

Ouray City Council Work Session
Monday, August 1, 2022 4:00 PM

Commissioners' Meeting Room
541 4th Street
Ouray County Courthouse
Ouray, Colorado 81427

Agenda

1. CALL TO ORDER
2. DISCUSSION ITEMS
 - 2.a. 4-4:45pm - Discussion of Potential Property Purchases for Affordable Housing Project
 - 2.b. 4:45-5:20pm - Discussion of Creation of Affordable Housing Plan
 - 2.c. 5:20-6pm - Discussion of Addendum to Bachelor Switch Agreement

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AGREEMENT BETWEEN THE CITY OF OURAY, COLORADO AND WANAKAH LTD. PARTNERSHIP CONCERNNG THE DEVELOPMENT OF THE SILVER SHIELD PLANNED UNIT DEVEOPMENT

THIS AGREEMENT made and entered into this 7th day of April 2008, by and between the **CITY OF OURAY, COLORADO**, A Colorado Municipal Corporation (hereinafter "Ouray"), and **WANAKAH LTD. PARTNERSHIP**, a Colorado partnership (hereinafter "Wanakah"), **WITNESSETH:**

RECITALS

1. Wanakah has submitted an application for approval of the Silver Shield Planned Unit Development being a part of Wanakah Estates Subdivision, Filing No.5, located in Ouray County, Colorado (hereinafter "Silver Shield PUD").

2. Wanakah, in its application, sought and received an increase in density for the Silver Shield PUD for the purpose of providing affordable housing for year around residents, as authorized in Section 7-5, "Planned Unit Developments (PUD)" of the "Code of the City of Ouray, Colorado."

3. Wanakah has received preliminary plat approval from the City of Ouray Planning and Zoning Commission conditioned, among other things, upon the development and sale of six (6) affordable single family housing units on Lots 34, 35, 36, 46, 47 and 48, Silver Shield PUD.

4. Wanakah and the City wish to enter into this agreement to guaranty the development and sale of the Affordable Housing Units under the terms and conditions agreed to by Wanakah and the City

NOW THEREFORE, in consideration of their mutual covenants and the benefits to be received by each of them, the Parties hereto agree as follows:

I. THE OBLIGATIONS OF WANAKAH

Wanakah agrees, conditioned upon compliance by the City of its obligations under this agreement, to do each of the following:

A. Wanakah shall construct, offer for sale, and sell to Qualified Purchasers six (6) single family homes located on Lots 34, 35, 36, 46, 47 and 48, Silver Shield PUD (hereinafter the "Affordable Housing Units" or "Units"). "Qualified "Purchasers" shall be those persons meeting the requirements established in the final form of Deed Restriction and Guidelines attached hereto as Exhibits A and B, as applicable. Each Affordable Housing Unit shall be available for occupancy (except for landscaping) no later than

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ninety (90) days (excluding the winter months of November through March when no construction may occur) after the City shall have presented to Wanakah a purchaser(s) for such Unit whom the City has certified is a Qualified Purchaser and who, in addition, has a pre-approval letter for conventional financing from an institutional lender and has entered into a standard purchase and sale agreement and construction contract for the Unit.

B. The City, or any housing authority it forms or any housing authority to which it is a party or participant, may purchase any of the Affordable Housing Units under the same terms and conditions established herein for purchase by Qualified Purchasers upon entering into a purchase and sale and construction contract for the same.

C. Each of the Affordable Housing Units shall be a single family residence meeting the specifications of, and following one of the floor plans contained in, Exhibit C and shall sell for the following "not to exceed" prices:

One 1000 square foot single family two bedroom residence for a price not to exceed \$233,100.

Two 1008 square foot single family two bedroom residences for a price not to exceed \$234,900.

Two 1152 square foot single family two bedroom residences for a price not to exceed \$259,900.

The sixth unit will be one of the above to be determined in the future based on demand. The "not to exceed" prices are firm for all Units for which construction has commenced prior to December 31, 2007. After that, the above prices shall be increased as follows

(1) for demonstrated increases in the costs of labor and materials upon evidence of such increases being presented to, and receipt of written approval from, the City Administrator of the City of Ouray, prior to the execution of the purchase and sale contract; and

(2) for increased land value for any Units not sold within five (5) years from the date of this Agreement, by the percentage increase (if any) in the Consumer Price Index, All Items, the U.S. City Average, All Urban Consumers, Not Seasonally Adjusted (Index Base Period 1982-84=100) (CPI-U) (or its successor index, published by the U.S. Department of Labor, Bureau of Labor Statistics) between the date of this Agreement and the date of execution of a purchase and sale contract, based on an agreed to present land value of \$95,000.00 per Unit.

D. In order to preserve both the initial and long term affordability of the Affordable Housing Units, Wanakah acting as the Declarant of a common interest community created under the Colorado Common Interest Ownership Act, C.R.S. Section 38-33.3-101 et seq. ("CCIOA") shall, for assessment purposes only, create two tiers for assessment (annual and special) for common expenses. One tier shall be for the Affordable Housing Units. The declaration of the common interest community shall contain the formula for determining the assessments for the Affordable Housing Units,

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which shall be subject to review and approval of the City of Ouray prior to recordation with the Ouray County Clerk and Recorder. The formula used shall be at the discretion of Wanakah provided that it is designed to assure that such assessments do not adversely affect the permanent affordability of the Affordable Housing Units.

E. In accordance with Section 38-33.3-205 (1)(l) of CCIOA, those portions of the declaration and covenants necessary to accomplish the restrictions and classifications for assessments and to state the restrictions necessary for the Affordable Housing Units, including, without limitation, buyer income limitations, marketing to and selection of eligible buyers, sale price limitations, owners occupancy and rental limitations, shall be subject to approval by the City, and may not be amended at any time without the approval of the City; provided, however that all such provisions shall be consistent with the requirements of CCIOA.

F. Wanakah shall (in cooperation with the City) ensure the execution and recordation of the final form of Deed Restriction (prepared by the City) by each Qualified Purchaser at the time of closing for each of the Affordable Housing Units. The Deed Restriction shall be recorded in the property records of the Ouray County Clerk and Recorder subsequent to the deed conveying title to the Qualified Purchaser, and prior to the first (purchase money) deed of trust. The original Deed Restriction shall be returned to the City after recordation. Subsequent to each closing Wanakah shall provide to the City a copy of the Title Policy issued for each Affordable Housing Unit showing the Deed Restriction as an exception.

G. In the event that Wanakah shall have entered into a purchase and sale and construction contract with a Qualified Purchaser pursuant to Section I A above, and the Qualified Purchaser shall fail to complete the purchase, though no fault of Wanaka, then the City agrees that, unless the City or housing authority shall purchase the Unit under the same terms provided for in this Development Agreement, the Unit may be sold or otherwise transferred by Wanakah free and clear of the terms and conditions of Sections I A through I F of this Development Agreement.

H. In the event that Wanakah shall, in good faith, continue to offer to sell any unsold Affordable Housing Units under the terms and conditions specified in this Development Agreement, and it shall, for an initial period of sixty (60) consecutive months, and, after said initial period, during each eighteen (18) consecutive months period thereafter, receive no offers to purchase the same from Qualified Purchasers, or the City or a housing authority, then, with respect to all unsold Affordable Housing Units the provisions of Sections I A through I F of this Development Agreement shall be null, void and of no further force and effect and Wanakah may sell or otherwise transfer all of the unsold Affordable Housing Units free and clear of said provisions.

I. Wanakah, simultaneously with the recordation of a final plat (in any lot configuration) for, or commencement of development of, whichever shall first occur, the real property described in the "Option to Purchase Granted by Wanakah Ltd. Partnership

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to the City of Ouray, Colorado," a copy of which is attached hereto as Exhibit D, shall execute and record said Option to Purchase for the benefit of the City.

II. THE OBLIGATIONS OF THE CITY

The City agrees, conditioned upon compliance by Wanakah of its obligations under this agreement, to do each of the following:

A. Provided that Wanakah shall have satisfied all procedural requirements and other conditions imposed thereon, the City agrees to grant final approval of the Silver Shield Planned Unit development.

B. Incident to such approval, the City agrees to waive any Investment and Building Permit Fees attributable to the development of Affordable Housing Units on Lots 34, 35, 36, 46, 47 and 48, Silver Shield Planned Unit Development, except for any Units released from Sections I A through I F pursuant to Sections I G and H of this Agreement.

C. The City agrees to adopt, by ordinance, prohibitions against over night parking on the following public rights of way: the east and west sides of North Oak Street between Silver Shield Trail and Wanakah Place; the north and south sides of Silver Shield Trail; and both sides of Hinkson Terrace between Silver Shield Trail and Wanakah Place. The ordinance may be limited to complaint based enforcement.

