting Owner shall be purchased according to the following procedures.

If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within 30 days after such agreement.

If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "Commencement Date" from which all periods of time mentioned hereafter shall be measured. Within ten days following the Commencement Date, each party shall nominate an appraiser in writing (and give notice of such nomination to the other party). If either party fails to make such a nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree on the fair market value of the Unit, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in Dolores County, Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten days of the failure of the two appraisers to agree, which, in any events

shall not be later than 20 days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction thereof. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner.

The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds to the Association, Owner(s), and lienholders, as their interests may appear.

17.3. **Sale of Property.** If the Owners representing an aggregate percentage ownership interest of 90% or more (according to the percentage interest in General Common Elements) may agree that the Community is obsolete and that the same should be sold, the Association shall forthwith record a notice executed by the Association's president and secretary or assistant secretary setting forth such fact, and upon the recording of such notice the Community shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration. The sales proceeds shall be collected and apportioned between the Owners on the basis of each Owner's appurtenant interest in and to the Common Elements as specified in **Exhibit "B"** and such apportioned proceeds shall be paid into separate accounts, each account representing one Unit. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. The Association, as attorney-in-fact, shall use and disburse the total amount of each separate account, without contribution from one account to another, to the Association, Owner(s) and lienholders, as their interests may appear.

17.4. **Conveyance of General Common Elements.** The Owners representing an aggregate ownership interest of 90% or more (according to the percentage interest in General Common Elements) with the consent of the Declarant during the Period of the Declarant's Reserved Rights as provided for herein, may agree to convey or encumber all or part of the General Common Elements. Such agreement to convey or encumber all or part of the General Common Elements must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Owners and Declarant and, as appropriate, recordation of amendments to the Declaration and/or Map. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in the Office of the Clerk and Recorder of the County of Dolores and is effective only upon recordation.

Unless in compliance with this section, any purported conveyance, encumbrance, or other voluntary transfer of Common Elements is void.

A conveyance or encumbrance of General Common Elements pursuant to this section shall not deprive the Future Development Area or any Unit of its rights of ingress and egress and support of Future Development Area or any Unit.

A conveyance or encumbrance of General Common Elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

ARTICLE EIGHTEEN **DECLARANT S RESERVED RIGHTS**

Declarant hereby expressly reserves to itself and its successors and assigns the following described rights, which include development rights and special Declarant rights, any one or more of which rights may be exercised, in the sole and absolute discretion of Declarant, at any time and from time to time during the period commencing upon the Recording of this Declaration and ending on the date of termination of such rights established below. It is expressly understood that Declarant shall not be obligated to exercise any of these reserved rights, and that no consent shall be required from any Owner, Mortgagee, or the Master Association or the Subordinate Association for the effective exercise of any of these reserved rights.

Except as limited by this Article, such reserved rights may be exercised upon or in connection with all or any portion of the Common Interest Community or the Subordinate Association as the case may be. Such rights may be exercised with respect to different parcels of said real estate at different times, and in connection therewith Declarant hereby states that (i) no assurances are made regarding the location of new Improvements within the Future Development Areas or with respect to reserved rights, even if a reference to a phase or phasing appears in a legal description, Map, Supplemental Map, Town Approvals or other agreement relating to the property, and (ii) if a particular reserved right is exercised in any portion of the real estate subject to that reserved right, that reserved right is not required to be exercised in all or any portion of the remainder of that real estate.

The reserved rights hereinafter set forth shall be prior and superior to any other provisions of this Declaration and may not be amended, modified, terminated or otherwise altered in any way without the express prior written consent of Declarant. All conveyances of Units and other portions of the Common Interest Community hereafter made, whether by Declarant or otherwise, shall be deemed and construed to reserve to Declarant and/or to grant to Declarant all of the rights reserved by and to Declarant in this Article and elsewhere in this Declaration or even though no specific reference to such rights appears in the

conveyancing instruments. Nothing in this Article shall limit or impair any other rights granted or reserved to Declarant by other provisions of this Declaration.

As used in this Article, as the case may be and the context intends, the term “Association” shall be deemed to mean both the Master Association and each duly formed Subordinate Association, the term “Executive Board” shall be deemed to mean both the Executive Board for the Master Association and the Executive Board for each duly formed Subordinate Association and the term “Association Property” shall be deemed to mean both the Master Association Property and/or Subordinate Association Property.

The following rights are hereby reserved to Declarant and its successors and assigns:

18.1. Construction of Buildings, Units and Improvements.

The right, but not the obligation, to construct Buildings, Units and any other additional Improvements on either the Future Development Areas, Master Association Property or Subordinate Association Property at any time and from time to time for the improvement and enhancement thereof for the benefit of the Master Association or the Subordinate Association and the Owners, or some of them.

The right throughout the Common Interest Community to complete Buildings, Units and any other additional Improvements at such locations generally indicated on the Map as Future Development Areas (Declarant’s Reserved Rights), and as may be indicated on any Supplemental Maps or Amended Maps. The location indicated as Future Development Areas (Declarant’s Reserved Rights) is an approximation and the location, and mass and scale of the Building, Units and other Improvements may vary from that shown on the Map. The right to add additional Building, Units and other Improvements is intended to be broadly reserved for the entirety of the Future Development Areas, subject only to the Town Approvals.

The right to construct and complete Improvements according the terms and conditions of any documents and agreements relating to the Town Approvals executed by Declarant in connection with the Common Interest Community, as may be amended from time to time.

The right to annex into the Common Interest Community such additional Buildings, Units and any other additional Improvements constructed on either the Future Development Areas, the Master Association Property or the Subordinate Association Property which may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby (the “**Annexed Units**”) is phased so that it is made subject to this Declaration at different times. Upon Recording of a Supplemental Declaration, the Annexed Units described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose on the Annexed Units described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions than those set forth in this Declaration, taking into account the unique and particular aspects of the Annexed Units covered thereby and of the proposed development thereof. Furthermore, Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant’s development rights as set forth below. A Supplemental Declaration may provide for a Subordinate Association of Owners within the Annexed Units described in the Supplemental Declaration and for the right of the Subordinate Association to assess such Owners for common expenses unique to those Owners and function in accordance with the provisions of this Declaration.

The right to create, grant and/or use and enjoy additional non-exclusive easements, and to relocate existing easements, upon or across any portion of the Common Interest Community (including the Future Development Areas, Master Association Property and Subordinate Association Property), as may be reasonably required for the construction by Declarant of the above- described Improvements or the effective exercise by Declarant of any of the other reserved rights described in this Article.

18.2. Sales, Marketing and Management. The right to construct, locate, relocate or operate, and to maintain upon, and to remove from, any part of the Common Interest Community including the Future Development Areas and Units owned by Declarant and Association Property, in the discretion of Declarant, and in such number, size and location as may be reasonably required by Declarant in connection with the completion of Buildings, Units and any other additional Improvements, the management of the development, and/or the promotion, marketing, sale or rental of Units, the following:

(a) Sales offices, management offices, and/or construction offices, and structures containing or relating to the same. Such offices, to the extent they are not situated on a Unit, are hereby declared to be personal property of the Declarant and shall in any case be removable by Declarant or its successors or assigns promptly upon the Declarant or its successors or assigns ceasing to be an Owner of a the Future Development Area or Unit;

(b) Signs identifying and advertising the Common Interest Community, the Future Development Area and Units therein, or relating to development or construction thereon;

(c) Model residences constructed or to be constructed on the Future Development Areas;

(d) Parking areas and facilities, and lighting, necessary or desirable in the marketing of the Common Interest Community and Units;

(e) Employees in offices; equipment; vehicles; and marketing and construction materials.

Together with the right to attract, invite or bring prospective purchasers of Units into the Common Interest Community at all times, and to permit them to use and enjoy the Association Property.

18.3. Merger. The right to merge or consolidate the Common Interest Community with another common interest community of the same form of ownership.

18.4. Declarant Control of Association. The right to appoint or remove any Executive Board member or officer of the Association, but only for and during the “Period of Declarant Control of Association”.

18.5. The right to annex into the Common Interest Community all or any part of any lot, parcel, tract, unit or land located within the boundaries of the Town of Rico as of the Effective Date, including, without limitation, any and all property that is adjacent to or adjoins the Common Interest Community (“**Annexable Property**”). Each Owner hereunder hereby grants to Declarant the right to annex all or any part of the Annexable Property to the Common Interest Community and to modify such Owner’s Allocated Interests accordingly. Alternatively, Declarant shall have the right and is authorized to develop portions of the Annexable Property and/or to convey, lease or mortgage portions of the Annexable Property to such third party or parties as Declarant may deem appropriate, without annexing them to the Common Interest Community, whether for purposes consistent with this Declaration or otherwise. Declarant makes no assurances that all or any portion of the Annexable Property will be added to the Common Interest Community and Declarant reserves the right to annex all or any portion of the Annexable Property to the Common Interest Community in any order it deems appropriate in its sole and absolute discretion. The annexation of additional real property to the Common Interest Community shall be accomplished by the Recording by Declarant with the Clerk and Recorder of Dolores County of a Supplemental Declaration containing a legal description of the land area to be added to the Common Interest Community and amending this Declaration accordingly, together with a Supplemental Plat thereof. The Supplemental Declaration shall assign an identifying number to each new Unit created thereby, and shall reallocate the Allocated Interests of all Owners in the Common Interest Community in accordance with the definition of Allocated Interests contained in this Declaration. In no event shall any annexation increase the number of Units in the Common Interest Community beyond the twenty three Unit maximum stated in the Recitals to this Declaration. The Supplemental Declaration shall also describe any Master Association Property or Subordinate Association Property (including Limited Common Areas) thereby created. The annexation of the Annexable Property may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby (the “**Annexed Property**”) is phased so that it is made subject to this Declaration at different times. Upon Recording of a Supplemental Declaration, the Annexed Property described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose on the Annexed Property described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions than those set forth in this Declaration, taking into account the unique and particular aspects of the Annexed Property covered thereby and of the proposed development thereof. Furthermore, Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant’s development rights as set forth in this Declaration. A Supplemental Declaration may provide for a Subordinate Association of Owners within the Annexed Property described in the Supplemental Declaration and for the right of the Subordinate Association to assess such Owners for common expenses unique to those Owners.

18.6. Withdrawal Rights and Procedure. The right at any time and from time to time to withdraw from the Common Interest Community any Declarant-owned Unit(s), the Future Development Area or Association Property.

Withdrawal may only be accomplished by the recording by Declarant of an amendment to this Declaration and an amendment to the Map, if necessary. Upon the recording of such amendment(s), the withdrawn Future Development Area, or Units and/or Association Property shall no longer be part of the Common Interest Community or subject to this Declaration in any way.

Each Declarant-owned Future Development Area or Unit, and each Declarant-owned Association Property, is hereby described and declared to be a separate portion of real estate that is subject to this right of withdrawal, and Declarant expressly reserves the right to withdraw the Future Development Area or one or more Declarant-owned Units and/or all or a portion of any Declarant-owned Association Property from the Common Interest Community. Once a Unit has been conveyed to an Owner other than Declarant, that portion of the real estate is no longer subject to this right of withdrawal. Likewise, once Association Property has been conveyed to the Association, or the Town, that portion of the real estate is no longer subject to this right of withdrawal. Areas of the Future Development Area may be considered a distinct and separate phase, such that Declarant or assignee may withdrawal portions of the Future Development

Area from the Common Interest Community notwithstanding the fact that Units have been constructed and sold elsewhere within the Common Interest Community.

The withdrawn property shall be subject to whatever easements, if any, may be reasonably necessary for access or utility service to, or operation or management or use or enjoyment of, the Common Interest Community or any part thereof. Similarly, the owner(s) of the withdrawn property shall have whatever easements, if any, are reasonably necessary for access or utility service to or for use or enjoyment of the withdrawn property over and across Association Property within the Common Interest Community. At the time any withdrawal of real estate is accomplished, Declarant shall record whatever documents are necessary to establish such reciprocal easements in the Official Records.

18.7. Effect of Contraction. In the event any real property or Units are annexed into or withdrawn from the Common Interest Community as provided herein, the definitions used in this Declaration shall be automatically revised to encompass and refer to the Common Interest Community as contracted, *e.g.*, “Common Interest Community” shall mean the real property described herein minus any real property withdrawn therefrom; similarly, “Association Property”, “Future Development Areas”, and “Units” shall mean and include those areas as described herein less those so designated on any amendment to the Declaration or Map relating to any real property which is withdrawn pursuant to this Article.

The recording of amendments to the Declaration and Map which reallocate the Allocated Interests in the Common Interest Community shall automatically:

(a) Vest in each existing Owner the reallocated Allocated Interests appurtenant to the Owner’s Unit; and

(b) Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

18.8. Transfer of Additional Property to Association. The right, but not the obligation, to transfer additional real and personal property, and Improvements thereon, to the Association from time to time in furtherance of this Declaration.

18.9. Other Reserved Development Rights. Subject to compliance with any applicable Town requirements, the right with respect to all or any Declarant-owned portion of the Common Interest Community (including the Units) to (a) create Master Association Property or Subordinate Association Property (including Limited Common Elements); (b) combine Units; (c) reconfigure Units and/or Master Association Property or Subordinate Association Property, or otherwise modify or amend the recorded Map; (d) amend the Town Approvals; (e) convert Units into Master Association Property or Subordinate Association Property and/or streets, paths or other Improvements; (f) annex Buildings, Units and other Improvements into the Common Interest Community; (g) establish a Subordinate Association to manage and administer the annexed Buildings, Units and other Improvements and designate and establish Subordinate Association Common Elements and Building Common Elements; (h) enlarge, reduce, relocate or abandon Master Association Common Elements and Master Association Property and/or Subordinate Association Common Elements and Subordinate Association Property; (i) convert Master Association Property or Subordinate Association Property into Units and/or Improvements; (j) the right to impose additional restrictive covenants and protective covenants upon the Property provided they are not inconsistent with, nor do they lower, the standards of the original covenants; (k) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of recreational facilities and/or Master Association Common Elements or Subordinate Association Common Elements, which may or may not be a part of the Common Interest Community. Additionally, in order to effectively exercise the rights reserved to Declarant under this Article, the right to amend this Declaration (without the consent of Owners, Mortgagees or the Association being required) for purposes of (i) complying with or qualifying for federal or state registration of the project (ii) satisfying title insurance requirements, or (iii) bringing any provision or provisions of the Declaration into compliance with the Act.

18.10. Owner Review, Acceptance and Waiver of Rights Re: Town Approvals and Declarant’s Reserved Rights. Each Owner, by its acceptance of a deed or other conveyance vesting in the Owner an interest in a Unit in the Common Interest Community, acknowledges that the Owner has carefully reviewed and understands the Town Approvals (as it may be amended from time to time) and the Declarant’s reserved rights as set forth in this Article or elsewhere in this Declaration, that the Owner accepts and approves such matters and appreciates any potential impacts that the implementation of the Town Approvals and/or the exercise of such reserved rights may have on the Owner’s Unit, and expressly waives any rights the Owner may have to object to or to interfere in any way with the implementation of such Town Approvals or the exercise of such rights.

18.11. Declarant As Attorney-in-Fact for Owners. Each Owner, by its acceptance of a deed or other conveyance vesting in the Owner an interest in a Unit in the Common Interest Community, does hereby irrevocably constitute and appoint Declarant (with full power of substitution) as said Owner’s attorney-in-fact, in said Owner’s name, place and stead, to take any and all actions and to execute and deliver any and all instruments as may be necessary or appropriate to Declarant’s exercise of the various rights reserved to Declarant under this Article or elsewhere in this Declaration specifically including without limitation

Declarant's reserved right to use all existing easements within the Common Interest Community, or to create, grant, use and/or revise the Map and relocate additional or existing easements across any portion of the Common Interest Community. The consent of Owners or holders of Mortgage shall not be required for the Declarant or its assignees to exercise any reserved rights, and Declarant or its assignees may proceed without limitation at their option, subject to existing land use, zoning laws and any planned unit development requirements of the Town. Reserved rights of the Declarant or its assignees may be exercised with respect to portions of the Future Development Areas of the Common Interest Community at different times. Additionally, Declarant or its assignees may exercise any reserved rights on all or any portion of the Common Interest Community in whatever order is determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Common Interest Community beyond the number of Units initially submitted.

18.12. Transfer and Assignment of Declarant's Reserved Rights. Any one or more rights created or reserved for the benefit of Declarant under this Article or elsewhere in this Declaration may be transferred and assigned in whole or in part to any Person by an instrument describing the right or rights transferred and Recorded in Dolores County. Such instrument shall be executed by the transferor/assignor Declarant and the transferee/assignee. The provisions of Section 38-33.3-304 of the Act shall apply to any transfer of special declarant rights.

18.13. Termination of Declarant's Reserved Rights. With the exception of Declarant's right to appoint or remove Executive Board members and officers of the Association, the rights reserved to Declarant in this Article shall automatically terminate and expire upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Declaration, or (ii) Declarant's relinquishment and surrender of such rights by Recorded instrument. Declarant may from time to time relinquish and surrender one or more but less than all of the reserved rights, in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof. The Association may extend the time period for exercise of a development right, or reinstate a lapsed development right, subject to whatever terms, conditions and limitations the Association may impose on the subsequent exercise of the development right. The extension or renewal of a development right and any terms, conditions and limitations shall be included in an amendment executed by Declarant or the owner of the real estate subject to the development right and the Association.

18.14. Interpretation. Recording of amendments to the Declaration and the Community Map or plat pursuant to reserved rights in the Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically vest in each existing Owner the reallocated Allocated Interests appurtenant to his Unit. 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 Units after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration or Community Map.

ARTICLE NINETEEN

GENERAL PROVISIONS

As used in this Article, as the case may be and the context intends, the term "Association" shall be deemed to mean both the Master Association and each duly formed Subordinate Association, the term "Executive Board" shall be deemed to mean both the Executive Board for the Master Association and the Executive Board for each duly formed Subordinate Association and the term "Association Property" shall be deemed to mean both the Master Association Property and/or Subordinate Association Property.

19.1 **Duration of Declaration.** The term of this Declaration shall be perpetual.