D. The City agrees to, on or before October 31, 2007, establish, or participate in the establishment of, a municipal or multijurisdictional housing authority, meeting all statutory requirements, and including within its jurisdiction, at a minimum, the City of Ouray, Colorado, for the purpose, among other things, of qualifying purchasers for the Affordable Housing Units and enforcing adopted Deed Restrictions.

E. The City agrees to adopt, prior to the date of availability for purchase and sale of the Affordable Housing Units, each of the following:

- (1) A form of Deed Restriction substantially in the form of Exhibit A.
- (2) Guidelines substantially in the form of Exhibit B.
- (3) Procedures for qualifying prospective purchasers in conformance with the Guidelines.

F. The reference in Section II E to Exhibits A and B, notwithstanding, it is understood and agreed to by Wanakah that the City, itself or by or through a housing authority, may, from time to time, amend the Guidelines and/or Deed Restriction to reflect then current housing needs, provided that such amendments, unless Wanakah agrees otherwise, shall at a minimum, continue to require:

- (1) That the Affordable Housing Units be occupied as a primary

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residence.

(2) That priority be given to employees of the City of Ouray and the Ouray County R-1 School District; provided, however, that such employees will not be deemed disqualified to occupy the unit if they, after leaving public service, remain full time employees (minimum 1400 hours per year) in Ouray County.

(3) That one household member be a full time (minimum 1400 hours per year) employee in Ouray County.

(4) Price caps on resale of the units.

(5) That household members have no ownership interest in (or are required to dispose of) any other residential real property.

III. ASSIGNMENT OF RIGHTS IN THE EVENT OF ABANDONMENT OF THE SILVER SHIELD AFFORDABLE HOUSING PROGRAM

In the event that the City, or its housing authority or any housing authority to which it is a party or participant or the successor or designee of the City or such housing authority, to which the City has assigned its rights under this Agreement, shall abandon any and all rights to implement and enforce the Guidelines (as originally adopted or as subsequently amended) and shall abandon any and all rights to apply, implement and enforce the Deed Restrictions (as originally adopted or subsequently amended), as the same apply to all of the Affordable Housing Units, the City (or said housing authority, successor or designee) agrees to assign and convey to Wanakah, on its request, any and all rights the City, authority, successor or designee has in the Affordable Housing Units by reason of the Guidelines and /or any Deed Restrictions of record.

IV. GENERAL PROVISIONS

A. To the extent that this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of this Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other terms or provision hereof. The waiver of any breach of a term hereof shall not be construed as waiver of any other term nor as a waiver of a subsequent breach of this same term.

B. If any of the terms of this Agreement shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions (b) the rule restricting restraint on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provisions shall continue only for the period of the lives of the current duly elected members of the City Council for the City of Ouray, Colorado, their now living descendants, if any, and the survivor of them, plus twenty one (21) years.

C. The laws of the State of Colorado shall govern the construction and

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enforcement of this Agreement.

D. This Agreement shall be a burden upon and run with the property for the benefit of the parties hereto, their successors and assigns who may enforce this Agreement and compel compliance herewith through the initiation of judicial proceedings for, but not limited to, specific performance, injunctive relief, and damages. Reasonable attorneys fees and costs shall be awarded to the successful party in any litigation instituted to enforce the provisions of this Agreement.

E. Any notices, demands or requests given under this Agreement shall be in writing and shall be deemed properly given if deposited in the United States Mail, postage prepaid, and addressed as follows:

To the City of Ouray, Colorado:

City Administrator
City of Ouray
Post Office Box 468
Ouray, CO 81427

To Wanakah Ltd. Partnership:

Wanakah Ltd. Partnership
Post Office Box 1817
Ouray, CO 81427

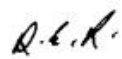
F. Any modifications of this Agreement shall be effective only if in writing executed by both parties hereto.

G. None of the rights or benefits of either party may be assigned, nor may any of the obligations of either party be delegated, without the express written consent of the other provided, however, that the City may assign and/or delegate its rights and/or obligations under this Agreement to a housing authority it forms or any housing authority to which it is a party or participant, or the successor to or assigns or designee of the City or such housing authority.

H. The parties agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement or any agreement or document relating hereto or entered into in connection herewith.

I. Wanakah certifies that it has the full right, power and authority to and has taken all requisite actions to enter into this Agreement and carry out the obligations required to be performed by Wanakah.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year above first noted.



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THE CITY OF OURAY, COLORADO

By R.E. Risch

ATTEST: [Signature]

WANAKAH LTD. PARTNERSHIP

By [Signature]

ATTEST: [Signature]

Craig E. Hinkson, President of Hinkson Development Corp. as General Partner of Wanakah LTD.

STATE OF COLORADO)
) ss
COUNTY OF OURAY)



The foregoing was acknowledged before me this 10th day of April, 2008 by R.E. Risch and Rick Nell the Mayor and City Resource Mgr., respectively, of the City of Ouray, Colorado.

Witness my hand and official seal.

[Signature]
Notary Public

STATE OF COLORADO)
) ss
COUNTY OF OURAY)

The foregoing was acknowledged before me this 14th day of APRIL, 2008 by CRAIG E. HINKSON and ROLAND C. HINKSON the Officers of HDC, General Partner, of Wanakah Ltd. Partnership.

Witness my hand and official seal.

[Signature]
Notary Public



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EXHIBIT A

**CITY OF OURAY, COLORADO
OCCUPANCY AND RESALE DEED RESTRICTION
AGREEMENT AND COVENANTS
FOR SILVER SHIELD PUD AFFORDABLE HOUSING UNITS**

THIS DEED RESTRICTION is made and entered into this ____ day of _____, 200_, by _____ and _____ whose address is _____, Ouray, Colorado, 81427 (the "Declarant" or "Owner") for the benefit of the City of Ouray, Colorado, a Colorado municipal corporation, any housing authority formed by the City or housing authority to which the City is a party, the successors, assigns or designees of the City or such housing authority (the "City"):

RECITALS

WHEREAS, The Silver Shield Planned Unit Development Affordable Housing Units have been constructed to increase affordable housing opportunities within Ouray County, and

WHEREAS, the Owner, on behalf of him or herself, his or her heirs, executors, administrators, representatives, successors and assigns, desires to comply with this Deed Restriction and the affordable housing Guidelines restricting the use and sale of the Property, as hereinafter described; and

WHEREAS, it is the intent of the Declarant to preserve, through these Covenants, the affordability of the Property and to assign to the City the right to enforce compliance with these Covenants; and

WHEREAS, the Owner acknowledges and agrees that this Deed Restriction shall constitute a resale agreement setting forth terms and conditions for the resale of the Property at any time after the date of this Deed Restriction; and

WHEREAS, the Owner acknowledges that he/she has received valuable and adequate consideration for the imposition of this Deed Restriction upon the Property described below,

NOW THEREFORE, in consideration of the recitals set forth above and for value received, the sufficiency of which is hereby acknowledged, the Declarant does hereby declare and impose the following covenants on the real property identified below, which covenants shall run with and burden the Property until modified or released by the City.

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COVENANTS

1. Property Description. The following described property is hereby burdened with the covenants delineated herein:

Lot ____, Silver Shield Planned Unit Development, a common interest community, according to the Declaration of Covenants, Conditions and Restrictions for the Silver Shield Planned Unit Development recorded ____, 200__ at Reception No. ____, and according to the ____ Map for the Silver Shield Planned Unit Development recorded ____, 200__, in Plat book ____ at Page ____, Reception No. ____, County of Ouray, State of Colorado

(hereinafter "Property" or "Affordable Housing Unit").

2. Covenants a Burden. These covenants shall be a burden upon and run with the Property for the benefit of the City, its successors and assigns, who may enforce the covenants and compel compliance therewith as hereinafter provided.

3. Perpetual; Modification. These covenants are intended to be perpetual unless and until modified, amended, waived or released with the consent of the City as hereinafter provided. .

4. Requirement of Title. Compliance with the provisions of these covenants shall be deemed to be a requirement of title.

5. Definitions. The following definitions shall apply to this Deed Restriction:

(a) "*City*" or "*City of Ouray*" shall mean the City of Ouray, Colorado, any housing authority formed by the City or any housing authority to which the City is a party or participant, and the successors, assigns, or designees of the City or such housing authority.

(b) "*Family*" shall mean the spouse, children and immediate family members of an Owner. Immediate family members shall mean a person related by blood or marriage that is a first cousin or closer relative.

(c) "*Guidelines*" shall mean the affordable housing guidelines for the Silver Shield Planned Unit Development Affordable Housing Units as may from time to time be adopted by the City and in effect at the time of closing on a sale or other transfer of the Property.