19.2 **Termination of Common Interest Community.** The Common Interest Community may be terminated only by the agreement of (i) Owners to which at least ninety percent (90%) of the votes in the Association are allocated, (ii) the holders of all First Mortgages on Units and (iii) the Declarant during the period of the Declarant Reserved Rights as set forth herein. A Subordinate Association may be terminated only by the agreement of (i) Owners to which at least 90 percent (90%) of the votes in the Subordinate Association are allocated, and (ii) the holders of all First Mortgages on Units in that Subordinate Association. In the event of such termination, the provisions of Section 38- 33.3-218 of the Act shall apply.

19.3 **Amendment of Declaration and Map.** This Declaration and the Map may be amended pursuant to Section 38-33.3-217 of the Act. Under the Act, the Declaration may be amended by Declarant in certain defined circumstances, including without limitation (a) when the Declarant is exercising reserved rights under Article hereof, (b) for purposes of correcting clerical, typographical or technical errors, or (c) to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association. The Act also provides that the Declaration may be amended by the Association in certain defined circumstances. Otherwise, and subject always to (i) any provisions of this Declaration requiring the consent of Declarant, and (ii) the provisions allowing

Owners to amend this Declaration (with the consent of the Association) in certain circumstances this Declaration (including the Map) may be amended only by the vote or agreement of Owners to which more than sixty-six percent (66%) of the votes in the Association are allocated. No amendment shall be effective to change, limit, impair, reduce or eliminate any right of Declarant as provided in this unless such amendment is approved in writing by Declarant.

Furthermore, Section 38-33.3-217(4) of the Act provides that except to the extent expressly permitted or required by other provisions of the Act (e.g., permitted Declarant or Association amendments), no amendment may (i) create or increase special Declarant rights, (ii) increase the number of Units beyond the 23 Units allowed by the Town Approvals, or (iii) change the boundaries of any Unit or the Allocated Interests of a Unit, except as specifically set forth herein, in the absence of a vote or agreement of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Units not owned by Declarant.

Further, Section 38-33.3-217(4.5) of the Act provides that except to the extent expressly permitted or required by other provisions of the Act, no amendment may change the uses to which any Unit is restricted in the absence of a vote or agreement of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated. It is agreed by the Owners that in the event an amendment is sent to the Owner at the address provided to Association and on file with the Association and the Owner has not responded either in favor or against the amendment within thirty days of the date the proposed amendment is properly sent to the Owner, then the Owner shall automatically be deemed to have consented to the proposed amendment with no need for further written consent to evidence such vote.

No consent of any mortgage or trust deed holder shall be required to accomplish any such amendments.

The County shall consent to any amendment of the Declaration or Map, provided that in the event that the County has not acted to either approve or deny an amendment properly presented to the County within thirty days of delivery to the County, it shall be deemed to be approved by the County.

An amendment to this Declaration shall be in the form of a "First (or Second, etc.) Amendment to Declaration and Map of Bedrock Condominiums". With the exception of Declarant amendments, amendments to this Declaration shall be duly executed by the President and Secretary of the Association and Recorded in the Office of the Clerk and Recorder of Dolores County. All amendments to this Declaration shall be indexed in the Grantee's index in the names of the Common Interest Community and the Association, and in the Grantor's index in the name of each Person executing the amendment.

19.4 **Compliance; Enforcement.**

Every Owner and Occupant in the Common Interest Community and every other Person who may be an authorized user of Master Association Property, shall fully and faithfully observe, abide by, comply with and perform all of the covenants, conditions and restrictions set forth in this Declaration, the Master Association Articles, Master Association Bylaws, Master Association Rules and Regulations and all approvals granted by the Master Association Executive Board, as the same or any of them may be amended from time to time. In addition to any other rights or remedies that may be provided to any Person under the terms and provisions of this Declaration, Declarant, the Master Association through its Master Association Executive Board, the Master Association Executive Board as to matters involving (i) Improvements within the Common Interest Community or (ii) the restrictions contained herein and made applicable to the Master Association with respect to which the Master Association Executive Board is otherwise expressly given enforcement authority under this Declaration and every Owner (except an Owner that is delinquent in the payment of Assessments hereunder) shall have the right, acting alone or together with others having such right, to enforce, by any proceeding at law or in equity, any or all of the covenants, conditions, restrictions, assessments, charges, liens, servitudes, easements and other provisions now or hereafter imposed by this Declaration, the Master Association Articles, Master Association Bylaws, Master Association Rules and Regulations and approvals granted by the Master Association Executive Board. The enforcement authority granted hereunder to the Master Association Executive Board shall not be considered exclusive, and may also be exercised by the Master Association Executive Board.

Every Owner and Occupant in a Subordinate Association and every other Person who may be an authorized user of Subordinate Association Property, shall fully and faithfully observe, abide by, comply with and perform all of the covenants, conditions and restrictions set forth in this Declaration, the Subordinate Association Articles, Subordinate Association Bylaws, Subordinate Association Rules and Regulations and all approvals granted by the Subordinate Association Executive Board, as the same or any of them may be amended from time to time. In addition to any other rights or remedies that may be provided to any Person under the terms and provisions of this Declaration, Declarant, the Subordinate Association through its Subordinate Association Executive Board, the Subordinate Association Executive Board as to matters involving (i) Improvements within the Subordinate Association or (ii) the restrictions contained herein and made applicable to the Subordinate Association with respect to which the Subordinate Association Executive Board is otherwise expressly given enforcement authority under this Declaration and every Owner (except an Owner that is delinquent in the payment of Assessments hereunder) shall have the right, acting alone or together with others having such right, to enforce, by any proceeding at law or in equity, any or all of the covenants, conditions, restrictions, assessments, charges, liens, servitudes, easements and other provisions now or hereafter imposed by this Declaration, the

Subordinate Association Articles, Subordinate Association Bylaws, Subordinate Association Rules and Regulations and approvals granted by the Subordinate Association Executive Board. The enforcement authority granted hereunder to the Subordinate Association Executive Board shall not be considered exclusive, and may also be exercised by the Subordinate Association Executive Board. Such enforcement rights shall include without limitation the right to bring an injunctive action for any form of injunctive relief available under Colorado law (including specific performance), or an action for damages, or both. Injunctive relief may include, without limitation, orders to stop work, orders to remove Improvements constructed in violation hereof, orders to compel performance, and any other orders appropriate under the circumstances.

The respective Executive Board's shall have the further right (a) to levy and collect, after Notice and Hearing, reasonable fines for the violation of any of the foregoing matters, (b) to levy and collect a Reimbursement Assessment against any Owner, (c) to enter upon any Unit within the Common Interest Community, after giving the Owner or Occupant at least five (5) days' written notice of the nature of the violation, (unless an emergency exists, in which case without notice), without liability to the Owner or Occupant thereof, to enforce or cause compliance with such matters, at the cost and expense of the Owner or Occupant in violation, and/or (d) the Executive Board may temporarily cut off any or all Association services or benefits to the subject Owner or Occupant and his Unit, including the right to use Association Property (except access roads), until the violation is cured.

In any action brought under this Section, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection therewith. Failure by any party entitled to do so to exercise in a particular instance any of the rights available to it under this Section shall in no event be deemed a waiver of the right to do so in any other instance. Provided always, that no Owner shall have the right to bring an enforcement action against another Owner or Occupant for a breach by that Owner or Occupant of any of such matters, or against Declarant, the Association or the Executive Board for a breach by Declarant, the Association or the Executive Board of any of such matters or for a failure by the Declarant, Association or the Executive Board to enforce compliance with such matters by others, until the aggrieved Owner has given the offending Owner or Occupant, or Declarant, the Association and/or the Executive Board at least thirty (30) days prior written notice of the aggrieved Owner's complaint and the opportunity to resolve the problem during that thirty (30) day period. And further provided, that notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of this Declaration or any of the Bylaws, the Articles of Incorporation, or the Rules and Regulations, or to compel the removal of any Building, Unit or other Improvement because of the violation of the terms of any such building restriction, unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

19.5 **Rights of First Mortgagees.** Upon the filing of a written request therefore with the Association, the holder of a First Mortgage on any Unit in the Common Interest Community shall be entitled to:

- (e) Written notice from the Association that the Owner of the subject Unit is delinquent in the payment of Assessments thereon;
- (f) Inspect the books and records of the Association during normal business hours;
- (g) Receive copies of annual Association financial statements;
- (h) Receive written notice of meetings of the Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;
- (i) Receive written notice of condemnation proceedings affecting any Association Property; and
- (j) Receive written notice of the lapse of any insurance that the Association is required to maintain under this Declaration.

In addition, any First Mortgagee shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against Association Property and may pay any overdue premiums on hazard or general liability insurance policies covering Association Property, and shall be entitled to immediate reimbursement therefore from the Association, unless the Association is contesting any unpaid taxes or other charges and has set aside sufficient funds to pay the contested amounts if necessary.

19.6 **Notice.** Each Owner, and each First Mortgagee if it so elects, shall register its mailing address from time to time with the Association. Except as otherwise specifically provided in this Declaration, any notice permitted or required to be given hereunder shall be in writing and may be delivered either personally, or by facsimile transmission, or by mail. Notices delivered personally or sent by facsimile transmission shall be deemed given on the date so delivered or sent. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been posted in the first-class U.S. Mail with adequate postage affixed, addressed to the receiving party at the

address last registered by such party with the Association, or in the case of an Owner that has not provided such an address, to the Unit of that Owner. Notices to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

19.7 **No Dedication to Public Use.** Except as otherwise expressly provided herein or therein to the contrary, nothing contained in this Declaration or on the Map shall be deemed to be or to constitute a dedication of all or any part of the Common Interest Community to the public or to any public use.

19.8 **Interpretation of Declaration; Conflicts with Act.** The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a common and general plan for the development, improvement, enhancement, protection and enjoyment of the Common Interest Community, and to the extent possible, shall be construed so as to be consistent with the Act. In the event that any of the terms and conditions of this Declaration are determined to be inconsistent with the Act, the Act shall control. Notwithstanding anything to the contrary in this Declaration, no rights or powers reserved to Declarant hereunder shall exceed the time limitations upon or the permissible extent of such rights or powers under the Act, and in the event any of such reserved rights or powers are determined to be inconsistent with the Act, the related provisions shall not be invalidated but shall be modified to the extent required to comply with the Act.

19.9 **Conflict With Maps.** In the event of any conflict or inconsistency between the provisions of this Declaration and the Map, including the Map notes thereon, the provisions of said Map or Map notes, as the case may be, shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said Map or Map Notes.

19.10 **Violations Constitute a Nuisance.** Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration. This provision does not limit the remedies that may be available under this Declaration or at law or in equity. Failure of the Association to bring enforcement action to correct any violation of this Declaration shall not constitute a waiver of or estop the Association from bringing a future or subsequent enforcement action to correct such violation or any other similar violation.

19.11 **Declarant's Disclaimer of Representations and Warranties.** No representations or warranties of any kind, express or implied, have been given or made or shall be deemed to have been given or made by Declarant or its agents or employees in connection with the Common Interest Community or any portion thereof or any Improvements thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use or operation, adequacy or availability of utilities, or in connection with the subdivision, sale, improvement, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing herein, in any registration statement or purchase and sale agreement executed by Declarant, or in any closing document related thereto. Furthermore, no such representations or warranties have been given or made or shall be deemed to have been given or made by Declarant or its agents or employees that the plans presently envisioned for the complete development of the Common Interest Community, can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration or that any such land (whether or not it is subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect, unless and except as shall be specifically set forth in writing herein, in any registration statement or purchase and sale agreement executed by Declarant, or in any closing document related thereto.

19.12 **Captions.** Captions given to various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof and shall not be considered in interpreting any of the provisions hereof.

19.13 **Singular Includes Plural.** Unless the context requires a contrary construction, as employed in this Declaration the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

19.14 **Remedies Cumulative.** Each remedy provided under this Declaration is cumulative and not exclusive.

19.15 **Costs and Attorneys' Fees.** In any action or proceeding involving the interpretation or enforcement of any provision of this Declaration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith.

19.16 **Governing Law; Jurisdiction.** The laws of the State of Colorado shall govern the interpretation, validity, performance, and enforcement of this Declaration. Any legal action brought in connection with this shall be commenced in the District Court for Dolores County, Colorado, and by acceptance of a deed to a Unit each Unit Owner voluntarily submits to the jurisdiction of such court.

19.17 **Severability.** Any determination by any court of competent jurisdiction that any provision

EXHIBIT "A"

Lot 6 Bedrock Subdivision, According to the Bedrock Subdivision Plat, Town of Rico, Dolores County, State of Colorado, Recorded at Reception Number 171981, Dolores County Clerk and Records Office.

EXHIBIT "B"
(Allocated Interests)

Subordinate Association/Future Development Area Designation	Number of Units/Bedrooms Constructed/Permitted to Be Constructed	Allocated Interest in the Master Association (Note: Subject to reallocation in accordance with Section 1.16 upon construction of additional Units on the Future Development Area)	Votes Allocated to the Subordinate Association/Future Development Areas in the Master Association (to be Weighted in accordance with Allocated Interest in accordance with Section 1.16)
Bedrock 1 & 2	4 Units/4 bedrooms	2,668 Sq Ft = 40%	1
Bedrock 3 & 4	6 Units/8 bedrooms	4,041 Sq Ft = 60%	1
Future Development Area	13 Units/Bedrooms	TBD upon Construction of Units with 6,291 Sq Ft Allowed per Town Approvals	1
Totals:	23 Units/26 bedrooms	6,607 Square feet 100%	3

EXHIBIT "C"
(Recorded Easements and
Licenses)

All easements now existing or subsequently created and affecting the Property.

**BEDROCK
SUBDIVISION IMPROVEMENTS AND P.U.D. DEVELOPMENT AGREEMENT**

This Subdivision Improvements and P.U.D. Development Agreement (“Agreement”), dated and made effective as of, _____ 2022 (“Effective Date”), is entered into by and between the Town of Rico, a Colorado Home Rule Municipality and Political Subdivision of the State of Colorado (“Town”) and Bedrock 3 LLC, a Colorado limited liability company or its successor in interest (“Bedrock 3 LLC”) and BRD LLC, a Colorado limited liability company or its successor in interest (“Owner”). Owner and Bedrock 3 LLC are collectively referred to as “Developers.” Town and Owner are sometimes each individually referred to as a “Party” and sometimes collectively as the “Parties”.

RECITALS

A. Owner owns the Bedrock Subdivision, located in the Town, more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (“Property”). Owner purchased the Property from Bedrock 3 LLC in March 2022.

B. On October 20, 2021, Bedrock 3 LLC received final approval from the Town of Rico Board of Trustees for a large-scale subdivision of the Property to allow for the creation of five (5) Residential (R) zoned single family lots (Lots 1 through 5) and one Commercial Planned Unit Development (CPUD) zoned lot (Lot 6) as set forth in Resolution Number 2021-02 and the subdivision plat for the Bedrock Subdivision (“Plat”) (collectively the “Town Approvals”). The Town Approvals require Bedrock 3 LLC and Owner to enter into this Agreement to guarantee the installation of certain subdivision improvements in connection with the Project as more particularly depicted on and described in **Exhibit B** attached hereto and incorporated herein by this reference (“Subdivision Improvements”) and to set forth the conditions under which the Property may be developed. This Agreement shall be recorded in the records of the Dolores County, Colorado Clerk and Recorder (“Official Records”). The Town Approvals shall be recorded in the Official Records upon satisfactory completion of the Subdivision Improvements as set forth in this Agreement.

C. The Town Approvals also require a provision in this Agreement that identifies the applicable zone district standards and PUD standards as set forth below.

D. Under the Town’s power to regulate new development and ensure development does not burden the Town’s fiscal resources, The Town apportions to Developers the costs of public facilities serving subdivision residents through payment of fees, provision of facilities, and dedication of land and rights-of-way to the Town in order to assure that new development pays its way and does not burden the Town’s fiscal resources.

E. The Town has the power to ensure the orderly subdivision and development of land, ensure that the Town Approvals are adhered to, and ensure that the Subdivision Improvements are completed in accordance with the Town Approvals.

F. The Parties desire to enter into this Agreement in order to guarantee the construction and conveyance of the Subdivision Improvements, to confirm the zoning and standards applicable to the use of the Property and to impose certain development requirements.

AGREEMENTS AND CONSIDERATION

NOW THEREFOR, in consideration of the foregoing Recitals which are incorporated into this Agreement and the mutual agreements, obligations and promises set forth below, and in further consideration of the Town Approvals upon all terms and conditions contained herein, the obligations and expenditures of development undertaken by Developers and the mutual obligations and promises set forth below, the receipt and sufficiency of which consideration is hereby acknowledged, the Owner and the Town covenant and agree as follows:

1. GENERAL

This Agreement memorializes the Subdivision Improvements authorized and required for the Property and additional requirements to be followed when the Property is developed. This Agreement also specifies improvements that must be made and conditions which must be fulfilled in conjunction with the development of the Property. This agreement also clarifies the two zoning classifications applicable to the Property.

1.1 **Obligations of Developers.** Owner and Bedrock 3 LLC shall comply with all requirements of the Rico Land Use Code ("RLUC") and Town of Rico Ordinances except where specific variances have been granted. Owner and Bedrock 3 LLC shall comply with all representations made in applications and materials submitted to the Town, on-record verbal representations, and written representations made by to Town representatives in connection with the Property and its development, whether made by Bedrock 3 LLC or Owner. Owner expressly assumes all requirements, conditions, and representations made or imposed during the Town approval process for the Property.

1.2 **Joint and Several Liability.** Owner and Bedrock 3 LLC are jointly and severally liable for the obligations in this Agreement.

1.3 **Inspection.** The Town shall have the right to enter and inspect any portion of the Property to determine whether Developers are in compliance with the obligations set forth in this agreement.

2. SUBDIVISION IMPROVEMENTS

2.1 **Construction and Installation Requirement.** Developers, at their sole cost and expense, shall cause the Subdivision Improvements to be constructed and installed in conformance with the Town Approvals and the RLUC. Owner acknowledges that the Subdivision Improvements outlined in **Exhibit B** are to be constructed in accordance with specifications prepared by a professional engineer that meet Town standards.

2.2 **Construction Documents.** Developers shall, at their sole cost and expense, cause to be prepared final construction documents for the Subdivision Improvements. Developers shall submit the final construction documents to the Town for review, approval, and permission to proceed prior to commencing construction of the Subdivision Improvements. The Town's approval of the final construction documents shall not be unreasonably delayed or withheld.

2.3 **Timing.** Developers shall complete all Subdivision Improvements in a timely manner, and construction shall be completed within one (1) year of the Effective Date of this Agreement.