(d) "*Non-Qualified Owner*" shall mean any person that does not meet the residency, employment, income or asset limitation, or other requirements in this Deed

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Restriction or the Guidelines necessary to own the Property, and includes any person that originally qualified as a Qualified Owner but was subsequently rendered ineligible. Non-Qualified Owners shall be required to offer the Property for sale as provided in Paragraph 11 below.

(e) "*Owner*" means any purchaser, devisee, transferee, grantee, owner or holder of title to the Property or any portion of the Property.

(f) "*Qualified Owner*" shall mean any person or persons who meets the residency, employment, income or asset limitations, or other requirements set forth in this Deed Restriction or the Guidelines at the time of the sale of the Property to the Owner. A Qualified Owner must continue to meet all the requirements of this Deed Restriction or the Guidelines during the entire time that title to the Property is vested in the Qualified Owner.

(g) "*Transfer*" means any sale, conveyance, assignment or transfer, voluntary, involuntary, or by operation of law or judicial decree, whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, court order, bankruptcy proceedings, lien foreclosure, or otherwise, of any interest in the Property, including, but not limited to, fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or leasehold interest.

6. Restrictions on Occupancy and Ownership. The Ownership of the Property is limited exclusively to a Qualified Owner and his/her family. A Qualified Owner must:

- (a) limit use and occupancy to himself/herself and his or her family; and
- (b) occupy the Property as his or her sole and exclusive place of residence; and
- (c) continue to be a full time (minimum 1400 hours per year) employee within Ouray County; or
- (d) continue full time employment with the City of Ouray or the Ouray County R-1 School District, as the case may be, if the Owner was given priority to purchase the Property based on such employment; provided, however, that a Qualified Owner will not be deemed to be disqualified on leaving public service if he or she continues to be a full time (minimum 1400 hours per year) employee within Ouray County; and
- (e) not rent or lease any part or all of the property, short or long term; and
- (f) transfer the Property only in accordance with the Guidelines and this Deed Restriction; and

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- (g) not transfer the Property for use in a trade or business; and
- (h) use and occupy the Property (and permit the use and occupancy of the Property) only in accordance with this Deed Restriction, the Guidelines, and any applicable law (including zoning regulations); and
- (i) maintain the Property in a good, safe and habitable condition in all respects, except for normal wear and tear, and in full compliance with all applicable laws, ordinances, rules and regulations of any governmental authority with jurisdiction over matters concerning the condition of the Property; and
- (j) allow no mechanic's liens to be recorded against the Property; and
- (k) continue to meet all requirements of a Qualified Owner, and
- (l) continue to meet all requirements of and comply with all provisions of this Deed Restriction and applicable Guidelines.

7. Nonconforming Sale Void. In the event that the Property is sold, transferred and/or conveyed without compliance with this Deed Restriction and applicable Guidelines, such sale, transfer and/or conveyance shall be wholly null and void and shall confer no title whatsoever on the purported transferee. Each and every conveyance of the Property, for all purposes, shall be deemed to include and incorporate by this reference all terms and conditions of this Deed Restriction and applicable Guidelines, including, but not limited to, those provisions governing the sale, transfer or conveyance of the Property.

8. Maximum Sales Price. In no event shall the Property be sold for an amount ("Maximum Sales Price") in excess of the price calculated as follows:

- (a) The lesser of:
 - (i) The Original Purchase Price of the Property plus an increase in price of three percent (3%) per year from the date of purchase to the date of Owner's notice of intent to sell (simple, not compounded, and prorated at the rate of .25 percent per each whole month of any part of a year); or
 - (ii) The amount based on the Consumer Price Index, All Items, the U.S. City Average, All Urban Consumers, Not Seasonally Adjusted (Index Base Period 1982-84=100) (CPI-U), or its successor index, published by the U.S. Department of Labor, Bureau of Labor Statistics, calculated as follows: the Original Purchase Price of the Property multiplied by the CPI-U last published prior to the date of the Owner's notice of intent to sell, divided by the CPI-U as of the date of purchase (but in no event shall the multiplier be less than one);

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(b) Plus:

(i) The costs of any public improvements for which assessments were imposed by any municipal special improvement district as created by or within the City of Ouray since the recordation date of the Deed Restriction; and

(ii) The costs of Eligible Capital Improvements authorized for inclusion by the Guidelines which have been approved by the City (if required by the Guidelines) and properly permitted and inspected by the City of Ouray; and

(iii) Any other costs allowed by the City pursuant to Guidelines in effect on the date of Owner's notice of intent to sell.

(c) In the event that the CPI-U is substantially changed, renamed or abandoned by the United States Government, then in its place shall be substituted the Index established by the United States government that most closely resembles the CPI-U

(d) For purposes of this Deed Restriction, "date of Owner's notice of intent to sell" shall mean the date on which written notice of intent is delivered to the City.

(e) Nothing herein shall be intended or construed to constitute a representation or guarantee by the City that the Property will be sold and purchased at an amount equal to the Maximum Sales Price. Depending upon market conditions, the condition of the Property, et cetera, the Owner may receive less than the Maximum Sale Price on resale.

(f) Owners shall not permit any prospective purchaser to assume any or all of the Owner's customary closing costs (including, but not limited to, title insurance, sales commissions, taxes, homeowners' dues or assessments, etc.), nor accept any other consideration which would cause an increase in the purchase price above the Maximum Sales Price. Owners shall pay all costs of advertising and marketing the Property for sale, including real estate sales commissions and fees paid to the City, all as may be provided in the Guidelines.

(g) If at the time of sale the Owner must pay any Deed Restriction administration fees or other fees according the Guidelines in effect at the time of sale, such fees shall be paid by the Owner to the City out of the Owner's proceeds of the sale of the Property and may not be added to the price of the Property.

(h) In the event of a violation of any terms or conditions contained herein, the Original Purchase Price upon the date of such violation shall automatically cease to increase as set out above, and shall remain fixed until the date said violation is cured.

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(i) For the purpose of calculating the Maximum Sales Price, the Original Purchase Price is \$ _____ . The Original Sales Price shall include any improvements required by the developer or development approvals, or by the homeowner's association including, without limitation, any landscape and exterior improvements.

9. Limits on Refinancing. The Owner may refinance the first deed of trust so long as the total amount of refinancing does not exceed ninety-three percent (93%) of the Maximum Sales Price in effect at the time of the refinancing of the Property and the Owner complies with any refinancing requirements in the Guidelines.

10. Sole and Exclusive Residence. The Affordable Housing Unit shall be the sole and exclusive place of residence of the Owner.

(a) An Owner shall be deemed to have changed his or her residency by becoming a resident or accepting permanent employment outside the boundaries of Ouray County, Colorado, or residing in the Affordable Housing Unit for fewer than twelve (12) months per year.

(b) If at any time the Owner of the Affordable Housing Unit (or his or her spouse or any member of his family occupying the Unit) comes into ownership of any interest, alone or in conjunction with others, in any other developed or undeveloped residential property or dwelling unit (including a mobile home), such Owner shall be declared a Non-Qualified Owner and shall be required to immediately list said other property for sale and sell Owner's (or spouse's or family member's) interest in such property at a sale price comparable to like units or properties in the area in which the property or dwelling unit is located. The property shall not be transferred to any person or entity for the purpose of evading the provisions of this Paragraph. In the event such other property or unit has not been sold by Owner (spouse or family member) within one hundred eighty (180) days of its listing, then Owner hereby agrees to immediately list the Affordable Housing Unit for sale pursuant to the provisions of Paragraph 11.

11. Non-Qualified Owner. In the event that title to the Property shall vest in a Non-Qualified Owner, or the current Owner ceases to be a Qualified Owner, such person shall immediately offer the Property for sale as provided in Paragraph 12. The highest bid by a qualified purchaser of not more than the Maximum Sales Price and at or in excess of ninety-five (95%) percent of the Maximum Sales Price shall be accepted. If the Property has been listed for sale in excess of one hundred eighty (180) days and all bids are below ninety-five percent (95%) of the Maximum Sales Price, the Property shall be appraised for its current market value and any bids submitted at or in excess of ninety (90%) percent of such current market value shall be accepted. In no event shall the Property be sold in excess of the Maximum Sales Price. The cost of the appraisal shall be paid by the Non-Qualified Owner who shall join in any sale, conveyance or transfer of the Property to a

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qualified purchaser and shall execute any and all documents and take all other actions necessary to do so.

12. Sale Procedures. Owner may, subject to the applicable requirements and procedures in the Guidelines in effect at the time sale is closed (which may include priority purchasers), sell the Property to another Qualified Owner. Such sale shall be subject to the following procedure:

(a) Owner must deliver written notice of intent to sell to the City prior to offering the Property for sale.