2.4 **Security for Improvements; Recording.** Pursuant to RLUC Sec. 554, Developers shall deliver cash or a bond payable to the Town in the amount of \$87,500 which is 125% of the estimated cost of the Subdivision Improvements ("Security") to guarantee completion of the Subdivision Improvements. The Parties agree that

this amount does not necessarily reflect the actual cost to the Town if the Town were required to fund the construction of all Subdivision Improvements. In the event the costs of the Subdivision Improvements exceed the security posted, Developers shall be solely responsible for and agree to pay the actual costs of the Subdivision Improvements. The Town shall withhold recordation of the Town Approvals in the County Records unless and until the Subdivision Improvements are completed and approved by the Town as set forth herein.

2.5 Certification. Developers shall retain, at their sole expense, a licensed professional engineer for on-site construction inspections to ensure that all Subdivision Improvements are installed as required pursuant to Town standards, specifications, and approvals. Once the Subdivision Improvements are completed, the Town will inspect them and provide a list of deficiencies or issue a written confirmation of approval.

2.6 Acceptance and Conveyance. Acceptance of Subdivision Improvements by the Town shall be granted only after the Town approves the certification described in Section 2.5 above and shall be granted in writing by the Town. Developers shall be responsible for the maintenance of Subdivision Improvements until the Subdivision Improvements are accepted by the Town. Within 30 days of the acceptance date, Developers shall dedicate or convey to the City all rights-of-way and easements required for the operation, maintenance, repair, and replacement of the Subdivision Improvements free and clear of all liens and encumbrances that might adversely affect the use of the Subdivision Improvements for their intended purpose. Developers shall also execute a bill of sale conveying the Subdivision Improvements which are to be conveyed to the Town pursuant to this Agreement free and clear of all liens and encumbrances. The Town shall return the Security to Owner and record the Town Approvals, including the Plat, only after the Subdivision Improvements have been completed, accepted by the Town, and conveyed to the Town.

2.7 Warranty. All Subdivision Improvements accepted and conveyed to the Town shall be guaranteed for two years from the date of the Town's acceptance (the "Warranty Period"). Specifically, but not by way of limitation, the Developer shall warrant that:

- i The title conveyed shall be good and its transfer rightful;
- ii The Subdivision Improvements conveyed shall be free from any security interest or other lien or encumbrance; and
- iii The Subdivision Improvements so conveyed shall be free of any defects in materials or workmanship for a period of two years, as stated above.

2.8 Title Policy. Developers shall provide the Town a commitment for a title insurance policy indicating that the Property is free and clear of all encumbrances whatsoever which would impair the use of the Property for the approved development. Further, said title commitment or an additional title commitment shall show that any property to be dedicated to the Town is free and clear of all encumbrances which would make Subdivision Improvements and dedications unacceptable as the Town in its sole discretion determines. At the time the building permit is issued, the title insurance policy(s) shall be provided to the Town, and the premium(s) for the title insurance shall be paid by Developers. In the event the title commitment(s) reflect encumbrances which would impair the use of the Property as proposed or which would make the public dedications unacceptable, the Town shall notify the Developers, who shall cure or otherwise remove or subordinate said encumbrances to the satisfaction of the Town.

2.9 Road Impacts. Owner shall undertake commercially reasonable measures to mitigate impacts to Town maintained roads caused by construction vehicles during construction of the Subdivision Improvements, the dwellings on Lots 1 through 5, and any future development on Lot 6.

3. APPLICABLE ZONING AND STANDARDS

3.1 Lots 1 through 5 are zoned Residential ("R") and are subject to the R zone district regulations contained in RLUC Sec. 204, as amended from time to time.

3.2 Lot 6 is zoned Commercial Planned Unit Development ("CPUD"). The Town approvals modified the density for Lot 6 to allow up to 26 bedrooms to eventually be constructed in any development on Lot 6. Lot 6 is subject to the CPUD zone district regulations and, unless a CPUD variation is applied for and approved by the Town in the future, Lot 6 shall only be developed pursuant to the CPUD design criteria noted in RLUC Sec. 282, as amended from time to time.

4. Lot 6 Owners' Association; Maintenance of Driveway.

An owners' association shall be formed for Lot 6 prior to the issuance of any building permit for development on Lot 6. No owners' association shall be formed for Lots 1-5; however, Lots 1, 2 and 3 shall be subject to a driveway maintenance agreement whereby the owners of such lots will equally share the costs of maintenance and snow removal, and which will be recorded in the County Records.

5. ADDITIONAL LOT 6 DEVELOPMENT REQUIREMENTS/AUTHORIZATIONS.

In addition to the Subdivision Improvements and owners' association requirements set forth above, the following requirements shall apply to Lot 6:

5.1 Should Developers or any future developer of Lot 6 wish to vary any of the applicable RLUC CPUD requirements, as may be amended from time to time, an application to the Town and an approval by the Town shall be required.

5.2 The building permit application for any future development of Lot 6 shall include (1) a site plan depicting locations for shared storage, shared parking areas, the pedestrian trail, landscaping, parking area screening, trash and recycling areas, shared septic, and other common areas and required uses pursuant to the Code; and (2) a set of colored elevations for the project as seen from Highway 145. The site plan and colored elevations shall be reviewed by the Town staff for compliance with this Agreement and the Town Approvals, RLUC Section 280, CPUD Zone District and Design Standards, and Section 282 CPUD Design Regulations. The site plan and colored elevations shall be revised as appropriate in conformance therewith before issuance of any building permit for Lot 6.

5.3 Any residential uses constructed on Lot 6 shall be limited to a total of 26 bedrooms and 13,000 feet of conditioned space (not including vehicle garages) across all Lot 6 residential units.

5.4 A fire hydrant shall be installed prior to construction of any residential or commercial units on Lot 6.

5.5 A pedestrian trail or walkway to the Town's commercial core shall be constructed within the Highway 145 Right of Way or on Lot 6 prior to or simultaneously with construction of any residential

or commercial units on Lot 6. The location of the trail shall be depicted on the site plan materials submitted to the Town and shall be approved by the Town prior to issuance of a building permit.

5.6 Access to Lot 6 shall be provided from Highway 145 (North Glasgow Avenue). Access from other existing platted Town streets or alleys shall be prohibited.

5.7 An easement for Lot 6 ingress and egress to the highway via the Homestake/Little Cora property to the north of Lot 6 shall be recorded in the County Records simultaneously with this Agreement.

5.8 A second Highway 145 entry or exit point may be constructed on Lot 6 if the Lot 6 developer determines that it is beneficial for traffic flow within Lot 6 and obtains approval from the Town of Rico.

5.9 A Housing Restriction Covenant requiring deed restrictions for all residential housing units constructed on Lot 6 shall be recorded in the County Records simultaneously with this Agreement.

5.10 The creation of separately owned structures, dwelling units, condominium units, apartment units in a multi-family structure on Lot 6 shall require an additional subdivision application and approval process pursuant to RLUC Section 506.1.E.

5.11 No building permit shall be issued for Lot 6 until a lead soils voluntary cleanup application ("VCUP application") specific to Lot 6 is accepted by the Colorado Department of Health and Environment ("CDPHE").

6. LAND DEDICATION PARCEL.

The Town Approvals require dedication of land to the Town pursuant to Section 556 of the RLUC. The land dedication area is identified and referenced on the Plat as the "Land Dedication Parcel," and which shall be conveyed to the Town in a Dedication Deed recorded in the Official Records in conjunction with recording the Town Approvals and the Plat.

7. MISCELLANEOUS.

7.1 Easements. In the event any additional easements are necessary for utility installation, such easements must be approved by the Town and executed and recorded in the County Records simultaneously with this Agreement.

7.2 Default, Notice and Cure. In all instances under this Agreement, at such time as a Party ("Claiming Party") claims that any other Party ("Responding Party") has violated or breached any of the terms, conditions or provisions of this Agreement ("Default"), the Claiming Party shall promptly prepare and deliver to the Responding Party a written notice ("Notice of Default") claiming or asserting that the Claiming Party is in default under a term or provision of this Agreement, which notice shall clearly state and describe: (a) each section(s) of the Agreement which the Responding Party has allegedly violated, (b) a summary of the facts and circumstances being relied upon to establish the alleged violation, (c) the specific steps ("Cure Events") that must be undertaken to come into compliance with the Agreement, and (d) the reasonable timeframe, not less than ten (10) days for a monetary default and not less than thirty (30) days for a non-monetary default (unless emergency circumstances require a shorter response time), within which time the alleged violation should be cured ("Cure Completion Date").

7.3 Remedies for Breach or Default. In the event of any default or breach by the Owner of any term, condition, covenant or obligation under this Agreement, the Town Board of Trustees shall be notified immediately. The Town shall first provide notice of breach and an opportunity to cure by Owner of a period of no less than thirty (30) days under which Owner may cure to the satisfaction of Town. In the event Owner's breach has not been satisfactorily cured, Town may then take such action as it deems necessary to protect the public health, safety, and welfare; to protect lot buyers and builders, and to protect the residents of the Town from hardship. The Town shall have the following remedies against the Owner, or its successors and assigns, which remedies are cumulative and non-exclusive and which may be exercised after the provision of written notice stating that Owner is in breach, the specific steps required to cure the breach and a reasonable timeframe within which to cure the breach:

- a. Refusal to issue a building permit or certificate of occupancy;
- b. Retention of the Security amount in Section 2.4;
- c. Injunctive relief;
- d. Withdrawal or cancellation of Town Approvals;

7.4 Governing Law, Costs and Expenses. This Agreement shall be construed under and governed by the laws of Colorado, with jurisdiction and venue restricted to a court of competent jurisdiction in Dolores County, Colorado. In addition to the remedies of the Town, a Party may pursue any and all available remedies under applicable law. All of the rights and remedies of the Parties under this Agreement shall be cumulative. In any action to enforce or construe the terms of this Agreement, the substantially prevailing Party shall recover all legal and related court costs, including all reasonable attorneys' fees and expert witness fees, costs and expenses.

7.5 Defense and Indemnity.

7.5.1 Developers' Actions. Developers shall hold harmless and indemnify Town and its elected and appointed officers, agents, employees, and representatives from claims, costs, and liabilities for any personal injury, death, or physical damage (including inverse condemnation) which arises directly or indirectly, as a result of the construction of the Subdivision Improvements or development of the Property, or of operations performed under this Agreement, by Developers or by Developers' contractors, subcontractors, agents or employees, whether such operations were performed by Developers or Developers' contractors, subcontractors, or any one or more persons directly or indirectly employed by, or acting as agent for, Developers or Developers' contractors or subcontractors.

7.5.2 Town's Actions. Nothing in this section shall be construed to mean that Developers shall indemnify or hold the Town or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage arising from, or alleged to arise from any act or omission of the Town with regard to improvements that have been offered for dedication and accepted by Town for maintenance. Nothing contained herein is intended to nor shall be construed as a waiver of the Town's governmental immunity under state or federal law.

7.6 Binding Effect. This Agreement shall extend to, inure to the benefit of, and be binding upon the Town and its successors and assigns and upon Developers, their successors (including subsequent owners of the Property, or any part thereof), legal representatives and assigns. This Agreement shall constitute an agreement running with the Property until: (a) modification or release by mutual agreement of the Town and Developers (subsequent transferee owners' consent to modification(s) or release(s) shall not be required

unless the modification(s) directly limit or restrict the zoning or development rights awarded to a subsequent transferee owner's specific lot), provided, however, that subsequent modifications of this Agreement shall require the written consent of the Parties, such consent not to be unreasonably withheld.

7.7 Covenants Running with the Land. All of the provisions contained in this Agreement constitute covenants running with the land. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property.

7.8 Parties Representations. In entering into this Agreement, the Parties acknowledge and agree and represent and warrant to each other as follows: (a) that they will perform their duties and obligations in a commercially reasonable and good faith manner and that this commitment is being relied upon by each other Party; (b) that Parties will promptly provide a response to a notice when required; (c) that the Party is a duly qualified and existing entity, capable of doing business in the state of Colorado; and (d) that the Party has actual and express authority to execute this Agreement, has taken all actions necessary to obtain such authorization, the Agreement constitutes a binding obligation of the Party and the person signing below is duly authorized and empowered to execute this Agreement.

7.9 Severability and Further Assurances. If any term or provision or Article of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the applications or such term or provision or Article to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Each Party shall execute and deliver such documents or instruments and take such action as may be reasonably requested by the other Party to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

7.10 Entire Agreement. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and no other representations, promises, agreements or understandings or obligations with respect to the payment of consideration or agreements to undertake other actions regarding the subject matter hereof shall be of any force or effect unless in writing, executed by all Parties hereto and dated after the date hereof.

7.11 Modifications and Waiver. No amendment, modification or termination of this Agreement or any portion thereof shall be valid or binding unless it is in writing, dated subsequent to the date hereof and signed by each of the Parties hereto. No waiver of any breach, term or condition of this Agreement by any Party shall constitute a subsequent waiver of the same or any other breach, term or condition.

7.12 Counterparts and Facsimile Copies. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Facsimile copies of any Party's signature hereon shall be deemed an original for all purposes of this Agreement.

7.13 Notice. All notices, demands or writings in this Agreement provided to be given or made or sent that may be given or made or sent by either Party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and delivered either by Fax, Email or United States Mail (certified, return receipt requests and postage pre-paid), and addressed to the Party, at the below stated mailing address, email address or fax number. The mailing address, email address or fax number to which any notice, demand or writing may be changed by sending written notice to each Party notifying the Party of the change.

Town: Town of Rico Attention: Town Manager PO Box 9 Rico, CO 81332 townmanager@ricocolorado.gov	Bedrock 3 LLC: Bedrock 3 LLC c/o Nicole Pieterse, Atty. PO Box 25 Rico, CO 81332 nicole.rplaw@gmail.com
With a Copy to: Karp Neu Hanlon PC 201 14 th Street, Suite 200 Glenwood Springs, CO 81602	With a Copy to: Michelle Haynes 166 Alexander Overlook Telluride, CO 81435
	Owner: BRD LLC c/o Jason Soules P.O. Box 1746, Telluride, CO 81435
	With a Copy to: Law Office of Daniel T. Zemke, P.C. 100 W Colorado Ave. PMB 2603 Telluride, CO 81435

7.14 Exhibits and Attachments. All exhibits and attachments to this Agreement shall be incorporated herein and deemed a part of this Agreement.


7.15 No Further Rights; No Third Party Rights. Except as otherwise set forth herein, nothing contained herein shall be construed as creating any rights in any third persons or Parties other than the Parties specifically intended to be benefited or burdened by this Agreement.

7.16 Force Majeure. No Party shall be held liable for a failure to perform hereunder due to wars, strikes, pandemics, acts of God, natural disasters, or other similar occurrences outside the reasonable control of that Party.

IN WITNESS HEREOF, the Parties have executed this Agreement intending that it become effective as of the Effective Date.

OWNER:

BRD LLC, a Colorado limited liability company

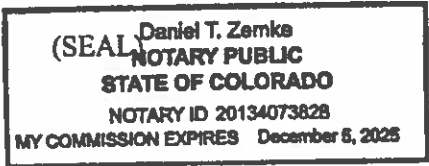
By: 
Jason Sebes, Manager

Date: Apr. 18, 2022

STATE OF COLORADO)
) ss.
COUNTY OF San Miguel)

Subscribed to before me by Jason Sebes, Manager, BRD LLC, a Colorado limited liability company
this 18 day of April, 2022.

Witness my hand and official seal.
My commission expires: 12/5/2025



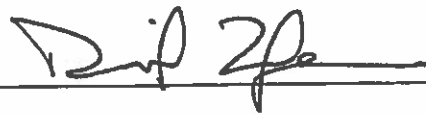


EXHIBIT A
PROPERTY LEGAL DESCRIPTION

Portions of the Columbia Millsite - MS 365B, Elliot Lode - MS 1536A, Aztec Lode - MS 367B and Tract 2 Atlantic Cable Subdivision Phase 1 all located within Section 25, Township 40 North, Range 11 West, N.M.P.M., Town of Rico, Dolores County, Colorado further described as follows;

Beginning at Corner 2 of said Columbia Millsite MS 365B being the POINT OF BEGINNING;

THENCE S 16°50' W along the line between Corner 2 and Corner 1 of said Columbia Millsite a distance of 108 feet more or less to the intersection with the northern boundary of Phase 3 of the Atlantic Cable Subdivision according to the plat recorded May 6, 1993 in Plat Book 1 at page 4, in the records of the Dolores County Clerk and Recorder;

THENCE N 80° W a distance of 70.30 feet more or less to a point on the western boundary of the Silver Street Right of Way as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 08° 54' 53" W a distance of 146.36 feet to an angle point on the western boundary of the Silver Street Right of Way as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 00° 42' 32" E a distance of 32.91 feet to the northeast corner of Lot 45 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 87° 53' 26" W a distance of 145 feet to the northwest corner of Lot 44 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE N 00° 42' 32" W a distance of 20.00 feet to the northeast corner of Lot 43 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 87° 53' 26" W a distance of 92.27 feet to the northwest corner of Lot 43 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 00° 42' 32" E a distance of 149.98 feet to the northwest corner of Lot 21 of Phase 1 of the Atlantic Cable Subdivision according to the plat recorded September 10, 1979 in Plat Book 2 at page 7, in the records of the Dolores County Clerk and Recorder;

THENCE N 83°08'42" W a distance of 60.45 feet to the northeast corner of Tract 2 of said Phase 1 of the Atlantic Cable Subdivision;

THENCE S 02°07'00" W a distance of 170.00 feet to the northern Right of Way boundary of Hinkley Drive as the same is depicted on said Phase 1 of Atlantic Cable Subdivision;

THENCE S 85°47'00" W a distance of 24.56 feet to an angle point on the northern Right of Way boundary of Hinkley Drive as the same is depicted on said Phase 1 of Atlantic Cable Subdivision;

THENCE S 48°11'36" W a distance of 171.23 feet more or less along said northern Right of Way boundary of Hinkley Drive to a point on the eastern boundary of the Right of Way for State Highway 145 as was conveyed to the Colorado Department of Transportation by Quit Claim Deed recorded 1/27/1967 at Reception Number 81067 County of Dolores, State of Colorado;

THENCE along said eastern boundary of State Highway 145 Right of Way 136.13 feet on a nontangential curve, concave to the southeast, having a radius of 650.2 feet, an included angle of 11° 59' 44", and a chord of 135.88 feet which bears N 14°16'40" E;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 24°19'30" E a distance of 108.00 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 24°21'14" E a distance of 34.90 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 26°18'33" E a distance of 149.00 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 18°18'33" E a distance of 71.40 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way 336.39 feet on a nontangential curve, concave to the northwest, having a radius of 782.2 feet, an included angle of 24° 38' 25", and a chord of 333.80 feet which bears N 05°59'03" E to a point on the northern boundary of said Columbia Millsite MS 365B;

THENCE S 73°10' E along the boundary of said Columbia Millsite MS 365B a distance of 377.21 feet more or less to Corner 2 of said Columbia Millsite MS 365B being the POINT OF BEGINNING;

TOGETHER WITH

That portion of the Columbia Millsite - MS 365B, Pioneer Mining District lying west of the Right of Way for State Highway 145 as was conveyed to the Colorado Department of Transportation by Quit Claim Deed recorded 1/27/1967 at Reception Number 81067 County of Dolores, State of Colorado;

COUNTY OF DOLORES, STATE OF COLORADO, Containing 3.58 acres more or less

EXHIBIT B

SUBDIVISION IMPROVEMENTS

Water main extension from existing Town water system (approximately 380 linear feet for service to Lot 6 and Lots 2-5)¹

Waterline blow-off valve at the terminus of the extended water main

Private driveway extending off of North Silver Street to serve Lots 1-3

A fire truck turn around within the existing/platted North Silver Street right of way

Installation of directional and/or dead-end signs

Shallow conduit for future power and/or communication lines in North Silver Street and as deemed necessary by Developers in utility easement areas.