(b) The Owner may sell the Property by:

- (i) advertising and selling the Property directly to a Qualified Owner; or
- (ii) listing the Property with a real estate broker licensed to do business in the State of Colorado; or
- (iii) if the City has a program in place, offering the Property for sale through the City which will either make it available to a Qualified Owner on an existing waiting list or advertise the Property for sale on a general basis.

(c) Prior to closing of the sale of the Property any prospective purchaser must be certified in writing as a Qualified Owner by the City in accordance with the Guidelines.

(d) In addition, at closing the Qualified Owner shall execute and record a form of Deed Restriction prepared by the City and meeting the requirements of the Guidelines.

(e) The provision so of subparagraphs 8 (d), (e), (f) and (g) above shall also apply.

13. City's Right to Purchase. In order to preserve the affordability of the Property, upon receipt of a notice of intent to sell, the City shall have the right to purchase the Property at the Maximum Resale Price calculated as described in Paragraph 8.

(a) If the City elects to purchase the Property, it shall exercise the Purchase Right by notifying the Owner, in writing, of such election, within thirty (30) days of the receipt of the notice of intent to sell, or the Purchase Right shall expire. Having given such notice, the City may either proceed to exercise the Purchase Right directly by purchasing the Property, or may assign the Purchase Right to a Qualified Purchaser. In either case, the City or its assignee shall enter into a contract to purchase the property within seven (7) days of exercising the Purchase Right. The purchase (by the City or the City's assignee) must be completed within sixty (60) days of the City's notice of exercise of the Purchase Right or the Owner may sell the Property as described in Paragraph 12. The time permitted for the completion of the purchase may be extended by mutual written

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agreement of the Owner and the City.

(b) If the Purchase Right has expired or if the City or its assignee has failed to complete the purchase within the 60-day period allowed, the Owner may sell the Property according to Paragraph 12 for no more than the Maximum Sales Price.

14. Default in Mortgage Payments; Taxes; Assessments

(a) It shall be a violation of this Deed Restriction for Declarant to default in payments or other obligations due or to be performed under a promissory note secured by a deed of trust or other security instrument encumbering the Property subject to these covenants; default in the payment of real property taxes; default in obligations to the homeowners' association for general or special assessments; or allow the recordation of a lien. Declarant must notify the City in writing of any notification received from a lender of past due payments or default in payment or other obligations due regarding the Property, or to be performed under a promissory note secured by a deed of trust or other security instrument (or notification received from the County Treasurer, homeowners' association or lienor, as the case may be) within five (5) calendar days of Declarant's notification of said default or past due payments.

(b) Upon notification from Declarant, the City may require Declarant to sell the Property to avoid commencement of any foreclosure, tax sale or lien collection proceedings against the Property. In the event that the City determines that sale of the Property is necessary, Declarant shall immediately offer the Property for sale according to the provisions of Paragraph 12.

15. Foreclosure Proceedings; Deed in Lieu; City's Option to Purchase

(a) Every person or entity to whom or to which a public trustee's deed has been issued or a deed in lieu of foreclosure has been given for the Property shall immediately give the City notice of the same at the place and in manner provided herein for notices.

(b) Upon receipt of such notice, the City shall have the option to acquire the Property within sixty (60) days after receipt by the City of the notice of the issuance of the public trustee's deed or deed in lieu of foreclosure, as applicable. The City may either exercise this option directly by purchasing the Property or may assign any and all rights and interest in the option, in its sole discretion. The purchase price shall be: (i) in the case of a foreclosure, the redemption price on the last day of all statutory redemption periods and any additional reasonable costs incurred by the holder during the option period which are directly related to the foreclosure, or (ii) in the event of a transfer in lieu of foreclosure, the amount paid, or the amount of debt forgiven, by the transferee plus the reasonable costs incurred by the transferee with respect to the acquisition of such Property.

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(c) If notice of the issuance of a public trustee's deed or receipt of a deed in lieu of foreclosure is not given, this Deed Restriction shall remain in full force and effect, the Property shall retain its restricted status, and only Qualified Owners may acquire an interest in the Property. In the event any person or entity who is not a Qualified Owner acquires an interest in such Property by foreclosure sale or deed in lieu, the Property shall be sold to a Qualified Owner as provided in Paragraph 11.

(d) If notice of the issuance of a public trustee's deed or receipt of a deed in lieu of foreclosure is given and the City or its assignee has not exercised the option to purchase then this Deed Restriction shall terminate and the City shall cause to be recorded in the records of the Office of the Ouray County Clerk and Recorder a release of the Deed Restriction affecting the Property.

16. General Provisions

(a) The Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

(b) Any purchaser or transferee of the Property or any portion or interest in the Property, by acceptance of a deed therefore, or by the signing of a contract or agreement to purchase the same shall, by acceptance of such deed or by signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth here.

(c) This Covenant is prior and superior to the Owner's right of a homestead exemption under Article XVIII, Section I of the Colorado Constitution and under Part 2, Article 41, Title 38 of the Colorado Revised Statutes or any successor statutes. The Owner waives his or her homestead right to the full extent that it may conflict with or impair the City's rights and remedies under this Covenant.

(d) Notice to the City shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the City Administrator at the address set forth below, or such other address designated by the City by like notice:

City Administrator
City of Ouray
320 Sixth Street
Post Office Box 468
Ouray, CO 81427

Notice to the Declarant shall be given in the same manner at the address given below.

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(e) If any provisions of this Covenant shall be held by a court of proper jurisdiction to be invalid, illegal or unenforceable, the remaining provisions shall survive and their validity, legality or unenforceability shall not in any way be affected or impaired thereby.

(f) The provisions of this Covenant shall be interpreted so as to avoid speculation on the Property and to insure to the greatest extent possible that its purchase price remains affordable in perpetuity.

(g) This Deed Restriction and every related document are to be governed and construed in accordance with the laws of the State of Colorado. Venue for any legal action arising from this Deed Restriction shall be in Ouray County, Colorado.

(h) Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successor and assigns of the parties.

(i) No claim or waiver, consent or acquiescence with respect to any provision of this Deed Restriction shall be valid against any party hereto except on the basis of written instrument executed by the parties hereto. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition, provided that such waiver is in writing.

(j) Modifications to this Deed Restriction shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of Ouray County.

(k) The City of Ouray may assign any and all rights and interests it has in this Deed Restriction to a housing authority formed by it or a housing authority to which it is a party or participant, or any successor, assignee or designee of the City or such housing authority.

(l) If any of the terms, covenants, conditions, restrictions, uses, limitations or options created by this Deed Restriction shall be unlawful for violation of: (i) the rule against perpetuities or some analogous statutory provisions, (ii) the rule restricting restraints on alienation or (iii) other statutory or common law rules imposing like or similar time limits, the such provisions shall continue only for the period of the lives of the currently elected members of the City Council for the City of Ouray, their now living descendents, if any, and the survivor of them, plus twenty-one (21) years.

(m) There is hereby reserved to the City any and all remedies provided by law for violation of this Deed Restriction or any of its terms, including specific performance or a mandatory injunction requiring the sale of the Property by Declarant. In the event the City resorts to litigation with respect to any provision of this Deed Restriction the prevailing party shall be entitled to recover damages and costs, including reasonable attorney's fees.

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EXHIBIT B

CITY OF OURAY, COLORADO GUIDELINES FOR THE AFFORDABLE HOUSING UNITS IN THE SILVER SHIELD PLANNED UNIT DEVELOPMENT

Section 1. Purpose and Applicability

The purpose of these Guidelines is to provide a comprehensive and consistent set of provisions that apply to the Affordable Housing Units provided in the Silver Shield Planned Unit Development, Ouray County, Colorado.

Section 2. Household Qualifications

The Silver Shield Affordable Housing Units may be sold to and purchased only by persons who are members of Qualified Households. To be considered a "Qualified Household" under these Guidelines the following criteria must be met:

A. One member of the household must be (or has been hired to be) a full time employee of the City of Ouray, Colorado, or the Ouray County R-1 School district: OR

B. All of the following criteria must be met:

(1) The number of people in the Household must be appropriate for the Unit size; and

(2) At least one (1) individual member of the Household demonstrates at least 1400 hours of employment in Ouray County during the twelve (12) calendar months immediately prior to the date of application to purchase; OR one (1) individual member must be elderly or disabled and have been a full time employee (1400 hours per year) in Ouray County a minimum of five (5) years immediately prior to his or her retirement or disability; and

(3) The Household Income shall not exceed \$75,000 (138% of the current Area Median Income ("AMI") for Ouray County); and

(4) The Household Net Assets shall not exceed two and one half (2 ½) times the Original Purchase Price of the Unit. All Household members' assets shall be included in the determination of Household Net Assets. Any member of a Household who has assigned, conveyed, transferred or otherwise disposed of assets within the previous two years without fair consideration in order to meet the net asset limitation shall be ineligible.

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Section 3. Household Application Process and Verification

A. Applications for qualification under these Guidelines shall be made to the City of Ouray or any housing authority designated by the City to accept and process applications. The City or housing authority may request any combination of documents reasonably related to proof of residency, income, assets and employment or compliance with other qualifications established under these Guidelines. The adult Household members shall sign a release of information so that the City or housing authority may obtain required information. The application shall contain a sworn statement that the information contained in an application is true and correct to the best of the applicant's knowledge.

B. No member of the Household shall have any interest, alone or in conjunction with others, in any developed or undeveloped residential property or dwelling unit (including a mobile home) within Ouray County, Colorado. In the event that a Household member has an interest in such residential property outside of Ouray County he or she shall be required, at the time of closing on an Affordable Housing Unit, to enter into an agreement with the City of Ouray, satisfactory to the City Attorney, which requires, at a minimum, that the out of county property be listed for sale immediately at the time of closing on the Unit and further that in the event that the out of County property is not sold within one hundred and eighty (180) days that the Affordable Housing Unit be sold. The terms and conditions of such agreements shall be determined by the City Attorney in his or her sole discretion.

C. Any material misstatement of fact or deliberate fraud by members of the Household in connection with any information supplied shall be cause for immediate expulsion from the application process and/or forced sale of the Affordable Housing Unit.

D. The Deed Restriction requires that all owners of Silver Shield Affordable Housing Units remain qualified on an on-going basis. The City or it housing authority may perform random audits and investigate any complaint or reports of non-compliance. The City or its housing authority may require at any time that a Household verify within seven (7) days of a request that the Household continues to meet the qualifications for ownership and occupancy of the Unit.

E. All personal and financial information provided pursuant to this section shall be kept confidential, except as follows:

(1) Signed contracts, including but not limited to, Contracts to Purchase, Deed Restrictions, any document recorded on the sale of a Unit, and any other document that would customarily be a matter of public record in the property records of Ouray County;

(2) The names and lottery positions of all persons who have participated in any lottery held under these Guidelines;

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(3) Any other information which a court of competent jurisdiction rules must be released under the Freedom of Information Act or the Colorado Open Records Act;

(4) Any information provided to any person or entity undertaking an independent audit of the records kept under these Guidelines, provided such person or entity agrees to be subject to this confidentiality provision; and

(5) Any disclosures as are necessary with respect to any litigation, enforcement or other legal proceedings.

F. The City or its housing authority may establish a lottery procedure if necessary to establish a process for offering units for sale when the number of qualified applicants at any one time exceeds the available Units. Such lottery shall incorporate any priorities established in these Guidelines or Deed Restrictions.

G. The City or its housing authority may, but is not required to, consider requests for exceptions from the requirements of these Guidelines as provided in Section 8. In the event an exception is granted, the City or housing authority may require a written agreement, approved by the City Attorney, which shall include such terms, security, conditions, and remedies, as the City may require in its sole discretion, including, without limitation, measures to ensure compliance with any conditions of any such exception.

H. The City or its housing authority may establish audit procedures to ensure continuing compliance with the eligibility requirements for ownership of the Unit.

Section 4. Sale and Resale of Units

A. Housing Units shall be sold in accordance with the Deed Restriction, these Guidelines, and any other applicable priority, wait list, lottery, or other sale or selection procedures established by the City or its housing authority.

B. The sale price of the Unit shall be calculated according to the Deed Restriction. This sale price shall be the only exchange of anything of value between the parties to, and for, any sale of a Housing Unit. Any transfer or receipt of anything of value in addition to or outside of the of the allowed sale price shall invalidate the sale. The City or its housing authority may require, at closing, that each buyer and seller execute an affidavit in which all parties state, under oath, that no consideration other than the purchase price stated on the closing documents will be, or has been, paid or received for the transfer of ownership of the Unit. In the event that the City or its housing authority shall establish that a transfer has occurred in violation of this section, it shall have all remedies in law or equity to enforce the same, including a judicial declaration that the transfer is null, void and of no force and effect.

C. Notice of intent to sell a Unit must be given in writing to the City or its housing authority no later than thirty (30) days prior to a sale. Seller shall provide a copy of any

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sales contract to the City or its housing authority. Sellers shall consult with the City or its housing authority to obtain the most current information relative to sale procedures and to verify the Maximum Sales Price. The City or its housing authority shall prepare the Deed Restriction; and Seller shall authorize the City or its housing authority to review conveyance documents prior to closing.

D. Each new purchaser of an Affordable Housing Unit must execute a Deed Restriction prior to or simultaneously with the closing. Should an Affordable Housing Unit be sold for less than its Maximum Sales Price, the actual sale price shall become the new Original Purchase Price. The Deed Restriction shall be recorded subsequent to the Deed and prior to the first Deed of Trust and the original executed and recorded Deed Restriction shall be returned to the City or its housing authority for its records. Subsequent to closing, the City or housing authority shall be provided with a copy of the title commitment for the Unit showing the Deed Restriction as an exception.

E. At closing the seller, except when the seller is the City, its designee, or a housing authority, shall pay to the City or its housing authority a fee equal to one percent (1%) of the sales price. Seller shall instruct its closing company to pay the City out of funds at closing.

F. If required, lenders who are beneficiaries of any Deed of Trust must execute, in connection with the sale of a housing Unit, an Option to Purchase prepared by the City and granting to the City or its housing authority an option to purchase the Unit in the event of a foreclosure.

G. The City or its housing authority may consider requests from institutional lenders for a form of Option to Purchase on foreclosure with terms different from that in the standard form of Deed Restriction which requests may be granted or not in the City's or housing authority's sole discretion.

H. Any co-ownership interest other than joint tenancy or tenancy in common among parties who are qualified owners and intend to occupy the Unit must be approved by the City or its housing authority.

I. An exception to these Guidelines may be granted to Co-signers who are not qualified owners but whose participation is required to obtain financing, if:

(1) The City or its housing authority receives a letter from an institutional lender on behalf of a borrower stating:

- (i) the co-borrower's name and relationship to the qualified owner(s); and
- (ii) a co-borrower is necessary for the qualified owner(s) to obtain financing to purchase the Unit; and

(iii) it is necessary that the co-borrower be listed on the title to the Unit.

(2) And the qualified owner(s) and co-borrower execute a contract with the City

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or its housing authority which provides that, in the event the qualified owner(s) defaults or is otherwise required to sell the Unit, the co-borrower will not occupy the Unit and will sell the Unit as required in the Deed Restriction as in the case of a Non-Qualified Owner.

J. The City or its housing authority retains the right, on any resale of a Unit, to change or amend the Deed Restriction or substitute a new Deed Restriction for that of record, in its sole discretion.

Section 5. Priority for City and School District Employees.

In all application, sales, wait list, lottery and other procedures established by the Deed Restriction and these Guidelines there shall be awarded an automatic priority to current or potential (hired but not yet working) full time employees of the City of Ouray, Colorado and the Ouray County R-1 School District. In the event that there shall be more than one applicant eligible for this priority, the successful applicant shall be chosen by lottery.

Section 6. Prohibition Against Rental.

An Affordable Housing Unit may not be leased or rented, in whole or in part, short or long term. Provided, however, that this prohibition shall not prevent the City of Ouray or its housing authority from leasing or renting a Unit prior to its resale in the event that the City or housing authority shall have acquired title as provided in the Deed Restriction.

Section 7. Eligible Capital Improvements

A. The term "Eligible Capital Improvements" as used the Deed Restriction shall mean fixtures erected as a permanent improvement to real property or a nonrecurring expense for physical improvements that provide a long-term upgrade or improvement to the Unit and does not include costs associated with ordinary maintenance and repair of the Unit. All Eligible Capital Improvements must require issuance of a City permit, such as a building permit. In addition, Eligible Capital Improvements shall include only the following:

- (1) Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements.
- (2) Improvements for energy and water conservation.
- (3) Improvements for the benefit of seniors and the disabled.
- (4) Improvements for health and safety.
- (5) Improvements to add or finish permanent/fixd storage space.
- (6) Improvements to finish unfinished space.

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- (7) The cost of adding concrete patios and any extensions thereto.
- (8) Improvements associated with green building

B. The term "Eligible Capital Improvements" as used in the Deed Restriction shall not include:

- (1) Landscaping.
- (2) Jacuzzis, saunas, steam showers and other similar items.
- (3) Upgrades or additions of decorative items, including lights, window coverings and other similar items.
- (4) Upgrades of appliances, plumbing and mechanical fixtures, carpet, floor coverings and other similar items included as part of the original construction or improvements or repairs needed to maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting and other similar items, unless replacement is energy efficient or for safety or health reasons

C. All Eligible Capital Improvements must conform to any prohibitions, limitations or authorizations required by any covenants or homeowner' rules and regulations applicable to the Unit.