¹ Existing North Silver Street water main can be tapped into by Lot 1 with a lateral line at the time of construction of a residence on Lot 1.

Bedrock Subdivision

Town of Rico, Dolores County, State of Colorado

within Sections 25 and 36, T40N R11W NMPM

OWNERS' CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS that, Bedrock 3 LLC, a Colorado limited liability company being the owner of the following:

Portions of the Columbia Millsite – MS 365B, Elliot Lode – MS 1536A, Aztec Lode – MS 367B and Tract 2 Atlantic Cable Subdivision Phase 1 all located within Section 25, Township 40 North, Range 11 West, N.M.P.M., Town of Rico, Dolores County, Colorado further described as follows:
Beginning at Corner 2 of said Columbia Millsite MS 365B being the POINT OF BEGINNING;

THENCE S 16°50' W along the line between Corner 2 and Corner 1 of said Columbia Millsite a distance of 108 feet more or less to the intersection with the northern boundary of Phase 3 of the Atlantic Cable Subdivision according to the plat recorded May 6, 1993 in Plat Book 1 at page 4, in the records of the Dolores County Clerk and Recorder;
THENCE N 80° W a distance of 70.30 feet more or less to a point on the western boundary of the Silver Street Right of Way as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 08° 54' 53" W a distance of 146.36 feet to an angle point on the western boundary of the Silver Street Right of Way as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 00° 42' 32" E a distance of 32.91 feet to the northeast corner of Lot 45 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 87° 53' 26" W a distance of 145 feet to the northwest corner of Lot 44 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE N 00° 42' 32" W a distance of 20.00 feet to the northeast corner of Lot 43 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 87° 53' 26" W a distance of 92.27 feet to the northwest corner of Lot 43 as the same is depicted on said Phase 3 of Atlantic Cable Subdivision;

THENCE S 00° 42' 32" E a distance of 149.98 feet to the northwest corner of Lot 21 of Phase 1 of the Atlantic Cable Subdivision according to the plat recorded September 10, 1979 in Plat Book 2 at page 7, in the records of the Dolores County Clerk and Recorder;

THENCE N 83°08'42" W a distance of 60.45 feet to the northeast corner of Tract 2 of said Phase 1 of the Atlantic Cable Subdivision;

THENCE S 02°07'00" W a distance of 170.00 feet to the northern Right of Way boundary of Hinkley Drive as the same is depicted on said Phase 1 of Atlantic Cable Subdivision;

THENCE S 85°47'00" W a distance of 24.56 feet to an angle point on the northern Right of Way boundary of Hinkley Drive as the same is depicted on said Phase 1 of Atlantic Cable Subdivision;

THENCE S 48°11'36" W a distance of 171.23 feet more or less along said northern Right of Way boundary of Hinkley Drive to a point on the eastern boundary of the Right of Way for State Highway 145 as was conveyed to the Colorado Department of Transportation by Quit Claim Deed recorded 1/27/1967 at Reception Number 81067 County of Dolores, State of Colorado;

THENCE along said eastern boundary of State Highway 145 Right of Way 136.13 feet on a nontangential curve, concave to the southeast, having a radius of 650.2 feet, an included angle of 11° 59' 44", and a chord of 135.88 feet which bears N 14°16'40" E;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 24°19'30" E a distance of 108.00 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 24°21'14" E a distance of 34.90 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 26°18'33" E a distance of 149.00 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way N 18°18'33" E a distance of 71.40 feet;

THENCE continuing along said eastern boundary of State Highway 145 Right of Way 336.39 feet on a nontangential curve, concave to the northwest, having a radius of 782.2 feet, an included angle of 24° 38' 25", and a chord of 333.80 feet which bears N 05°59'03" E to a point on the northern boundary of said Columbia Millsite MS 365B;

THENCE S 73°10' E along the boundary of said Columbia Millsite MS 365B a distance of 377.21 feet more or less to Corner 2 of said Columbia Millsite MS 365B being the POINT OF BEGINNING;

TOGETHER WITH

That portion of the Columbia Millsite – MS 365B, Pioneer Mining District lying west of the Right of Way for State Highway 145 as was conveyed to the Colorado Department of Transportation by Quit Claim Deed recorded 1/27/1967 at Reception Number 81067 County of Dolores, State of Colorado;

COUNTY OF DOLORES
STATE OF COLORADO

Containing 3.58 acres more or less

under the name of the BEDROCK SUBDIVISION has laid out, platted and subdivided same as shown on the plat. This plat hereby vacates and removes all previous parcel boundaries located within the subdivision and hereby dedicates to the Town of Rico the following:

- 1) a 20' utility easement through Lots 1,2,3,6 and Land Dedication Parcel as depicted hereon for the installation and maintenance of overhead and below grade electric and communications lines
- 2) a 20' utility easement along the common boundary of Lots 2,3,4, 5 and Lot 6, as shown hereon, for subsurface electric, sewer, water and communications lines
- 3) a non-motorized 25' wide public access easement over the existing private road area as noted hereon.
- 4) Land Dedication Parcel

and further dedicate as follows:

- 5) a 25' wide private motorized and non-motorized access and utility easement over the existing private road area as noted hereon. Said access and utility easement shall both burden and benefit Lots 1, 2, and 3. All costs for maintenance and snow plowing shall be shared equally by each developed Lot
- 6) a 20' private motorized and non-motorized access along the common boundary of Lots 2,3,4, and 5 and as shown hereon, for shared access to Lots 2-5 (inclusive) but not to Lot 6, from Webster Way in the event that an easement for the same is granted by the owners of Lot 43 and/or Lot 44, Atlantic Cable. All costs for maintenance and snow plowing shall be shared equally by each developed Lot

OWNER SIGNATURE

Date: _____
Michelle B. Haynes, as manager of Bedrock 3 LLC, a Colorado limited liability company

SIGNATURE ACKNOWLEDGEMENT

State of _____)
County of _____) ss

The foregoing signature was acknowledged before me this _____ day of _____, 20____ A.D. by Michelle B. Haynes, as manager of Bedrock 3 LLC, a Colorado limited liability company.

My commission expires _____
Witness my hand and seal.

Vicinity Map



TITLE INSURANCE COMPANY CERTIFICATE:

Alpine Title Company does hereby certify that we have examined the title to all lands herein shown on this plat and that the title to this land is in the names of those persons shown in the Certificate of Ownership which is on the face hereof and is free and clear of all encumbrances, liens, and taxes, except as follows:

Title Insurance Company Representative

SURVEYOR'S CERTIFICATE:

I, David R. Bulson, being a Colorado Licensed Surveyor, do hereby certify that this plat and survey of the BEDROCK SUBDIVISION was made by me and under my direct responsibility, supervision and checking, in compliance with the applicable provisions of Title 38, Article 51, C.R.S., and that both are true and accurate to the best of my knowledge and belief.

P.L.S. No. 37662 Date

NOTES:

1. Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended.

2. Easement research and ownership information provided by Alpine Title file number OP-6-8169839, dated February 23, 2021 at 7:52am:

3. NOTES OF CLARIFICATION:

a. The Configuration of the following lots, tracts, and rights-of-way have been modified by this plat:

None

b. The following lots have been created by this plat:

Lots 1-6 (inclusive), Bedrock Subdivision Town of Rico Open Space Parcel

c. The following parcel lines have been vacated by this plat:

Portions of the Columbia Millsite MS 365B, Aztec Millsite, MS 367B, Elliot Lode MS 1536A, Atlantic Cable Lode MS 1136 and Tract 2 of Atlantic Cable, Filing 1

4. BASIS OF BEARINGS: Bearings for this survey based on the assumption that the historic bearing of the centerline of Glasgow Avenue bears North 02°06' West between the centerline monuments depicted and described hereon at Glasgow/King and Glasgow/Mantz. Said assumption was confirmed by solar observation performed on July 10, 1994 which calculated the bearing of the above described line as North 02°04'33" West.

5. LINEAL UNITS: All distances as noted hereon are expressed as horizontal lengths and are labeled in US survey feet or decimal portions thereof.

6. NOTICE: According to Colorado law, you must commence any legal action based upon defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

7. Survey Control Notes

a) The Highway 145 Right of Way depicted hereon was calculated based upon information contained within the Quit Claim Deed which was recorded January 27, 1967 in the Dolores County records at reception number 81067. This deed contains inconsistencies with calls to patented mineral survey corners but an initial call to the Section corner common to Sections 25,26,35,36 appears to fit well with the constructed centerline of the highway. This placement was further verified by a survey monument LS 29771 which was found on the calculated Right of Way.

b) Corner 1 of the Columbia Millsite MS 365B was searched for, but not found. Its position was calculated using record information from Corner 2 and Corner 4 of the Columbia Millsite

PLANNING AND ZONING COMMISSION APPROVAL:

The Planning and Zoning Commission of Rico, Colorado did hereby authorize and approve this plat of the above subdivision at a meeting of said Commission held on this _____ day of _____, A.D., 20_____.

Chairperson

APPROVAL BY THE TOWN:

The within plat of BEDROCK SUBDIVISION is authorized and approved for filing this _____ day of _____, 20_____.

Town of Rico
BY: _____ ATTEST:
Mayor Clerk

SECURITY INTEREST HOLDER'S CONSENT:

Security Interest consents have been acquired and recorded by separate document, recorded at reception number _____.

ZONING AND LAND USE NOTES:

1. Lots 1-5 (inclusive)

- a) Shall be residential in nature and all development shall comply with the Residential Zone District standards set forth in the Rico Land Use Code, as the same may be amended time to time.
- b) Each lot shall be required to provide a minimum of 2 off-street parking spaces

2. Lot 6

- a) Lot 6 may be used for any purpose allowed within the Commercial Planned Unit Development Zone District as defined in the Rico Land Use Code, as the same may be amended time to time.
- b) If residential use is proposed for Lot 6, it shall be limited to a total of 26 bedrooms and 13,000 square feet of conditioned space (not including vehicle garages). Residential use may be constructed as single family, duplex or triplex buildings but in no case shall the aggregate size of the construction exceed 13,000 square feet.
- c) Use and occupancy of residential dwellings on Lot 6 shall be subject to the deed restriction recorded under Reception No. _____, which limits use and occupancy to full time residents.
- d) Access to Lot 6 shall be from North Glasgow Avenue/Highway 145.

3. The Land Dedication Parcel
Shall be dedicated to the Town of Rico

4. Environmental Conditions

Lots 1-6 may be required by the Colorado Department of Health and Environment (CDPHE) to implement an approved voluntary clean up plan (VCUP) in the event that the Town of Rico has not adopted institutional controls as part of the RLUC or related ordinances.

RECORDER'S CERTIFICATE:

This plat was filed for record in the office of the Dolores County Clerk and Recorder on this _____ day of _____, 20_____ at

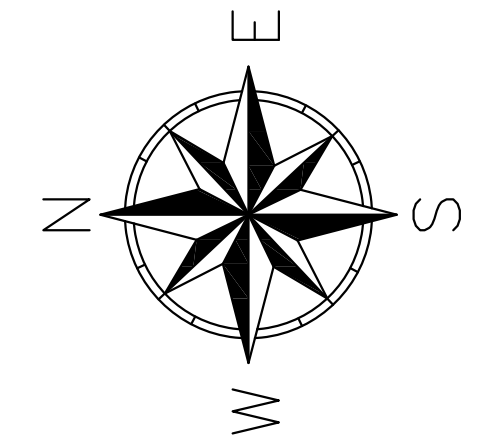
Plat Book _____,
Page _____,
Reception No. _____,
Time _____.

Dolores County Clerk



Bedrock Subdivision

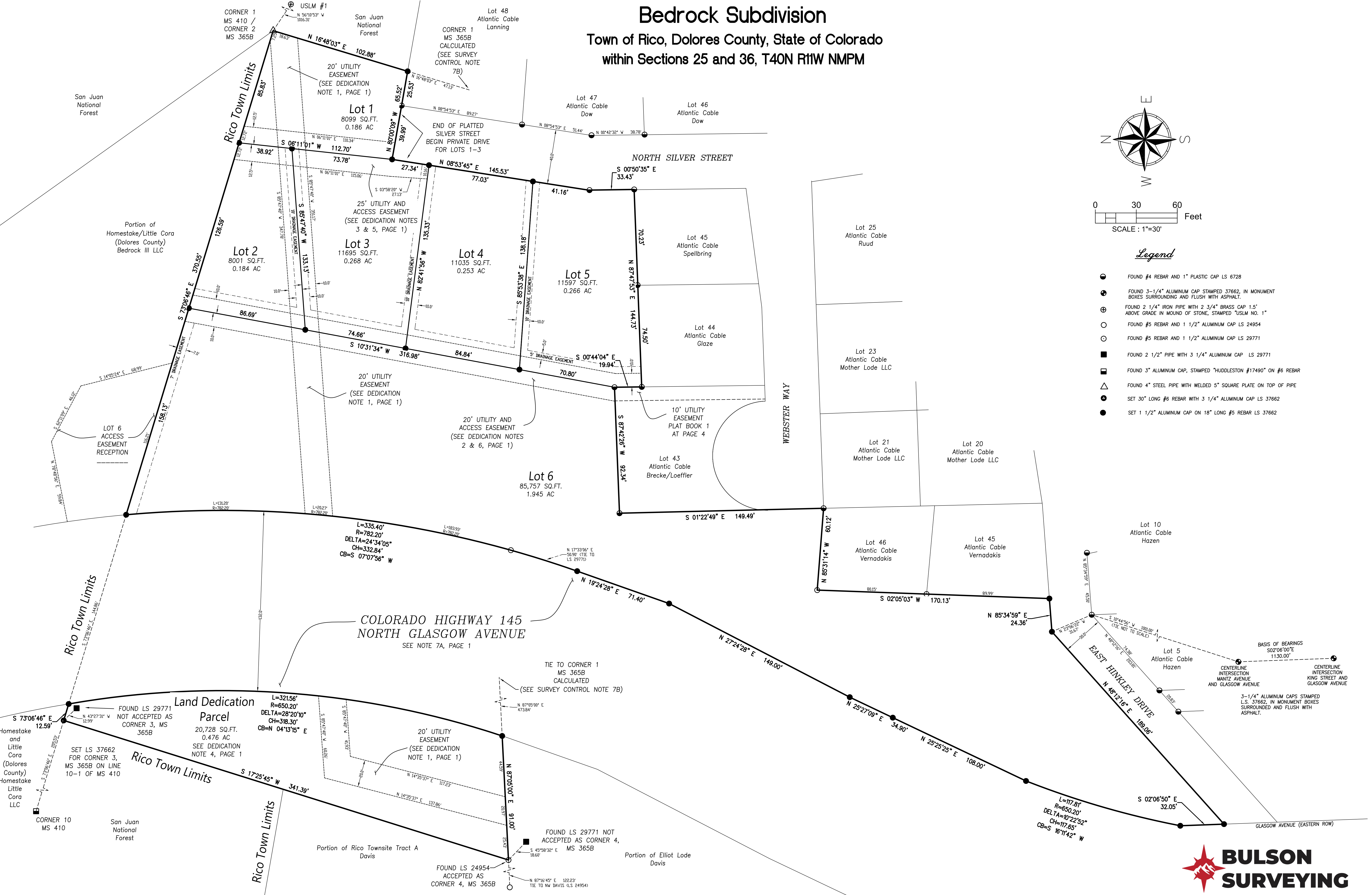
Town of Rico, Dolores County, State of Colorado
within Sections 25 and 36, T40N R11W NMPM



0 30 60 Feet
SCALE: 1"=30'

Legend

- FOUND #4 REBAR AND 1" PLASTIC CAP LS 6728
- FOUND 3-1/4" ALUMINUM CAP STAMPED 37662, IN MONUMENT BOXES SURROUNDING AND FLUSH WITH ASPHALT.
- ⊕ FOUND 2 1/4" IRON PIPE WITH 2 3/4" BRASS CAP 1.5' ABOVE GRADE IN MOUND OF STONE, STAMPED "USLM NO. 1"
- FOUND #5 REBAR AND 1 1/2" ALUMINUM CAP LS 24954
- FOUND #5 REBAR AND 1 1/2" ALUMINUM CAP LS 29771
- FOUND 2 1/2" PIPE WITH 3 1/4" ALUMINUM CAP LS 29771
- FOUND 3" ALUMINUM CAP, STAMPED "HUDDLESTON #17490" ON #6 REBAR
- △ FOUND 4" STEEL PIPE WITH WELDED 5" SQUARE PLATE ON TOP OF PIPE
- SET 30" LONG #6 REBAR WITH 3 1/4" ALUMINUM CAP LS 37662
- SET 1 1/2" ALUMINUM CAP ON 18" LONG #5 REBAR LS 37662



Petition To Establish RICO as a Dark Sky Community

NAME

ADDRESS

Sue Kuhn

28 N. Hancock St. Rico

Logan Davis

29128 Rd M.4 Odessa, CO

Jim Stem

37 N. Silver St., Rico, CO

Mary Jandrow

37 N Silver St., Rico, CO

Laura Quayle

34 S. Argentine St, Rico, CO

Tucker Brumley

34 S. Argentine St, Rico, CO

Petition To Establish RICO as a Dark Sky Community

NAME

ADDRESS

DARRALL HUBER

209 Mill Rd

Darrall Huber

Alex Winy CRISTAL HIBBARD

112 N Short St

[Handwritten signatures]

[Handwritten signature]

Ronald Ely Hall

15. Glasgow Ave. Rico, CO

Lauren Lamb

102 N Garfield Rico, CO

Jamie Jacob

Bob Ruder
[Handwritten signature]

112 1/2 N Short St. Rico, CO 81332

CHRISTY KOPASZ

107 W Garfield St

81332

Petition To Establish RICO as a Dark Sky Community

NAME

ADDRESS

Audrey M

5 Commercial Street

Scott Poston

P.O. Box 126

Scott U. Poston

RICO, CO. 81332

TARYN OLSON

445 Silverglance Way

Taryn Olson

PO Box 331

Rico, CO

14 River street.

Brancha Watson

477 Silverglance Way

Rico,

B
Paul Winton

24 W. Pine St.

Rico, CO 81332

Petition To Establish RICO as a Dark Sky Community

NAME**ADDRESS**

Gretchen Treadwell

110 N Short St
Rico CO 81332

Jeremy Thomas

37 S Commercial St
Rico, CO 81332

Lavrie Adams

441 Silverglance Way
Rico, CO. 81332

Barbara R. Letts

456 Silverglance Way
Rico, CO 81332

Troy Tanco

207 Mill Rd
Rico, CO 81332

Petition To Establish RICO as a Dark Sky Community

NAME

ADDRESS

Jennifer Taylor

207 Mill Rd
Rico, CO 81332

Dee Gullidge

123 Van Winkle
Rico, CO 81332

Geovill Weller

123 VAN WINKLE

* Gary Cass

34 N. RIVER STREET

Petition To Establish RICO as a Dark Sky Community

NAME

ADDRESS

Gretchen Treadwell

110 N. SHAW ST
RICO CO 81332

Ann Williams

35 N. RIVER ST.
RICO CO. 81332

ROBERT CUMMINGS

138 N. RIVER ST.
RICO, CO 81332

Todd Gillman

135 NW
RICO 81332

Michael Conillo

101 Hinckley Dr.
Rico, CO 81332

A⁵“Dark Sky” initiative.