D. The cost of Eligible Capital Improvements authorized for recovery at resale shall not exceed five (5)% of the Original Purchase Price of the Unit.

E. The costs of all eligible capital improvements shall be documented and shall not include owner "sweat equity." In addition all such improvements must comply with applicable building codes, have received required building permits and have been issued a certificate of occupancy, if required.

F. Any owner may submit proposed Eligible Capital Improvements for pre-approval by the City or its housing authority.

G. The City or its housing authority has the right to inspect the Unit to ensure that claimed Eligible Capital Improvements have been made.

Section 8. Exceptions, Appeals and Grievances

A. Definitions. The following definitions shall apply to this Section 8.

(1) Exception: Except as otherwise set forth herein a request for an exception to the standards and requirements of the Guidelines may be appropriate when the applicant understands and acknowledges the criteria and believes there exists a legitimate and compelling reason why the applicant should be exempt from such criteria or allowed a modification of the criteria. Exceptions to the Guidelines, if made, are granted on a case by case basis and do not constitute binding precedent.

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(2) Appeal: An appeal is appropriate when the applicant understands and acknowledges the criteria and believes that the criteria have been applied incorrectly to the applicant.

(3) Grievance: A grievance is any dispute that arises with respect to an action or failure to act in accordance with an individual's rights, duties, welfare or status.

B. General Provisions.

(1) An applicant must elect among and select only one of the three types of applications available. The procedures are in the alternative and each applicant shall be limited to only one of the three procedures provided for herein.

(2) All applications shall be heard by the Board of Directors of the City's housing authority. In the event that no such housing authority shall be in existence at the time an application is made, the same shall be heard by the City Administrator of the City of Ouray following the same procedures established herein for the housing authority.

C. Exception Procedure.

(1) A Request for an Exception must be presented in writing to the housing authority and include:

- (i) Verification that the applicant has fully completed the application process.
- (ii) The particular grounds upon which it is based.
- (iii) The action or remedy requested.
- (iv) The name, address, telephone number of the applicant and the same information with respect to the applicant's representative, if any.
- (v) Proof of notification to the applicant's homeowners' association if required.
- (vi) An exception procedure fee of \$25.00.

(2) A request for an exception will be reviewed by the housing authority staff for completeness and forwarded to the housing authority with a written staff recommendation. The exception application review shall be scheduled for the next regular meeting of the housing authority

(3) Following the meeting of the housing authority, it shall issue a decision in writing. In making its decision the housing authority shall consider the following policies, standards and criteria:

- (i) The general goal of the housing program covered by these Guidelines is to provide housing for persons who make a living from employment

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within the boundaries of Ouray County and their families. This is accomplished primarily by regulating the occupancy and sale of the Units covered by the Guidelines to "Qualified Households" as defined herein.

Any exception granted must promote the overall policy of promoting affordable housing for those living and working in Ouray County.

(ii) Certain elements of the program also limit eligibility for ownership or occupancy to Qualified Households that meet specific economic tests which include both Household Income and Household Net Assets. Such tests of economic means are intended to promote economic diversity within the City of Ouray.

(iii) The Housing Units covered by these Guidelines are subject to price limitations for sale and resale. These limitations are intended to insure affordability for both the current Household occupying the Housing Unit and for the long term affordability of the Housing Unit in the future as part of the overall housing program of the City of Ouray.

(iv) These Guidelines are intended to provide for clear, fair and consistent administration of the housing program. It is recognized that there are individual Households that may not fit clearly within the specific provisions of the Guidelines but still meet these general policy goals. It is for these cases that the exception procedures have been established.

D. Appeal Procedure

include: (1) An Appeal must be presented in writing to the housing authority and

(i) Verification that the applicant has fully completed the application process.

(ii) The particular grounds upon which it is based.

(iii) The action or remedy requested.

(iv) The name, address, telephone number of the applicant and similar information of the applicant's representative, if any.

(v) Proof of notification to the applicant's homeowners' association, if required.

(vi) An appeal procedure fee of \$25.00.

(2) All appeals shall be reviewed by the housing authority staff for completeness and forwarded to the housing authority with a staff recommendation.

(3) The appeal shall be scheduled for the next regular meeting of the housing authority. The applicant is entitled to present evidence in support of the appeal. The housing authority shall, upon consideration the evidence, issue a decision in writing. The determination of the housing authority shall be final.

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E. Grievance Procedure

(1) A Grievance must be presented in writing to the housing authority and include:

- (i) The grounds upon which it is based.
- (ii) The action or remedy requested.
- (iii) The name, address, telephone number of the applicant and similar information of applicant's representative, if any.
- (iv) A grievance procedure fee of \$25.00.

(2) The grievance hearing shall be scheduled for the next regular meeting of the housing authority. The applicant shall be afforded a fair hearing providing the basic safeguards of due process, including notice, an opportunity to present oral and documentary evidence, and the right to be represented by counsel. The hearing shall be recorded, and oral and documentary evidence may be received, all without strict compliance with the Colorado Rules of Evidence. The hearing shall be conducted by the chair/president of the housing authority who may prohibit, allow or allow with limitations the right to cross examine witnesses, as may be required for a fair hearing. If the applicant fails to appear, the housing authority may continue the hearing, or make a determination based upon the evidence submitted. Based on the record of the proceedings, the housing authority shall make its decision in writing, including findings in support thereof. The determination of the housing authority shall be final.

Section 9. Amendments

These Guidelines may be amended from time to time by the City Council of the City of Ouray, Colorado. Upon receipt of a proposed amendment, the City Council shall conduct a public hearing on the same and either adopt, adopt with amendments or reject the proposed amendment. Adoption of any amendment shall be in the form of a written resolution.

Section 10. Definitions

The following definitions shall apply in these Guidelines:

Affordable Housing Unit or Unit. The single family units located on Lots 34, 35, 36, 46, 47 and 48 of the Silver Shield Planned Unit Development, Ouray County, Colorado.

Area Median Income (AMI). The Area Median Income reported annually for single person or household of various sizes by the United State Department of Housing and Urban Development, or any successor United States governmental department, agency or instrumentality, reported for the statistical area which includes Ouray County.

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Assets. Anything which has tangible or intangible value, including property of all kinds, both real and personal. Assets are valued at their current fair market value, not accounting book value.

Co-signer. A joint signatory on a promissory note whose obligations are the same as those of the primary borrower.

Deed Restriction. A recorded contract and covenant between a qualified owner(s) and the City of Ouray or its housing authority establishing, *inter alia*, qualifications and conditions for the ownership, use, occupancy and resale of an Affordable Housing Unit.

Disabled Person. A person who meets the definition of "individual with a disability" contained in 29 U.S.C. Section 705(20) and/or as defined in the Americans with Disabilities Act of 1990. Federal laws currently define a person with a disability, in part, as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."

Elderly. A person who has attained full retirement age as established for that person by the United States Social Security Administration.

Fixture. A tangible thing which previously was personal property and which has been attached to or installed on land or a structure thereon in such a way as to become part of the real property.

Household. All individuals who will be occupying the Unit and who are authorized to occupy the Unit under the terms of the Deed restriction.

Household Income. Combined gross income of the Household. Reductions to the gross income for business expenses can be made for persons who are self-employed.

Household Net Assets. Gross Household assets less gross Household liabilities.

Housing Authority. Any housing authority formed by the City of Ouray under the laws of the State of Colorado, or such housing authority to which the City is a party, or participant, or the successors, assigns or designees of such housing authority.

Institutional Lender. Any bank, saving and loan association, or any other institutional lender which is licensed to engage in the business of providing purchase money mortgage financing for residential property.

Section 11. Enforcement

These Guidelines shall be deemed a part of and incorporated by reference into any
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Deed Restriction of record. A violation of any Guideline may be enforced, *inter alia*, as a violation of the Deed Restriction and, in the event of a violation, the City or its housing authority shall have any and all remedies provided for therein.

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DOCUMENT

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WELLS FARGO

RESIDENTIAL SPECIFICATION

EXHIBIT C

Owner H&F

Contractor H&F CONSTRUCTION

Property Address AFFORDABLE SPECS.

City _____

Check applicable items and fill in the blanks as required.

1. Finished Square Footage

Basement	_____
Main Level	_____
Upper Level	_____
Total	<u>1120-1320</u> S.F.

2. Soil Testing

Open Hole Expansive % _____

Core Testing Non-expansive

Soil Type: _____

3. Foundation

Engineered Caissons Dia: _____ Depth _____

Spread Footings Size 10" X 22"

Monolithic Structural Slab

Other _____

Foundation Wall

Concrete 6" TCF 45" #4/20CY, 3 ROWS HOR.