To; Rico Town Board of Trustees

Rico Planning and Zoning Commission

For your consideration;

Myself, and no doubt others, appreciate the night sky of Rico and all it has to offer. Currently, our night sky is about as unpolluted as one could ask for. Let us keep it that way. Now is the time to address potential, future light pollution impacts. As of this writing, you are engaged in a global revision of the Rico Land Use Codes (RLUC). This revision affords the opportunity to visit the existing lighting codes and modify them accordingly. Your modifications will protect our night sky for the future.

Light pollution has numerous negative impacts. The two that come to mind are the environment and the economy. I want to be able to see the stars above Rico anywhere in town, including near that future car lot or storage compound. The more lighting there is, the more power consumption, more expense for infrastructure and more consumption of resources.

The organization, darksky.org, is a resource for the aforementioned concerns.

If Rico Town government is inclined to pursue consideration of our night sky protection, I offer my help.

Sincerely,

Skip Zeller

Resident, Town of Rico



Community (IDSC) - Applicant Self-Checklist (Sept. 2023)

[Link to 2018 IDSC Guidelines \(updated Sept. 2023\)](#)

This Checklist has been designed to allow you to easily identify what your application must include. Column 2 shows each 'Compliance Requirement' in abbreviated form. Column 6 shows a cross-reference to the full 'Compliance Requirement' in the Guidelines.

Please proceed as follows:

1. *Where your application meets a 'Compliance Requirement':* In Column 3 enter 'Y'; in Column 4 identify the relevant page number(s) in your application; and in Column 5 include comments or brief application extracts that show how you comply.
2. *Where your application does not meet a 'Compliance Requirement' but you have a plan for how to comply:* In Column 3 enter 'N'; in Column 5 state what steps you intend to take to ensure compliance and the expected time frame.
3. *Where your application cannot meet a 'Compliance Requirement':* In Column 3 enter 'N'; in Column 5 state why you cannot comply; and if you consider this a serious issue, please contact DarkSky and we will work with you to see how best to proceed.
4. *When your Checklist is completed:* Send it to DarkSky with your completed application.

Please complete your Checklist as thoroughly as possible, as it will be used by DarkSky when reviewing your application.

Site Name:	
Prepared By:	
Date:	

A	Eligibility Requirements	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	Your Community has some form of legal organization officially recognized by outside groups.				P4-Eligibility

B	Application Elements	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	A map of the Community showing its legal boundaries				P8-N1



B	Application Elements	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
2	Letters of Nomination and Support by a qualified DarkSky member and an elected community representative				P8-N2
3	A quality, comprehensive Lighting Management Policy (LMP) for the Community				P4-N1 + P8-N3
4	Documentation of examples of Community commitment and construction and/or renovation projects demonstrating effective application of the lighting policy				P8-N4
5	Proposed alternative wording for this IDSC, if desired, and the justification for it				P8-N5

C	Lighting Management Policy	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	Your Community has a comprehensive Lighting Management Policy like the IDA-IES Model Lighting Ordinance (MLO).				P4-N1
2	Full shielding is required of all lighting fixtures emitting more than 1,000 lumens.				P4-N1A
3	Emission of short-wavelength light is limited through one of the following restrictions:				P4-N1B
a	Light source correlated color temperature (CCT) must not exceed 3000 K; OR				P4-N1Bi
b	Allowed lighting must not emit more than 25% of its total spectral power at wavelengths shorter than 550 nanometers; OR				P4-N1Bii



C	Lighting Management Policy	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
c	Scotopic-to-photopic (S/P) ratio of allowed lighting must not exceed 1.3.				P4-N1Biii
4	There is a restriction on the total amount of unshielded lighting, such as a limit on lumens per net acre or a total site lumen allowance in unshielded fixtures.				P4-N1C
5	There must be a policy to address over-lighting. This may be accomplished by limiting the average illuminance for any outdoor application, over the entire task area, to no more than 10% over the light levels recommended by, for example, the Illuminating Engineering Society (North America), the Society of Light and Lighting (United Kingdom), or other similar organization.				P4-N1D
6	Regulations on NEW installations of publicly owned outdoor lighting MUST:				P4-N1E
a	Clearly indicate where, when, and under what circumstances such lighting is warranted and permitted; AND				P5-N1Ei
b	Require all future such lighting to have adaptive controls and/or curfews.				P5-N1Eii
7	Restrictions on the installation and operation of illuminated signs, including ALL of the following:				P5-N1F
a	During the first hour after sunset and during the last hour immediately preceding sunrise, sign luminance shall not exceed 100 nits (candelas per square				P5-N1Fi



C	Lighting Management Policy	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
	meter); AND				
b	Signs may only be illuminated while the associated activity is taking place; for businesses, sign illumination must be extinguished completely during the hours the business is closed; AND				P5-N1Fii
c	The luminous or illuminated surface area of an individual sign must not exceed 18.6 square meters (200 sq. feet).				P6-N1Fiii
8	Outdoor recreational and sports field lighting may be exempted from strict shielding and emission requirements, provided ALL the following are met:				P6-N1G
a	ANSI/IES RP-6 guidelines (current version) are followed (<i>note</i> : another standard may be followed if appropriate, but this must be stated specifically in the LMP); AND				P6-N1Gi
b	Lighting is for the surface of play and the viewing stands only; AND				P6-N1Gii
c	Illuminance levels must be adjustable based on task; AND				P6-N1Giii
d	Offsite impacts of the lighting are limited; AND				P6-N1Giv
e	A strict curfew is in place – 10 p.m. or one hour after play ends; AND				P6-N1Gv
f	Timers are installed to prevent lights from being left on overnight.				P6-N1Gvi
9	There is a maximum 10-year				P6-N1H



C	Lighting Management Policy	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
	amortization period for ALL non-complying public AND private lighting to comply.				

D	Lighting Inventory	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	Required to determine whether City-owned lighting presently conforms with the LMP (see E1 below).				P6-N2A

E	Commitment to Dark Skies and Quality Outdoor Lighting	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	City-owned lighting conforms with the LMP or is committed to conform within 5 years.				P6-N2A
2	Municipal dark sky support and quality lighting is demonstrated by city publications, funding of lighting upgrades, etc.				P6-N2B
3	Broad support for dark skies is shown by a wide range of community organizations.				P6-N3
4	Success in light-pollution control is demonstrated through AT LEAST ONE of the following:				P6-N5
a	New construction and renovation activity built under the LMP, demonstrating effective lighting application; AND/OR				P6-N5A
b	Other evidence of success in light pollution control approved by DarkSky International.				P6-N5B



F	Sky Quality Measurement	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	A sky brightness measurement program must be established and maintained to follow the evolution of light pollution.				P6-N6

G	Education and Outreach	Complies Y/N	Which Page(s)	Comment on this Item in Application	GXR*
1	Community commitment has been shown by AT LEAST ONE of the following:				P6-N4
a	Minimum of two dark-sky awareness events per year; AND/OR				P6-N4A
b	Inclusion of dark sky brochures with other community leaflets for residents and visitors; AND/OR				P6-N4B
c	Inclusion of dark-sky education in Community schools' curricula.				P6-N4C



Lighting Ordinance Pre-Screen

International Dark Sky Places Program

2018 IDSC Guidelines

Jurisdiction: _____

Submitted by: _____ Affiliation: _____

Reviewer: _____ Date: _____

✓ = good; ~ = needs more information; ✗ = missing; AW notes

Note - provide a signed and dated copy in your application once approved

1. *“Full shielding of all lighting fixtures over 1000 initial lamp lumens”*

2. *“A limit on the emission of short-wavelength light through one of the following restrictions:*
 - a. *The correlated color temperature (CCT) of lamps must not exceed 3000 Kelvins; **OR***
 - b. *Allowed lighting must not emit more than 25% of its total spectral power at wavelengths < 550 nanometers; **OR***
 - c. *The scotopic-to-photopic (S/P) ratio of allowed lighting must not exceed 1.3”*

3. *“A restriction on the total amount of unshielded lighting, such as a limit on lumens per net acre or a total site lumen allowance in unshielded fixtures (or equivalent wattages)”*

4. *“A policy to address over-lighting, such as lumens per net acre caps (irrespective of shielding state) or maximum illuminance specifications”*

5. *“Regulations of new installations of publicly-owned outdoor lighting:*
 - a. *A provision that clearly indicates where, when, and under what circumstances new publicly owned outdoor lighting, including street lighting, is warranted and will be permitted; **AND***

- b. *A provision that requires that adaptive controls and/or curfews be employed in all future installations of public outdoor lighting”*
6. *“Restrictions on the installation and operation of illuminated signs:*
- a. *Luminance levels for operation between sunset and sunrise shall not exceed 100 nits (100 candelas per square meter) as measured under conditions of a full white display; **AND***
 - b. *Sign illumination shall be extinguished completely one (1) hour after sunset, and remain off until one (1) hour before sunrise; **AND***
 - c. *The luminous/illuminated surface area of an individual sign shall not exceed 200 square feet (18.6 square meters)”*
7. *If outdoor sports / athletic field lighting is permitted by the code, it “may be exempted from the strict shielding and short-wavelength emission requirements above provided that all of the following conditions are met:*
- a. *Illuminating Engineering Society (IES) lighting guidelines (RP-6) are followed according to the appropriate class of play*
 - b. *Field lighting is provided exclusively for illumination of the surface of play and viewing stands, and not for any other applications*
 - c. *Illuminance levels must be adjustable based on the task (e.g., active play vs. field maintenance)*
 - d. *Off-site impacts of the lighting will be limited to the greatest practical extent possible*
 - e. *A strict curfew requirement (e.g., lights must be extinguished by 10pm/2200h or one hour after the end of play, whichever is later) is observed*

- f. *Timers must be installed to prevent lights being left on accidentally overnight by automatically extinguishing them*

- 8. *“Affects an amortization period, applicable to **ALL** publicly **AND** privately owned lighting, to end not more than ten (10) years from the effective date of the outdoor lighting policy, after which all non-conforming lighting extant at the time of enactment must be brought into compliance with the policy.”*

Any extra provisions worth noting:

ORDINANCE NO. 2019-06

AN ORDINANCE OF THE TOWN OF RIDGWAY, COLORADO REPEALING AND REPLACING CHAPTER 6, SECTION 5 OF THE RIDGWAY MUNICIPAL CODE REGARDING OUTDOOR LIGHTING REGULATIONS.

WHEREAS, The Town of Ridgway established dark skies-oriented regulations for outdoor lighting via Ordinance 3-1997; and

WHEREAS, the Ridgway Town Council amended the Outdoor Lighting Regulations by Ordinance 4-2017 that provide for appropriate illumination of public art on public property that respects the “dark skies” desire of the community while providing for some illumination of public art in public places; and

WHEREAS, the 2019 Ridgway Master Plan contains the following:

Policy ENV-4.4 Dark Skies: Continue to prioritize efforts to reduce light pollution and enhance the appearance of the night sky.

Action ENV-4f: Continue to protect our dark skies as a valuable community resource; and

WHEREAS, glare and light pollution can result in safety concerns, diminish the ability to view the night sky, and impact community character; and

WHEREAS, the Ridgway Town Council desires to pursue certification through the International Dark-Sky Association to become an International Dark Sky Community; and

WHEREAS, the Ridgway Planning Commission reviewed previous drafts of edits to the Outdoor Lighting Regulations at the March 5th, June 25th, and July 30th, 2019 meetings which provided opportunity for public feedback and input; and

WHEREAS, the Town of Ridgway has invested, and continues to invest, in protecting the important dark sky resource.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF RIDGWAY, COLORADO, as follows:

SECTION 1. RIDGWAY MUNICIPAL CODE CHAPTER 6, SECTION 5 IS REPEALED AND REPLACED AS FOLLOWS:

6-5-1 GENERAL PROVISIONS.

(A) All non-exempt outdoor light fixtures and illuminating devices permanently or temporarily installed outdoors, including but not limited to devices to illuminate signs, shall meet the following requirements:

(1) They shall be shielded so no light rays are emitted at angles which will allow the light to pass directly off of the premises appurtenant to the fixture.

(2) They shall be shielded so that all light rays are emitted by the installed fixture at angles below the horizontal plane.

(3) All fixtures designed to illuminate signs or structures shall be mounted above the area of the sign or structure to be illuminated.

(4) Blinking, flashing, rotating or moving lights are prohibited.

(5) Correlated color temperature (CCT) is limited to 3000 kelvin per fixture.

(6) The following lumen limits are established to prevent over lighting and are not intended to be achieved. Each site should use the lowest amount of lumens needed for the site to provide for safety and functionality.

(a) Single-Family Residential Sites shall be limited to 5,100 lumens. Single-Family Residential Sites that include an accessory dwelling unit shall be limited to 6,500 lumens. Each lighting fixture shall be limited to 850 lumens.

(b) Multi-Family Residential Sites, Mixed-Use Sites, and Non-Residential Sites shall be limited to 25,000 lumens per net acre plus 2,000 lumens per unit beyond the first. Each lighting fixture shall be limited to 1,500 lumens.

(7) Lighting for all non-residential uses shall be extinguished one hour after close of business unless there is a public safety hazard that is best mitigated by the use of lighting. Lighting intended for security purposes shall use Adaptive Controls.

(8) If any of the above are in conflict with the Town building codes, adopted pursuant to RMC 6-1, the regulations of the adopted building code shall apply.

(B) The following are exempt from the provisions of Subsection (A).

(1) Lights used to illuminate athletic fields or other community special event areas. Such lights shall be turned off one hour after the conclusion of the event and should be designed or placed to minimize light falling beyond the area in use.

- (2) Signs which are illuminated by interior light sources, such as neon signs, provided such signs are lit only during the property owner's business hours.
- (3) Official traffic control devices and lights owned and operated by or pursuant to proper authority of the United States of America, the State of Colorado or any of their agencies, and such other lights as are specifically required by federal or state law.
- (4) Official traffic control lights owned and operated by the Town of Ridgway.
- (5) Repealed by Ordinance 16-2006
- (6) Lawful vehicle lights.
- (7) Repealed by Ordinance 10-2007
- (8) Holiday lights. Holiday lights should only be in use from November 15 to January 31.
- (9) Repealed by Ordinance 2-2002
- (10) Artwork that is outdoors and on public property. Such artwork shall receive a permit by the Town of Ridgway prior to installation. Such artwork shall be public and accessible to all people and may be illuminated, pursuant to the following:
 - (a) Artwork shall not contain lighting that exceeds 500 lumens within the entire structure, nor more than 2500 degrees kelvin.
 - (b) All public art that is illuminated shall include a dimmer and timer to aid the compliance with the Dark Skies Association's Outdoor Lighting Requirements, and shall have the ability to be automatically turned off. In any event such lighting shall be automatically turned off by 10 p.m. nightly.
 - (c) No structure may contain lighting that is cast upward or outward, but may be diffused in a way such that the lighting emits a soft glow.
 - (d) All structures shall be lit internally.
 - (e) All illuminated public art is subject to review and approval by Town staff for compliance with these regulations.

(C) Public Outdoor Lighting

- (1) New public lighting, owned and operated by the Town of Ridgway, including street lights, walkway lights, external buildings lights, holiday lights, and other lights to ensure safety, shall be allowed as recommended by the Town Manager **in situations where a public health hazard exists which can only be mitigated by artificial light at night** and shall be in compliance with Subsection (A).
- (2) Adaptive Controls or curfews shall be employed in all new public outdoor lighting installations.
- (3) All Town owned lighting shall comply with the requirements of Section 6-5 within five years from the effective date of this ordinance.

6-5-2 NONCONFORMING LIGHTS.

(A) Lights which were lawfully existing and in use at the time they became nonconforming with the requirements of this Section 6-5 by virtue of the initial adoption of this Section, subsequent amendment to this Section or by annexation into the Town, may continue to be used and operated subject to the limitations of this Section.