Masonry _____

Wood _____

Damp proofing _____

Window Well

Metal _____

Concrete _____

Timber _____

Insulation R-Value 20-30

Perimeter Foundation Drain

4" Rigid Pipe (interior exterior)

4" Flexible Pipe (interior exterior)

Radon Mitigation UNDER SLAB

Concrete Flatwork (PSI, Thickness, Size, Reia.) -Identify for each item.

Basement Slab 4" 4000 psi, Radmit, 6-6-10-10 MESH w/FIBER

Garage Slab 6"-4000 psi, #4-24" O.C.BW, FIBER

Sidewalks/Patio _____

Driveway _____

Concrete _____

Asphalt Paving _____

Gravel _____

Other _____

Utilities

Public Water _____

Public Sewer _____

Well _____

Septic _____

Electric Overhead or Buried

Natural Gas _____

Telephone _____

Cable TV PREWIRED SAT.

Propane _____

7. Exterior Walls and Framing (Describe)

2x4 @ _____ O.C.

2x6 @ 24" O.C.

Insulation R-Value 20 Type Blown CELL.

Wall Sheathing (Specify) OSB

House Wrap TYVEK

Floor Joists 9 1/2" @ 16" O.C. TJI-210

Floor Decking (Size) 3/4" T&G FULL FACE PL

Basement Floor Joists @ _____ O.C.

Basement Floor Decking (Size) _____

Wood Siding (SOME MODELS)

Hardboard Siding _____

Cementous Siding (SOME MODELS)

Metal Siding _____

Vinyl Siding _____

Siding Exposure _____

Stucco _____

Synthetic Stucco/Foam Thickness _____

Brick Veneer _____

Log Home Package _____

R-Control Insulated Panel _____

Glass Block (Size) _____

Exterior Trim (Specify) WOOD OR FIBER CEM.

Decks _____

Other CONC. PATIO MIN. 10'X12'

8. Exterior Paint/Stain

Manufacturer BENJ. MOORE

Paint ACRYLIC LATEX

Stain _____

Other _____

9. Roofing (Describe)

Engineered Trusses @ 24" O.C.

Rafters @ _____ O.C.

Roof Sheathing (Size) 5/8" CDX PLYWOOD

Insulation R-Value R-50

Roofing Felt 30# OR EQUAL

Composition Shingle 30 YR TAMKO

Wood Shake _____

Tile _____

Built-Up _____

Membrane ICE & WATER WNGRE APP.

Metal _____

Flashing (Gauge) _____

Skylights _____

Other _____

10. Windows/Patio Doors (Manufacturer)

Metal Frame _____

Wood Frame _____

Vinyl Clad WEATHER SHIELD VISIONS 2000 LOI

Aluminum Clad _____ OR EQUAL.

Insulated Glass _____

Window Screens _____

Window Grills _____

Drywall Wrap Openings SOME

Cased Opening SOME



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WELLS FARGO

RESIDENTIAL SPECIFICATION

- 11. Exterior Doors (Describe) (Front, Back)
 - Wood
 - Insulated Metal THERMA-TRUE
 - Sidelight
 - Garage Door
 - Garage Door Opener

- 12. Interior Walls (Describe)
 - 2x4 @ 16" O.C.
 - 2x6 @ O.C.
 - 1/2" Gypsum Board WHERE APP.
 - 5/8" Gypsum Board WHERE APP.
 - Rounded Corner Beads
 - Square Corner Beads
 - Wall Smooth Finish
 - Wall Textured SKIP TROWEL OR KNOCK DOWN
 - Ceiling Smooth Finish
 - Ceiling Textured
 - Stairs CARPET
 - Other

- 13. Interior Wall Finish
 - Manufacturer BEN. MOORE
 - Finish EGGSHELL ECO PRIMER & PAINT
 - Custom Paint Color
 - Wallpaper
 - Other

- 14. Fireplaces (Manufacturer)
 - Zero Clearance Gas
 - Masonry Fire Box
 - Wood Burning Stove
 - Gas Log
 - Other

- 15. Fireplace Mantel

<ul style="list-style-type: none"> <input checked="" type="checkbox"/> None <input type="checkbox"/> Oak <input type="checkbox"/> Pine <input type="checkbox"/> Fir <input type="checkbox"/> Painted <input type="checkbox"/> Stained <input type="checkbox"/> Other 	<ul style="list-style-type: none"> Facing <input type="checkbox"/> Stone <input type="checkbox"/> Brick <input type="checkbox"/> Marble <input type="checkbox"/> Tile <input type="checkbox"/> Drywall <input type="checkbox"/> Wood
---	---

- 16. Interior Trim
 - Style ANDERSON or COLONIAL
 - Oak
 - Pine
 - Fir
 - Finger Joint
 - Painted
 - Stained
 - Closet Shelves MDF OR WIRE
 - Other ULTRALIGHT COMPOSITE

- 17. Interior Doors (Describe)
 - Flush
 - Four Panel COMPOSITE
 - Six Panel COMPOSITE
 - Solid Core
 - Hollow Core
 - Oak
 - Pine
 - Fir
 - Painted
 - Stained
 - Drywall Wrap Opening
 - Cased Opening FINGER-JOINTED

- 18. Handrail (Describe)
 - None VARIES
 - Oak
 - Pine
 - Fir
 - Welded Steel
 - Painted
 - Stained
 - Other

- 19. Cabinets (Describe) (Allowance)
 - Pre-Manufactured Cabinets ARISTOCRAFT or SCHROCK
 - Custom Built Cabinets
 - Custom Shelving/Built-Ins
 - Cabinet Finish

<input checked="" type="checkbox"/> Oak	<input type="checkbox"/> Pine
<input type="checkbox"/> Maple	<input type="checkbox"/> Plastic Laminate
<input type="checkbox"/> Ash	<input type="checkbox"/> Painted
<input type="checkbox"/> Cherry	<input type="checkbox"/> Stained
<input type="checkbox"/> Walnut	<input type="checkbox"/> Other

- Countertops (Describe Style)
 - Plastic Laminate
 - Tile
 - Corian
 - Marble
 - Slab Granite
 - Other

- 20. Hardware
 - Locksets
 - Manufacturer SCHLAGE
 - Finish DULL NICKLE OR BRASS
 - Bath Hardware (Towel Bars, etc.)
 - Manufacturer
 - Finish DULL NICKLE OR BRASS
 - Medicine Cabinets
 - Manufacturer
 - Finish
 - Other

- 21. Floor Coverings (Room Name) (Allowance)
 - Hardwood
 - Ceramic Tile BATHS/KITCHEN (SOME)
 - Quarry Tile
 - Marble
 - Slate
 - Vinyl
 - Carpet STAIRS, 2ND FLOOR, 1ST FLOOR SC
 - Other STAINED CONC. (SOME-OPTION)

- 22. Tub/Shower Surround (Room Name) (Allowance)
 - Ceramic Tile BATH FLOOR
 - Cultured Marble
 - Preformed Plastic 1pc TUB/SOWER PRO-FLU
 - Glass Block
 - Glass
 - Other

- 23. Mirrors/Shower Doors (Describe)
 - Total S.F. of Mirror NONE
 - Mirror Finish
 - Shower Door
 - Clear
 - Frosted
 - Finish

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WELLS FARGO

RESIDENTIAL SPECIFICATION

24. Appliances (Manufacturer)

- Range
- Dishwasher
- Oven
- Microwave
- Refrigerator
- Cook Top
- Other OPTIONAL

27. Electrical

- Service Size 150A or 200A
- Fixture Allowance \$
- TV Prewire (No. of Outlets) 3 MIN
- Telephone Prewire (No. of Outlets) 3 MIN
- Security System
- Stereo Prewire
- Smoke Alarm BY CODE
- Computer Wiring

25. Plumbing

- Water Service
 - Copper
 - Plastic
- Water Piping
 - Copper
 - Plastic REHAU PEX
- Waste
 - PVC OR ABS
 - Cast Iron
- Faucets (Manufacturer) DELTA
 - Brass
 - Chrome
 - Double Handle
 - Single Handle
 - Other
- Water Heater RINNAI No. of units 1

28. Landscaping

- Fine Grade
- Sprinkler System
- Fence COMMON AREA
- Retaining Wall (Specify)
- Sod TBD
- Trees and Shrubs COMMON AREA
- None/By Owner

26. HVAC (Manufacturer)

- Size
- Number of Furnaces
- Gas Forced Air
- Boiler
- Hot Water
- Electric Heat
- In-Floor Radiant Heat
- Central Air Conditioning
- Evaporative Cooling
- Humidifier
- Electrostatic Air Filter
- Whole-House Fan