- (B) The right to operate a lawful nonconforming light shall terminate upon any of the following:
 - (1) Replacement of the light fixture.
 - (2) Non-use of the light fixture for a period of six months.
 - (3) Repealed by Ordinance 16-2006
 - (4) Damage to the light fixture so that the cost of repair is 50% or more of the cost to replace it with a conforming fixture.
- (C) The right to exceed the lumen limits established in RMC 6-5-1 as a lawful nonconforming site shall terminate upon any of the following:
 - (1) Replacement of 50% or more of the light fixtures on the site.
 - (2) Damage to the light fixtures so that the cost of repair is 50% or more of the cost to replace them with conforming fixtures.
- (D) No alteration may be made to lighting on a site which would increase the amount or degree of the nonconformity.

6-5-3 ADMINISTRATION AND ENFORCEMENT.

(A) The provisions of this Section shall be administered by the building official or other authorized Town officer or employee.

(B) It shall be unlawful to violate any provision of this Section.

(C) Any continuing violation of this Section is hereby declared to be nuisance, which may be abated by the Town in any lawful manner, or enjoined by a court of competent jurisdiction.

(D) No building permit or occupancy permit shall be issued for work which has noncomplying light fixtures.

6-5-4 APPEALS AND VARIANCES.

(A) Any person aggrieved by an interpretation of this Section or decision of the Town made in the administration of this Section, may appeal the interpretation or decision to the Board of Appeals pursuant to the review procedure of Section 6-1-5 of the Ridgway Municipal Code upon payment of a \$250.00 application fee.

(B) (1) Any person may apply for a variance to the Planning Commission from the provisions of this Section upon payment of the \$250.00 application fee in accordance with the review procedure of Section 7-3-18 of the Ridgway Municipal Code.

(2) The Planning Commission may grant a variance only upon a determination that the following criteria are met:

- (a) The variance will be consistent with the public health, safety and welfare.
- (b) The variance is justified by unreasonable hardship not created by the activities of the applicant or strict compliance is unfeasible.
- (c) The variance will be substantially consistent with the purposes of this Section to avoid nuisances to others, preserve the ability to observe the night sky, conserve energy, reduce glare, promote traffic and pedestrian safety, preserve the small town character of Ridgway and promote the Town's master plan.
- (d) The variance will not compromise any Dark Skies Certification, if such certification is in place at the time the variance is requested.

6-5-5 PURPOSE

To protect the dark sky resource, maintain nighttime visibility, minimize light pollution and glare, promote energy conservation, promote traffic and pedestrian safety, help mitigate wildlife sleep and mitigation related issues, and preserve the small-town character of the Town.

6-5-6 DEFINITIONS

- (A) Adaptive Controls: devices such as timers, motion-sensors and light-sensitive switches used to actively regulate the emission of light from light fixtures.
- (B) Mixed-Use Site: an undivided or combination of undivided lots under one or more ownership or lease agreement used for a mixture of commercial, industrial, institutional, and residential uses.
- (C) Multi-Family Residential Site: an undivided or combination of undivided lots under one or more ownership or lease arrangements occupied by multiple dwelling units.
- (D) Non-Residential Site: an undivided or combination of undivided lots under one or more ownership or lease agreement used for commercial, industrial, or institutional uses.
- (E) Single-Family Residential Site: an undivided or combination of undivided lots under one ownership occupied by a single-family residential structure and related accessory structures.

* * *

SECTION 2. ORDINANCE EFFECT

All Ordinances of the Town, or parts thereof, inconsistent or in conflict with this Ordinance are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

SECTION 3. SEVERABILITY

The Provisions of this Ordinance are severable, and the invalidity of any section, phrase, clause or portion of this Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Ordinance.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect 30 days after adoption.

SECTION 5. PUBLIC HEARING.

A public hearing on this Ordinance was held on the _____ day of _____, 2019, in the Town Council Chambers, 201 N. Railroad Street, Ridgway, CO 81432.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Ridgway, Colorado, on the 14th day of August, 2019.

TOWN OF RIDGWAY, COLORADO, A HOME RULE MUNICIPALITY

By: _____
JOHN CLARK, Mayor

ATTEST:

PAM KRAFT, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Ridgway, Colorado, this _____ day of _____, 2019.

TOWN OF RIDGWAY, COLORADO, A HOME RULE MUNICIPALITY

By: _____
JOHN CLARK, Mayor

ATTEST:

PAM KRAFT, Town Clerk

Approved as to Form:

BO JAMES NERLIN, Town Attorney

**TOWN OF CRESTONE, COLORADO
ORDINANCE #2021-001**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF CRESTONE
AMENDING ORDINANCE #2020-004 (AN ORDINANCE OF THE TOWN OF CRESTONE
REPEALING AND REPLACING ORDINANCE 2019-001 WITH AMENDED PROVISIONS
OF LIGHTING ORDINANCES IN THE TOWN OF CRESTONE)**

WHEREAS, The Board of Trustees of the Town of Crestone passed Ordinance #2020-004 on December 14, 2020; and

WHEREAS, the Town of Crestone in furtherance of its application to the International Dark Sky Association (IDA), wishes to enact lower lumen levels and to give priority to matters of public safety, as determined by the Crestone Town Clerk.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CRESTONE, COLORADO that Ordinance 2020-004 be amended to read as follows:

**TOWN OF CRESTONE, COLORADO
ORDINANCE #2020-004**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF CRESTONE
AMENDING THE ZONING REGULATIONS OF THE TOWN OF CRESTONE TO INCLUDE A
SECTION RELATING TO ILLUMINATION AND CREATING A "DARK SKY" SECTION OF
SAID REGULATIONS FOR THE TOWN.**

WHEREAS, The Board of Trustees of the Town of Crestone has received various complaints from citizens concerning unshaded lighting in the Town, which resulted in the passage of Ordinance 2019-01 (which amended previous lighting ordinances in the Town) declaring the failure to shade exterior lighting fixtures to be a nuisance; and

WHEREAS, in furtherance of its commitment to preserve and protect the dark skies of our community, the Town of Crestone joins the growing number of communities that have adopted ordinances to protect its dark night skies against pollution by artificial lighting; and

WHEREAS, in adopting this ordinance, Crestone seeks to strike a balance between the rights of property owners to make reasonable use of nighttime outdoor lighting for safety and security and the desire of community residents to preserve the exceptional quality of its dark night sky and their ability to view the brilliant nighttime stars; and

WHEREAS, scientific understanding of the relationship between dark skies and health is relatively recent, but the evidence of the harmful effects of artificial outdoor lighting on humans and other living things is mounting; and

WHEREAS, recent studies show that dark skies promote the health of both humans and wildlife by supporting natural diurnal and nocturnal bio-rhythms and thus promoting adequate sleep and rest; and

WHEREAS, other studies have shown that dark skies help protect food supplies and agricultural interests by facilitating the work of nighttime pollinators, which become disoriented in artificial light; and

WHEREAS, the experience of other communities has shown that adoption of local dark sky ordinances promotes eco-tourism -- particularly if the ordinances meet the standards of the International Dark Skies Association (IDA), which ensure that visitors and residents will be able to enjoy the celestial wonders of the night sky; and

WHEREAS, imposing reasonable shielding limitations on artificial nighttime lighting also eliminates light pollution and protects against "light trespass", which disrupts the nighttime quietude of neighboring property owners; and

WHEREAS, the Board of Trustees of the Town of Crestone has been made aware that the adjacent Great Sand Dunes National Park is being considered for designation of a "Dark Sky Reserve" by the International Dark Sky Association, has received the sentiments and desires of local citizens and has determined that it would be in the best interests of the Town to be classified as a "Dark Sky Community" by the International Dark-Sky Association, in order to protect and preserve the quality of life, health, and safety of the citizens of the Town of Crestone by providing adequate lighting, enacting a street light plan, and mandating outdoor lighting that prevents and reduces unnecessary light pollution, and;

WHEREAS, this ordinance incorporates standards established by the International Dark Skies Association and is intended to qualify Crestone for IDA certification, to secure for the community the benefits of that certification.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CRESTONE, COLORADO that Chapter 15 (Zoning) of the Crestone Municipal Code be amended by addition of the following Article:

Article 14 (Outdoor Lighting/Dark Sky Regulations.)

Sec. 15-14-10. - Title, purpose and scope.

- (a) This article shall be known and cited as the "Outdoor Lighting/Dark Sky Regulations."
- (b) The purpose of this article is:
 - (1) To reduce glare and improve nighttime visibility which contributes to safer, more secure, and attractive outdoor living spaces;
 - (2) To encourage efficient, controlled lighting that conserves energy;
 - (3) To make our community a better place to live and work and a more inviting place for tourist to visit;
 - (4) To protect properties from light trespass;
 - (5) To preserve our heritage of a clear, dark night sky; and
 - (6) To position the Town to apply for a designation as an International Dark Sky Community.
- (c) Scope
 - (1) This article shall apply within the Town limits, hereinafter referred to as "Town".
 - (2) Nothing herein shall be construed as preventing or limiting the Town from applying this article within the surrounding areas where the Town asserts powers of extraterritorial jurisdiction through agreements with property owners, or as a term affixed to a conditional use approval (or a variance).

Sec. 15-14-20. - Definitions.

- (a) The following definitions are hereby adopted for the purposes of this article:

Adaptive controls mean mechanical or electronic devices, when used in the context of outdoor lighting systems, intended to actively regulate the switching, duration, and/or intensity of light emitted by the outdoor lighting system. Examples of adaptive controls include timers, dimmers and motion-sensing switches.

Beam of a light fixture means the spatial distribution of the emitted light.

Correlated Color Temperature (CCT) means a measure of the color properties of light emitted by lamps, being equal to the temperature, expressed in Kelvins (K). CCT values are typically provided on lighting manufacturer packaging or data sheets.

Decorative holiday lighting means low-intensity string lights, whose luminous output does not exceed fifty (50) lumens per linear foot, and fully shielded floodlights, whose luminous output does not exceed one thousand (1,000) lumens and which are aimed and oriented in such a way as to not create light trespass onto another property nor into the night sky, operated only during prescribed periods of time during the calendar year.

Electronic Message Display means any illuminated sign of an informative or advertising nature, whether on-or off-premises, and operable at night, whose content is made visible to the viewer by means of luminous elements under active electronic control and therefore subject to alteration in order to vary the content of the message. Electronic displays may be either static or dynamic in terms of light color and intensity.

Existing light fixtures means those outdoor light fixtures already installed at the time this article is adopted.

Floodlight means a light fixture having a wide beam.

Fully Shielded means an outdoor luminaire constructed so that in its installed position, all of the light emitted from the light fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture.

Glare means visual discomfort or impairment caused by a bright source of light in a direction near one's line of sight.

Greenhouse means any building that is constructed of glass, plastic, or other transparent material in which plants are grown under climate-controlled conditions and includes hoop houses and other similar structures.

Illuminance means the intensity of light in a specified direction measured at a specific point.

Light source means a light emitting portion of the luminaire and any diffusing elements and surfaces intended to reflect or refract light emitted from the lamp individually or collectively, for example, a lamp, bulb, lens, highly reflective surface, or frosted glass.

Light pollution means the unintended, adverse and /or obtrusive effect of the use of outdoor light at night.

Light trespass means light emitted from fixtures designed or installed in a manner that unreasonably causes light to fall on a property other than the one where the light is installed, in a motor vehicle drivers' eyes, or upwards toward the sky. If the light appears star-like from another property or the public roadway, the light is creating light trespass. It is expected that the illumination produced by a light source

may be viewed from other properties but the light source itself should not be visible from other properties. Exhibit 3 of Section 15-14-90 is a sample educational illustration about light trespass.

Lumen means the unit of measurement used to quantify the amount of light produced by a bulb or emitted from a light source. Lumen values are typically provided on lighting manufacturer packaging or data sheets. For the purposes of this article, unless otherwise stated, the lumen output values shall be the initial lumen output ratings as defined by the manufacturer, multiplied by the lamp efficiency. Lamp efficiency of 95% shall be used for all solid-state lamps and 80% for all other lamps, unless an alternate efficiency rating is supplied by the manufacturer.

Lumens per Net Acre means the total outdoor light output, as defined in this article, divided by the number of acres, or part of an acre with outdoor illumination. Undeveloped, non-illuminated portions of the property may not be included in the net acreage calculation.

Luminaire means a complete lighting assembly or lighting fixture, consisting of a lamp, housing, optic(s), and other structural elements, but not including any mounting pole or surface.

Luminance is a measure of light emitted by or from a surface.

Nit is the standard unit of measure of luminance used for internally illuminated signs, digital signs, or electronic message displays.

Outdoor Lighting means temporary or permanent lighting that is installed, located, or used in such a manner to cause light rays to shine outdoors. Nonresidential fixtures that are installed indoors that cause light rays to shine outside are considered outdoor lighting for the intent of this article. See Exhibit 1 of Section 15-14-90 for an illustration of this type of situation. Residential fixtures installed indoors generating more than 3,800 lumens (approximately equal to a 300-watt incandescent bulb) that cause light to shine outside are also considered outdoor lighting for the intent of this article. All of the lighting that illuminates the translucent portion of a greenhouse or solarium, including roofing material, is considered outdoor lighting for the intent of this article.

Private lighting means outdoor light fixtures that are owned or leased or operated or maintained or controlled by individual persons, including but not limited to families, partnerships, corporations, and other entities engaged in the conduct of business or other non-governmental activities.

Public lighting means outdoor light fixtures that are owned or leased or operated or maintained or controlled by the Town or other governmental entity or entities completely or partly funded by grants obtained by the Town or its agents from federal, State or private sources. The light fixtures are normally located on, but are not limited to, streets, highways, alleys, easements, parking lots, parks or playing fields.

Sag-lens or *drop-lens fixture* means a fixture, typically seen on older streetlights or parking lot lights, where the lens extends below the lowest opaque part of the fixture such that light is scattered above the horizontal plane.

Searchlight means a light fixture having a narrow beam intended to be seen in the sky.

Spotlight means a light fixture having a narrow beam.

Temporary lighting means non-permanent lighting installations installed and operated for a duration not to exceed thirty (30) days.

Total outdoor light output means the total amount of light, measured in lumens, from all outdoor light fixtures within the illuminated area of a property. The lumen value to be used in the calculation is the lumen value as defined in this article. To compute the total, add the lumen outputs attributed to each light fixture together.

Sec. 15-14-30. – Nonconforming existing outdoor light fixtures.

(a) All existing outdoor lighting that was legally installed before the enactment of this article, that does not conform with the standards specified by this article shall be considered nonconforming.

Nonconforming outdoor lighting is allowed to remain until required to be replaced pursuant to the terms of this article.

(b) If more than fifty percent (50%) of the total appraised value of a structure (as determined from the records of the county's assessor), has been destroyed, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this article.

(c) Nonconforming outdoor lighting shall be brought into conformance with this article as follows:

(1) Nonresidential Application. All existing outdoor lighting located on a subject property that is part of an application for a rezoning application, conditional use permit, subdivision approval, or a building permit for a major addition is required to be brought into conformance with this article before final inspection, issuance of a certificate of occupancy, or final plat recordation, when applicable. For the following permits issued by the Town, the applicant shall have a maximum of 90 days from date of permit issuance to bring the lighting into conformance: site development permit, sign permit for an externally or internally illuminated outdoor sign, initial alcoholic beverage permit, initial food establishment permit, and on-site sewage facility permit.

(2) Residential addition or remodel. Nothing herein shall be construed to terminate a residential property's nonconforming status as a result of an addition or remodel. However, all outdoor residential lighting that is affixed to a construction project requiring a building permit is required to conform the standards established by this ordinance.

(3) Abandonment of nonconforming. A nonconforming structure shall be deemed abandoned if the structure remains vacant for a continuous period of six (6) months. In that instance, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this article.

(d) It is unlawful to expand, repair or replace outdoor lighting that was previously nonconforming, but for which the prior nonconforming status has expired, been forfeited, or otherwise abandoned.

(e) Outdoor lighting on any property that is not in conformance with this article shall be brought into conformance with this article within five (5) years from the date of adoption of this article. All new construction and/or new luminaires installed (including replacements for existing fixtures) shall comply after the adoption of this article.

(f) Amortization Extension. Residential property owners may request from the Town an amortization extension of up to a maximum of ten (10) years from the date a nonconforming fixture was installed provided that the fixture was compliant with existing Town ordinances at the time it was installed, and that date of installation can be substantiated via documents, date stamped photographs, etc. or, at the prerogative of the Town Clerk, corroborative written statements.

(1) Amortization extensions to the date at which outdoor lighting shall conform with this article shall

be on a per fixture basis with the following requirements:

- (i) The light fixture must be documented to cost at least \$100 when originally purchased;
- (ii) The fixture cannot be brought into compliance by changing the bulb or lighting element or installing shielding;
- (iii) If the bulbs or other lighting elements of the fixture require replacement during the amortization period, the replacement bulbs or lighting elements shall not be rated in excess of 2700 Kelvin.

Sec. 15-14-40. - General Provisions

(a) Shielding.

- (1) Unless exempted elsewhere in this article, all outdoor lighting shall be fully shielded.
- (2) New streetlights shall be fully shielded fixtures of approved historical design, utilizing a minimum output consistent with the safety of drivers and pedestrians.
- (3) Mounting height or topography or proximity to other properties may cause public or private outdoor light fixtures to require additional shielding to prevent glare or an unsafe condition on properties other than the one on which it is installed.
- (4) All of the lighting that illuminates the translucent portion of a greenhouse or solarium must be shielded so that no direct light shines outside of the structure and no more than 4% of the reflected or refracted illumination is allowed to escape outside the structure.

(b) Light Trespass.

- (1) Light trespass is prohibited. No luminaire installed within the Town limits, except governmental owned streetlights, shall create conditions of light trespass. Governmental owned street lights may only create light trespass below it within one hundred (100) feet of its installed location.
- (2) All outdoor lighting, except governmental owned streetlights, shall be shielded so that the light source shall not be visible from any other property.

(c) Outdoor Sports Facilities.

- (1) Lighting at public and private outdoor sports facilities, including but not limited to playing fields, arenas, tracks, and swimming pools, will be shielded to the greatest practical extent to reduce glare, safety hazards, light trespass, and light pollution;
- (2) Will provide levels of illuminance that are adjustable according to task, allowing for illuminating levels not to exceed nationally recognized Illuminating Engineering Society of North America (IESNA) standards according to the appropriate class of play, as well as for lower output during other times, such as when field maintenance is being actively performed; and
- (3) Shall be provided exclusively for illumination of the surface of play and adjacent viewing stands, and not for any other application, such as lighting a parking lot; and
- (4) Must be extinguished by 11:00 p.m. or within one (1) hour of the end of active play. The outdoor sports facility lighting shall be fitted with mechanical or electronic timers to prevent lights from being left on accidentally overnight.
- (5) Outdoor sports facility lighting will be exempted from the other regulations of this article if its design and installation, as certified by a professional engineer (PE) licensed in the state of Colorado, adheres to the version of the International Dark-Sky Association's Criteria for Community-Friendly Outdoor Sports Lighting operative at the time when the construction permit is submitted to the Town for review.

(d) Towers. No lighting of towers and associated facilities is allowed, except by permit, and except as required by the Federal Aviation Administration or other federal or state agency. In coordination with the applicable federal or state agency, the applicant shall determine the maximum height of the tower that would not require lighting. If a proposed tower would require lighting, the applicant shall demonstrate that a tower height that requires lighting is necessary. Such justification shall include documentation

showing:

- (1) Coverage limitations;
- (2) Type of system (e.g. cellular, radio, television);
- (3) Technical and engineering details of the lighting to be installed; and
- (4) Requirements of federal, state, and local agencies.

If a tower height that requires lighting is justified, slowly blinking red lights must be used at night. White strobe lights at night are prohibited.

(e) Color Temperature.

- (1) The correlated color temperature (CCT) of luminaries shall not exceed 2700 Kelvins.
- (2) Luminaries rated below 2500 Kelvin are encouraged for better nighttime visibility.

(f) Fuel Station Canopies and other building overhangs. All luminaires mounted on or recessed into the lower surface of fuel station canopies or other overhangs shall be fully shielded and utilize only flat lenses or windows. Shielding must be provided by the luminaire itself, and not by surrounding structures such as canopy edges. Light directed on fuel station pumps may be angled to illuminate the pump to the level of federal standards and to shield the light from normal view.

(g) General curfew.

(1) In all nonresidential zones,

(i) All privately owned exterior lighting not adaptively controlled shall be extinguished by 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later **unless needed to mitigate a safety hazard as determined by the Town Clerk.**

(ii) Exterior lighting with adaptive controls shall reduce lighting to 25% or less of the total outdoor light output allowed by 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later. Adaptive controls may be used to activate lights and resume normal light output when motion is detected and be reduced back to 25% or less of total outdoor light output allowed within 5 minutes after activation has ceased, and the light shall not be triggered by activity off property.

(iii) Businesses whose normal operating hours are (24) twenty-four hours per day are exempt from this provision.

(2) All publicly owned lighting not adaptively controlled must be fully extinguished by 11:00 p.m., or within one (1) hour of the end of occupancy of the structure or area to be lit, whichever is later **unless needed for public safety as determined by the Town Clerk.**

(3) All outdoor lighting is encouraged to be turned off when no one is present to use the light.

(h) Lumen Caps. The lumen per net acre values are an upper limit and not a design goal; design goals should be the lowest levels that meet the requirement of the task. Lumen per net acre values exclude governmental owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities.

(1) Nonresidential Property. Total outdoor light output installed on any nonresidential property shall not exceed **15,000 lumens per net acre. Fixtures shall be limited to 1,600 lumens each.**

(2) Residential Property. Total outdoor light output installed on any residential property shall not exceed **5,000 lumens per net acre. Fixtures shall be limited to 850 lumens each.**

- (i) Adaptive Controls. All new publicly owned light fixtures installed 6 months after adoption of this ordinance, including streetlights, will incorporate adaptive controls (e.g., timers, motion-sensors, and light-sensitive switches) to actively regulate the emission of light from light fixtures such that the lighting of areas is restricted to times, places and amounts required for safe occupancy.

(j) Flagpoles. Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist

flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of two (2) flags per property is permitted with the following conditions:

(1) Flagpoles with a height greater than 20 feet above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole on a structure within fifteen (15) feet of the flagpole and must comply with all sections of this article. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed 800 lumens.

(2) Flagpoles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground-level illumination is used, flagpoles may be illuminated with up to two (2) spotlight type luminaires, utilizing shields or diffusers to reduce glare, whose maximum combined lumen output is 75 lumens per linear foot of pole height, measured from the level of the luminaire above grade to the top of the flagpole. Luminaires are to be mounted so that their lenses are perpendicular to the flagpole and the light output points directly toward the flag(s).

(k) Prohibitions. The use of the follow types of outdoor lighting are prohibited, except as specifically exempted here or elsewhere in this article.

- (1) Sag-lens or drop lens fixtures.
- (2) Any luminaire that uses mercury vapor lamps.
- (3) Searchlights, skybeams, and similar lighting, except as required by response personnel during emergency conditions.
- (4) Any light that dynamically varies its output by intermittently fading, flashing, blinking, or rotating. This type of lighting includes strobe lighting.

(l) Warranting. New installations of outdoor lighting will only be installed on public properties and right-of-way upon determination by the Town Clerk that a public safety hazard exists in the area to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting and not through some other passive means, such as reflectorized roadway paint or markers.

Sec. 15-14-50. - Plan Submission and Compliance Review.

(a) Any individual applying for a compliance review or building permit under this article intending to install new outdoor lighting or update existing outdoor lighting shall file a lighting plan with the Town Clerk. A lighting plan shall be filed at the same time as any other plans required by the Town. The individual may obtain from Town staff a document that lists all of the items that comprise a proper and complete outdoor lighting submittal. The submittal shall contain, but shall not necessarily be limited to the following:

- (1) Plans indicating the number and location on the premises of proposed and existing light fixtures, the type of light fixture (the manufacturer's order number), the lamp type, Kelvin rating, initial lumens produced, the mounting height for each fixture, adaptive controls, building elevations for any structure whose interior lighting is defined as outdoor lighting per this article and the manufacturer's specification sheet for each light fixture.
- (2) The number of acres or part of an acre that is to be illuminated contiguously, the square footage of the footprint for each structure within the area to be illuminated; and
- (3) Any other evidence that the proposed installation will comply with this ordinance.

(b) The lighting plan shall be reviewed by the Town Clerk to determine compliance with this article, taking into account all factors, including but not limited to, levels of illuminance, luminance, glare, safety hazards, light trespass, and light pollution. The Town Clerk may seek input from community members knowledgeable about outdoor lighting during the review process. The Town Clerk shall approve or reject the plan within 30 days of submission, returning it to the applicant with an explanation. The applicant

shall not move forward with the outdoor lighting project until the lighting plan is approved. After the lighting plan is approved, no substitutions may be made for approved light fixtures without re-submitting the plan for review with the substitutions.

Sec. 15-14-60. - Exemptions, temporary permitting, amendments, enforcement, civil remedies and public nuisance.

(a) This article shall not apply to the following:

(1) Decorative holiday lighting from November 15 through the next January 15 during the hours of 6:00 a.m. to 11:00 p.m. each day, except that flashing holiday lights are prohibited on nonresidential properties. Holiday lights may be illuminated one additional seven (7) day period per calendar year. Holiday flood lighting on nonresidential and residential properties shall be prohibited.

(2) String, festoon, bistro, and similar lighting, provided that the emission of no individual lamp exceeds fifty (50) lumens, and no installation of such lighting exceeds, in the aggregate, six thousand (6,000) lumens. These lights must be rated at or below 2700 Kelvin.

(3) Underwater lighting of swimming pools and similar water features.

(4) Lighting required by law to be installed on surface vehicles and aircraft;

(5) Airport lighting required by law;

(6) Lighting required by federal or state laws or regulations;

(7) Temporary emergency lighting needed by law enforcement, fire and other emergency services as well as building egress lighting whose electric power is provided by either battery or generator;

(8) Lighting employed during emergency repairs of roads and utilities provided such lighting is deployed, positioned and aimed such that the resulting glare is not directed toward any roadway or highway or residence;

(9) Temporary lighting, other than security lighting, at construction projects provided such lighting is deployed, positioned and aimed such that the resulting glare is not directed toward any roadway or highway or residence;

(10) Governmental facilities where compelling needs are demonstrated; and

(11) Temporary lighting, permitted in this article, for theatrical, television, performance areas, or events provided the lights are positioned safely and do not create issues of light trespass.

(b) Temporary Permitting

(1) Lighting such as that needed for theatrical, television, performance areas, or events may be allowed by temporary exemption. Temporary lighting that does not conform to the provisions of this article may be approved at the discretion Town Board of Trustees or the Town Clerk subject to submission of an acceptable Temporary Outdoor Lighting Permit.

(2) Permit term and renewal. Permits issued shall be valid for no more than seven (7) calendar days and subject to no more than one renewal, at the discretion of Town Board of Trustees or the Town Clerk, for an additional seven (7) calendar days.

(3) Conversion to a permanent status. Any lighting allowed by Temporary Outdoor Lighting Permit that remains installed after fourteen (14) calendar days from the issue date of the permit is declared permanent and is immediately subject to all of the provisions of this article.

(4) Permit contents. A request for a Temporary Outdoor Lighting Permit for a temporary exemption to any provision of this article must list the specific exemption requested and the start and end date of the exemption. Search lights, skybeams and similar lighting will not be allowed. The Town Clerk may ask for any additional information which would enable a reasonable evaluation of the request for temporary exemption.

(c) Amendment. This article may be amended from time to time as local conditions change, and as changes occur in the recommendations of nationally recognized organizations such as the Illuminating Engineering Society of North America and the International Dark-Sky Association, if the Town wishes to

do so.

(d) Enforcement.

(1) It will be the responsibility of the Town to publish this article in the newspaper of record and to disseminate the ordinance [this article] by other appropriate means; to publish information about the ordinance on the Town website; and, as time permits, to inform owners of noncompliant lighting of these provisions.

(2) The Town Clerk is authorized to promulgate one or more interpretive documents to aid in the administration of, and compliance with, this article. Such interpretive documents, with examples such as Exhibits 2, 3 and 4 of Section 15-14-90, shall be educational only and shall not constitute regulations, amendments, or exceptions.

(3) Violations. It shall be unlawful to install or operate any outdoor lighting luminaire in violation of any provision of this article. Any person violating any provision of this article shall be guilty of an offense punishable by the general penalty provisions found in Section 1-4-10 of the Crestone Municipal Code and may also be subject to suit for injunctive relief. Each and every day during which the illegal erection, maintenance and use of such nonconforming lighting continues shall be considered to constitute a separate offense.

(4) Any owner who fails to comply with these provisions may be issued a warning notice. The owner of the noncompliant lighting must, within 30 days from the issuance of such warning notice, submit a lighting plan as defined in Sec. 15-14-50 to come into compliance with this article. Any owner who further fails to comply after 60 days from the issuance of such warning notice may be subject to penalties as provided in (3) above for each day of noncompliance.

(e) Civil remedies. Nothing in this article shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of light trespass.

(f) Public nuisance. Any violation of this article that results in light trespass or an unreasonable interference with the common and usual use of neighboring property is hereby declared to be a public nuisance as provided in Section 12-1-200 of the Crestone Municipal Code and which is likewise prohibited by this article.

Sec. 15-14-70. - Notification. All building permit applicants will be notified of the Town outdoor lighting ordinance [this article].

Sec. 15-14-80. - Sign illumination.

(a) All permanent signs may be non-illuminated, illuminated by internal, internal indirect (halo), or lit by external indirect illumination, unless otherwise specified. All illuminated signs shall be extinguished at 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later. All sign illumination must comply with the correlated color temperature (CCT) requirements of this article.

(b) Top-down lighting. Externally illuminated signs shall be lit only from the top of the sign, with fully shielded luminaires designed and installed to prevent light from spilling beyond the physical edges of the sign.

(c) Outdoor internally illuminated signs (whether free standing or building mounted) shall be subject to all the following requirements:

(1) The sign must be constructed with an opaque background and translucent letters and symbols or with a colored background and lighter letters and symbols. (See Exhibit 5 of Section 15-14-90 for examples).

(2) The internally illuminated portion of the sign cannot be white, cream, off-white, light tan, yellow or any light color unless it is part of a registered logo that does not have an alternate version with dark tones. Light tone colors such as white, cream, off-white, light tan, yellow or any light color are permitted in the logo only, provided that such colors in the logo shall represent not more than 33% of the total sign area permitted.

(3) The internal illumination, between sunset and sunrise, is to be the lowest intensity needed to allow the sign to be visible for up to 1/2 mile from its installation and shall not exceed 100 nits.

(4) Size limit. The luminous surface area of an individual sign shall not exceed 200 square feet.

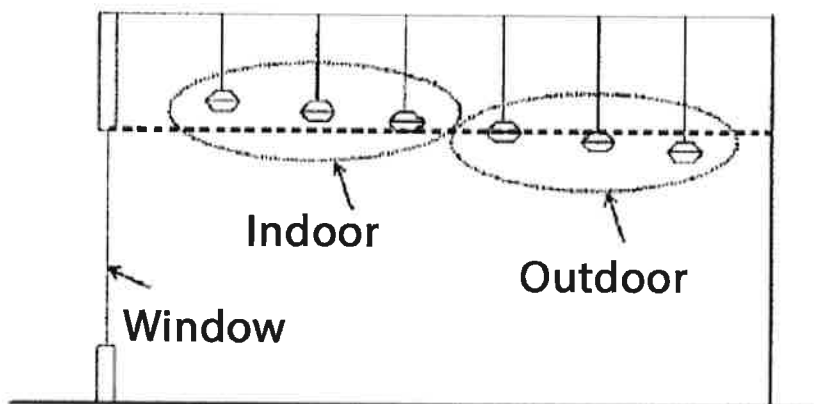
(5) Electronic message displays are discouraged and shall comply with outdoor lighting curfews stipulated in this ordinance. Messages appearing on electronic displays shall not be displayed for less than (30) seconds and shall require no longer than 0.25 seconds to transition from one message to another. Moving and/or flashing text or images are prohibited.

(6) Permitted location. Off-premise signs shall not be placed within one thousand (1,000) feet of another off-premise sign on the same side of an arterial street or highway, regardless of face orientation, or within one thousand (1,000) feet of a residential area.

(d) The provisions in this section concerning sign illumination are to be construed with Section 15-11-50(b) (Sign categories and sign limitations) Illumination, animation, and sign obstruction, Section 15-11-70(c) (Sign location and appearance standards) Illumination, and Section 15-11-80 Table A (Specifications for Permitted Signs) of the Crestone Municipal Code and whichever sections are the most restrictive shall be deemed to apply.

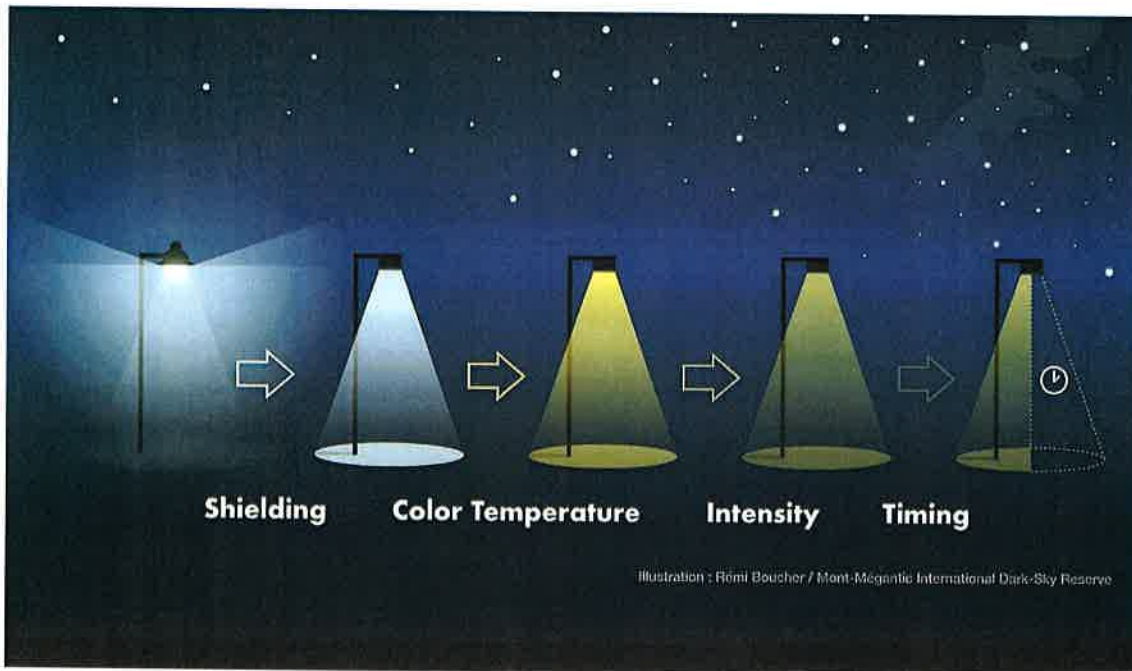
Sec. 15-14-90. -Exhibits.

Exhibit 1. Indoor/outdoor lighting.



Elevation view showing an example of a nonresidential application of indoor lighting, labeled “Outdoor”, which will be subject to this article. The example presumes the structure in question is not elevated such that any of the luminaires labeled “Indoor” may be seen from any other property. If the structure is elevated such that the luminaires labeled “Indoor” are visible from another property then, they are actually “outdoor lighting” and subject to this article. All luminaires under skylights or other translucent roofing materials are subject to this article just as the fixtures behind the window are in this example.

Exhibit 2. An illustration of best outdoor lighting practices.



- (1) Use shielding to reclaim wasted light and direct it to the area to be lit.
- (2) Lower the correlated color temperature (CCT) from “cool” white light to “warm” white.
- (3) Lower the intensity to provide as much light as needed for the application, but no more.
- (4) Use adaptive controls, e.g., timers, half-night photocells, motion sensors, etc., to limit the hours the light is in use.

Exhibit 3. Light Trespass

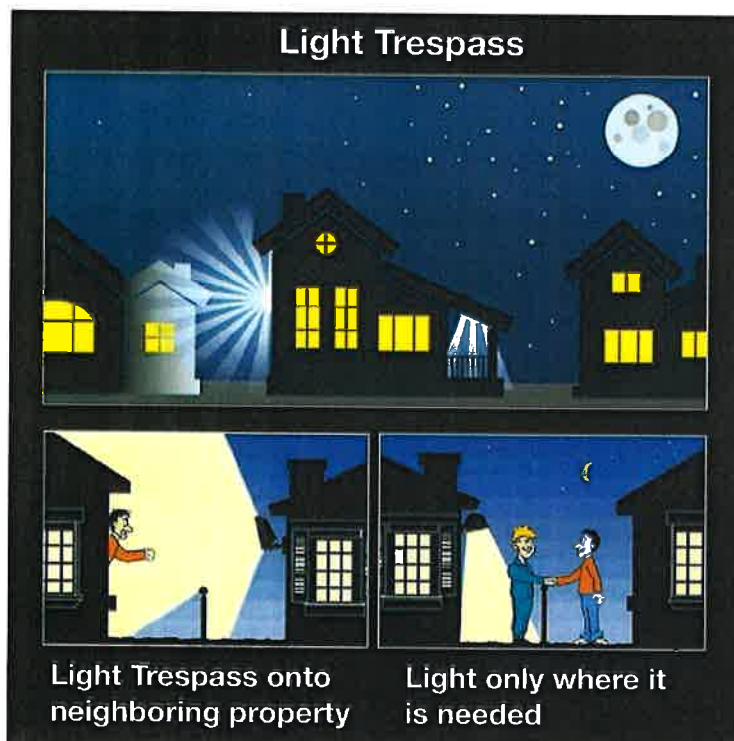
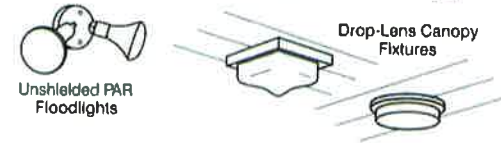
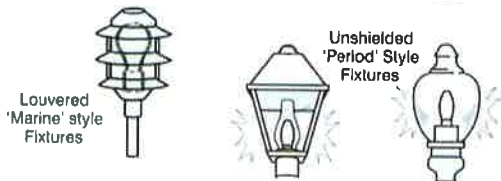
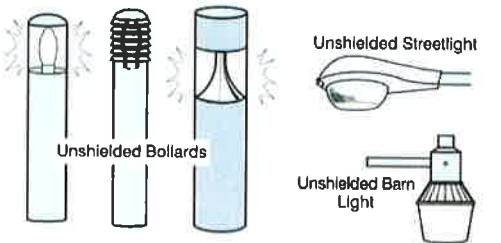
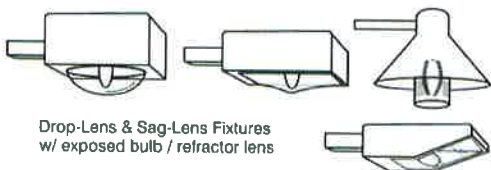
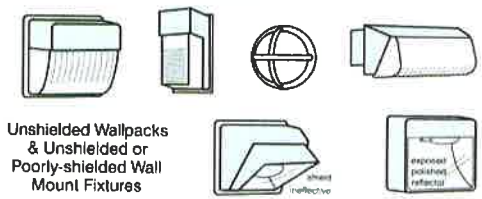
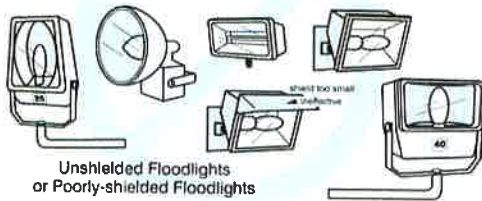


Exhibit 4. Unacceptable Fixtures and Acceptable Fixtures.

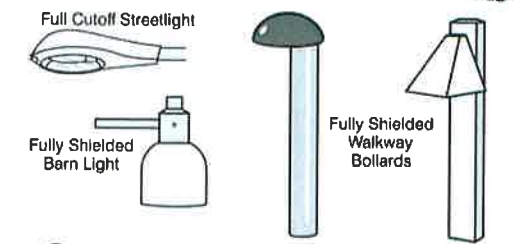
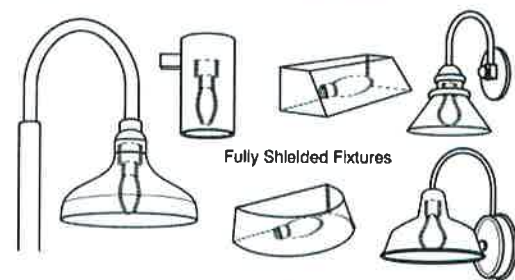
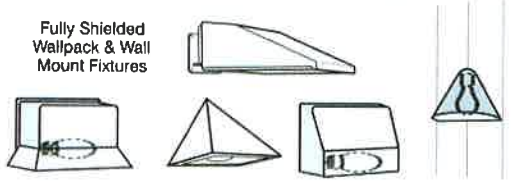
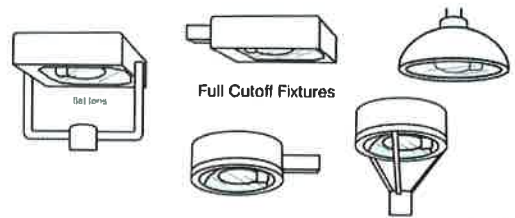
Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged Fixtures that produce glare and light trespass









Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Illustrations by Bob Crelin © 2005. Rendered for the Town of Southampton, NY. Used with permission.

Exhibit 5. Internally Illuminated Signs.

Light Background <input type="checkbox"/>	Colored Background <input checked="" type="checkbox"/>	Opaque Background <input checked="" type="checkbox"/>
		
		


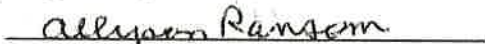
This Ordinance is intended to provide “dark sky” standards for lighting within all of the zone districts of the Town of Crestone and not to preempt any nuisance provisions of the Town Code which are related to lighting. This Ordinance is also intended to facilitate the designation of the Town of Crestone as a certified “Dark Sky Community” by the International Dark Sky Association.

INTRODUCED, read in full, adopted, APPROVED, and SIGNED this 18 day of February, 2021.

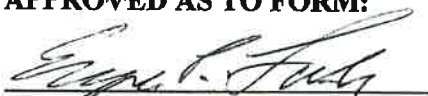
APPROVED:


 Kairina Danforth, Mayor

ATTEST:



 Allyson Ransom, Town Clerk

APPROVED AS TO FORM:


 Eugene L. Farish
 Town Attorney

Water Infrastructure

Goal: Reactive silver creek water system

Objective	Timeframe	Persons Responsible	Statuses	Comments/Add' Information
Impose development fees for subdivisions, PUD and large scale developments	Ordinance adopted by End of year 2023	Chauncey McCarthy/legal/Board of Trustees	In process	In process
RFP for engineering documents for the necessary improvements needed to reactive silver creek	Select Firm by mid-2024	Chauncey McCarthy/Board of Trustees		May be able to use 2018 Water PER
Pursue funding to reactive silver creek	To run concurrent with engineering	Chauncey McCarthy/Engineering firm		State revolving fund, grants, and potential federal funding will all be necessary to offset this project's cost
Go out to bid for water system improvements, construct improvements, reactive silver creek	Contingent upon funding. Ideally breaking ground summer 2026	Chauncey McCarthy/Engineering Firm/ Board of Trustees / Construction company		Funding is the biggest hurdle for this project. As federal infrastructure funds roll out there will be a better understanding of the potential timeline

Goal: Repair or replace third storage water tank

Objective	Timeframe	Persons Responsible	Statuses	Comments/Add' Information
Research and determine funding sources	Complete by Dec-2024	Chauncey McCarthy	In process	Funding for tank rehab is limited. Water taps sales may offset cost
Pursue funding via grant, state revolving fund, water taps sold. Budget for repairs	Complete by Dec-2024	Chauncey McCarthy	In process	Estimate from summer 2022 was 250,000
Go out to bid for water tank rehabilitation and complete necessary work	Complete by summer 2025	Chauncey McCarthy/Board of Trustees/Tank Rehabilitation company		

Street Fund and Infrastructure

Goal: Construct New Town Shop

Objective	Timeframe	Persons Responsible	Status	Comments/Add' Information
Finalize construction documents	End of Feb-2023	Chauncey McCarthy/Goff Engineering/Wiley Architecture	Completed	Almost Completed
Apply for DOLA EIAF grant to offset construction cost	Grant Due March-2023 Awarded June-2023	Chauncey McCarthy	Completed	
Finalize lease purchase option need to fund the project and amend budget	Budget amendment July-2023	Chauncey McCarthy/Troy Bernberg/Board of Trustees	Completed	Include sale of town owned space as revenue
Go out for bid for construction	July-2023 through August-2023	Chauncey McCarthy/ Board of Trustees	Completed	
Construct shop	August-2023 through October-2024	Chauncey McCarthy/Construction company	In Process	Project will include public parking, bathroom, and secured yard storage

Goal: Maintain employees and update equipment

Objective	Timeframe	Persons Responsible	Status	Comments/Add' Information
Pursue a mill levy increase during the November 2024 election	November-2024 election	Chauncey McCarthy/Legal/Anna Wolf/Board of Trustees/Resident electors		This failed at the ballot in 2021. A different approach will need to be taken to be successful
Purchase new smaller front end loader*	Order by Q1 2025	Chauncey McCarthy /Board of Trustees		
Review compensation and benefits package to stay competitive with other employers	Yearly	Chauncey McCarthy/Board of Trustees		

*large purchases will be more manageable with a mill levy increase. If mill levy fails again these purchases will need to staggered greater than what is proposed.

Goal: Improve Road Ways and Stormwater Management System**

**This goal is associated with the townwide VCUP and should be discussed by the board to make determinations of the objectives.

Sewer Infrastructure

Goal: Centralized Sewer System*

Objective	Timeframe	Persons Responsible	Status	Comments/Add' Information
Complete amended PER for town waste water treatment and collection system	Final Report Feb-2024	Chauncey McCarthy/Board of Trustees/Engineering Firm	In Process	Bohannan Huston selected
Pursue funding to continue project	Ongoing	Chauncey McCarthy/Board of Trustees/Engineering Firm		State revolving fund, grants, and potential federal funding will all be necessary to offset this project's cost
Successfully release the 2.5 million dollars of congressionally directed spending	Ongoing	Chauncey McCarthy/Engineering firm		EPA is still working through how the funds will be released.
Create construction documents, install improvements, and construct treatment facility	Unknown	Chauncey McCarthy/Engineering Firm/ Board of Trustees / Construction company/Engineering Firm		Project may be phased based upon funding opportunities.

*Due to the size, scope, and complexity of this project timelines at this point are near impossible to determine. Once the amending PER is completed and funding is investigated there should be a better understanding of what is feasible. Still waiting to see how federal funding will be dispersed

Municipal Documents

Goal: Update Municipal Documents

Objective	Timeframe	Persons Responsible	Status	Comments/Add' Information
Rico Land Use Code global revision	Complete by August 2024	Chauncey McCarthy/Jennifer Stark/Planning Commission/Board of Trustees/Legal	In Process	In process now. Will require planning commission recommendation and Board of Trustees adoption
Revise Home Rule Charter	Complete by Dec 2024	Chauncey McCarthy/Board of Trustees/Legal		Work through charter amendments during Trustee meetings
Go to ballot with proposed Home Rule Charter amendments	November 2025 Election	Chauncey McCarthy/Legal/Anna Wolf/Board of Trustees/Resident electors		This will require a majority vote
Revise Rico Master Plan	Start in 2024	Chauncey McCarthy/Board of Trustees/Master Planning Committee		This is a large project and the town may want to consider working with a consultant through the process
Revise Water Rules and Regulations	Adopt by end of April 2024	Chauncey McCarthy/Board of Trustees/Legal/Pat Drew	In Process	Address water conservation and revise document in its entirety
Codify current legislation	Start once new RLUC is adopted	Chauncey McCarthy/Board of Trustees/Municode		Engage with Municode, process takes two years.
Update hazard mapping	On Going	Chauncey McCarthy/Planning Commission/Board of Trustees/DNR/Engineers	In Process	Debris fan mapping is underway, DNR is updating Floodplain mapping, Avalanche and wetland mapping has not begun

Parks and Open Space

Goal: Improve Parks and Open Space

Objective	Timeframe	Persons Responsible	Status	Comments/Add' Information
Activate Community Engagement Team and gain community input	February 2023 - April 2023	Chauncey McCarthy/CET Team/ FPM Consulting	Completed	
Create park design and budget	April 2023 - May 2023	Chauncey McCarthy/FPM Consulting	Completed	Tetris exercises community input meeting held 7/9/23
Pursue funding for park improvements	August 2023 - June 2024	Chauncey McCarthy/FPM Consulting	In Process	
Construct park improvements	July 2024 - Sept 2024	Chauncey McCarthy/FPM Consulting/Construction firm		
Park Grand Opening	October 2024	Chauncey McCarthy/FPM Consulting/Local Community		
Improve trails within town and surrounding area	On going	RTA/Local Community		
Complete the Rio Grande South Trail Improvements and bridge	On going	RTA/Local Community	In Process	
Develop Park + Rec Plan for use of Columbia Tailings site	Spring 2024 - Spring 2025	ARCO/Chauncey McCarthy/Board of Trustees/Local Coomunity		

Additional Notes

Close out VCUP by end of Q2 2024 (Town wide storm drainage, soil management contractor, remediate roads, adopted IC, educate residents, promote participation)

Continue learning from other communities' success and downfalls.

Save Money, responsible purchases and spending

Provide support for school district initiative (Completed)

Citizen communication and engagement (post agendas in additional locations, provide meeting summary to mailserv list, host two community participation meetings a year)

Revisit recycling program

Help local businesses by providing support. (Chamber of commerce)

Research and investigate impact fees for large scale developments

Provide support to RFPD (Mill increase approved November 2023)

Promote open space

Town shop project includes a parking lot which can be used as an intercept lot during snow removal

Reingage / stay involved with ARCO, Trust for Public Lands, MLC to ensure ARCO acquired property that's not needed or remediation is placed in conservation.

Continue to pursue/update technology



TOWN OF RICO
INCORPORATED OCTOBER 11, 1879
2 North Commercial Street
Post Office Box 9
Rico, Colorado 81332
Office # 970.967.2861
Fax # 970.967.2862
www.ricocolorado.gov

To: Rico Board of Trustees
 From: Chauncey McCarthy, Town Manager
 Subject: Water rate review

02/15/2024

Water rates

Staff are currently working on a redline of our Water Rules and Regulations. Through this process, rates, late fees, and escalated or tiered fee schedules have been researched. The Board of Trustees has not reviewed water rates since the end of 2020. (Many municipalities adjust rates yearly) Current residential rates are \$38 a month and commercial \$68 a month. If rates were to be adjusted for inflation over the past four years the residential rate would be increased to \$44 a month and commercial \$78 a month. The residential rate includes 3,000 gallons of water per month and a commercial rate includes 7,000 gallons of water per month. Once that amount of water is exceeded accounts are billed per 1000 gallons of water they consume. (\$5 per thousand residential and \$6 per thousand commercial.)

A common practice for Colorado water providers is to charge for additional consumption based upon a tiered rate schedule. Tiered water pricing is a critical tool used by water utilities to incentivize conservation.

Increasing block price schedules provide strong incentives for customers to conserve water. The lowest tier typically corresponds to an amount of water sufficient to meet basic indoor needs like drinking and bathing. Each subsequent tier charges a higher rate and is designed to discourage households from using water for non-essential things.

The Town historically charges 2 dollars a month plus 12% annum for late payments. This has been set up in the billing software since we first adopted RVS in 1995. The 2019 water rules and regulations allow for the town to charge \$50 as a late fee plus 12% annum. \$50 a month. This seems like usury and needs to be adjusted to more align with other utility providers (\$10-25 late fee). With the new online billing software, paperless options, and auto bill pay, account holders have never had an easier way to remit payments or view their usage.

Provided below is the Town's current rate schedule, option 1, along with three other potential options to be considered by the Board of Trustees. Option 2 is the Town current rate structure with a 10% increase.

Option 3 is a tiered block rate scheduled. Option 4 is a tiered block rate schedule with a monthly connection fee and usage rates charge in addition to the monthly fee.

The board should be prepared to discuss what rate structure is most appropriate for the Town of Rico. Once a rate structure is decided upon the board will need to review the staff proposed rates and modify or adjust as needed before.

Current Rate Schedule (Option 1)	
Residential	\$38 0 - 3000 Gallons
	\$5.00 Per 1000 Gallons above 3,000
Commercial	\$68 0 - 7,000 Gallons
	\$6 Per 1000 gallons above 7,000
Late Fee	\$50.00 + 12% per annum

Option 2	
Residential	\$42 0 - 3000 Gallons
	\$6.00 Per 1000 Gallons above 3,000
Commercial	\$75 0 - 6,000 Gallons
	\$6 Per 1000 gallons above 7,000
Late Fee	\$15.00 + 12% per annum

Option 3				
Usage Tiers Residential	Minimum Monthly Charge 0 - 3000 Gallons	Rate for Use over 3,000 up to 8,000 Gallons per month	Rate for Use over 8,000 up to 12,000 Gallons per month	Rate for use over 12,000 Gallons Per Month
Residential	\$42	\$6/1000 gal.	\$10/1000 gal.	\$15/1000 gal.
Usage Tiers Commercial	Minimum Monthly Charge 0 - 6000 Gallons	Rate for Use over 6,000 up to 10,000 Gallons per month	Rate for Use over 10,000 up to 15,000 Gallons per month	Rate for use over 15,000 Gallons Per Month
Commercial	\$75	\$6/1000 gal.	\$10/1000 gal.	\$15/1000 gal.
Late Fee	\$15.00 + 12% per annum			

Option 4					
Usage Tiers Residential	Monthly Connection fee	Rate for Use 0 up to 3,000 Gallons per month	Rate for Use over 3,000 up to 8,000 Gallons per month	Rate for Use over 8,000 up to 12,000 Gallons per month	Rate for use over 12,000 Gallons Per Month
Residential	\$38	\$2/1000 gal.	\$6/1000 gal.	\$10/1000 gal.	\$15/1000 gal.
Usage Tiers Commercial	Monthly Connection fee	Rate for Use 0 up to 6,000 Gallons per month	Rate for Use over 6,000 up to 10,000 Gallons per month	Rate for Use over 10,000 up to 15,000 Gallons per month	Rate for use over 15,000 Gallons Per Month
Commercial	\$58	\$3/1000 gal.	\$6/1000 gal.	\$10/1000 gal.	\$15/1000 gal.
Late Fee	\$15.00 + 12% per annum				