29. Specialty Items

- Swimming Pool/Hot Tub
- Elevator
- Patio Fire Pit
- Detached Garage/Work Shop/Barn
- Wine Cellar
- Home Theater
- Central Vacuum System
- Snow Melt System
- Solar Panels
- Other INS. RADIANT SLAB - FLOOR
- Other CF BULBS
- Other
- Other
- Other
- Other

Plumbing Fixture Schedule

Identify fixtures for each material type and location (i.e., fiberglass, cast iron, steel). Other specialties - sauna, steam units, etc.
 Fixture Manufacturer

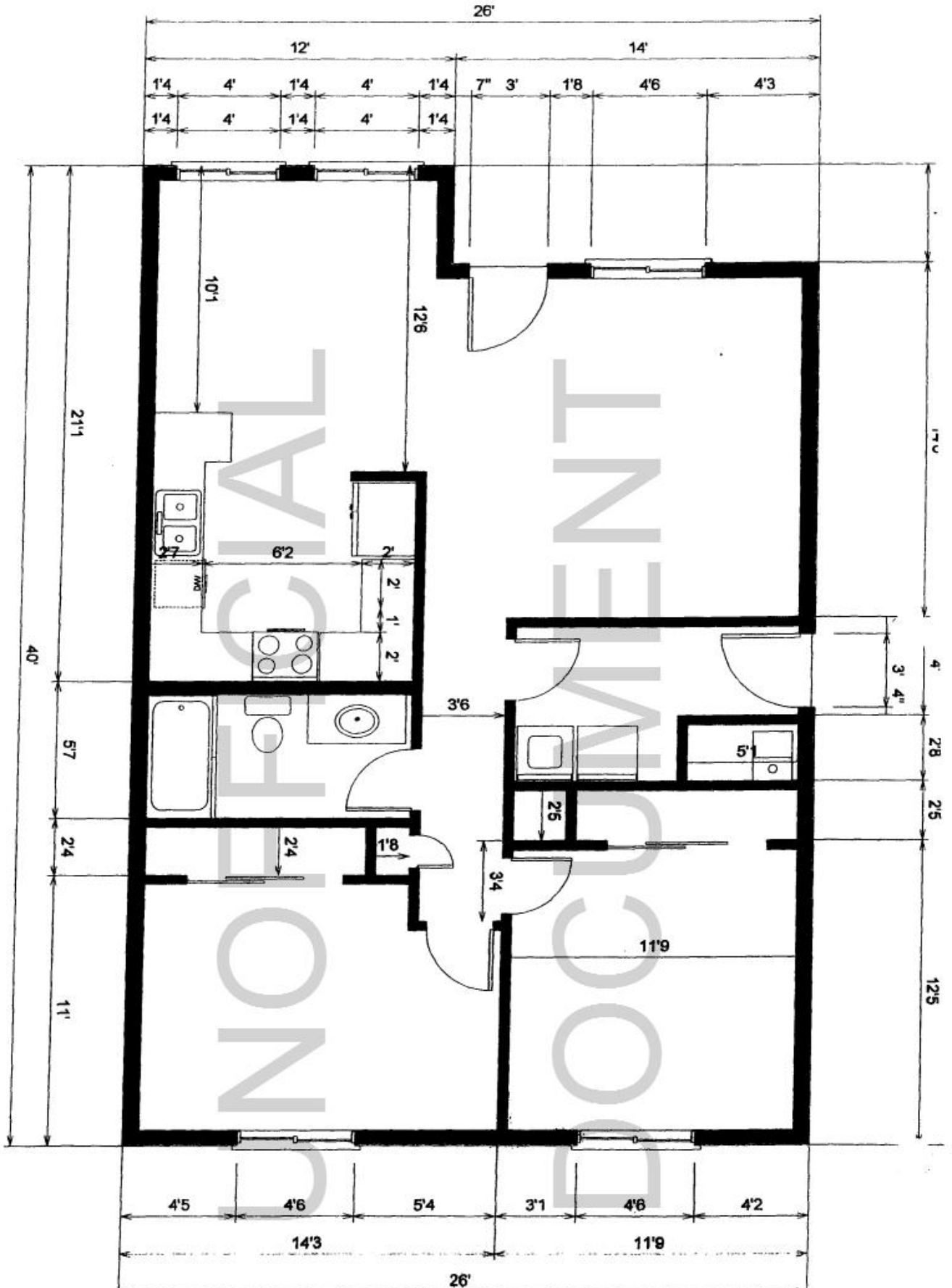
	Kitchen	Master Bath	Powder Room	Bath 1	Bath 2	Bath 3	Bath 4
Material	ST STEEL						
Manufacturer		KOHLER	KOHLER				
Notes		PRO-FLO/ARQUATISS					

Miscellaneous/Special Construction (Please Describe - i.e. manufactured housing, post and beam, structural basement floor system, etc.)

LOW VOC PAINT/PRIMER, MODULATED HI-EFF. BOILER/HWATER, R-20 CELLULOSE WALLS - R-50 CELLULOSE CEILINGS, INSULATED RADIANT SLABS ON FL.1, LOW-E GLASS WINDOWS, INSULATED ENTRY DOORS, ENERGY-EFFICIENT DESIGN

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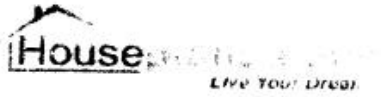
1000 sf PLAN





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Plan 18-1040

SALE FREE Additional Construction Set

Pricing & Options



Square Feet:	1000	Width:	25'
Bedrooms:	2	Depth:	47'
Bathrooms:	2	Height:	18'
Levels:	1	Roof Pitch:	8:12
Garage Stalls:	0	Walls:	2" x 6"
Area Details		Ceiling Height	
Main Floor:	1000	Main Floor:	8'
Basement:	985		
Available Foundations:		If your foundation preference is not available, please contact us.	
Basement			
Crawlspace			

Floor Plans & Features

Pricing & Options

Cost-to-Build

Modify this Plan

Ask a Question

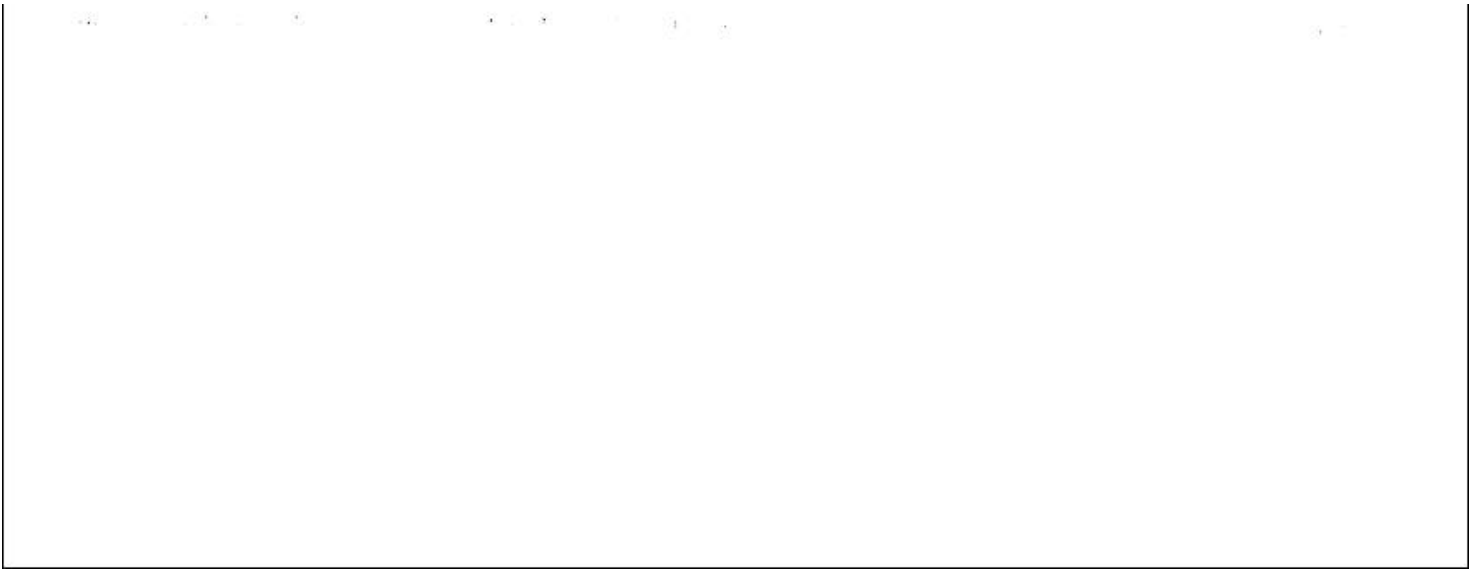
Main Level

Reverse All Images

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Rear Elevation



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Elevation of COOLhouseplans.com Plan ID: chp-32135, Order Code: C774

To Order call 1-800-482-0464

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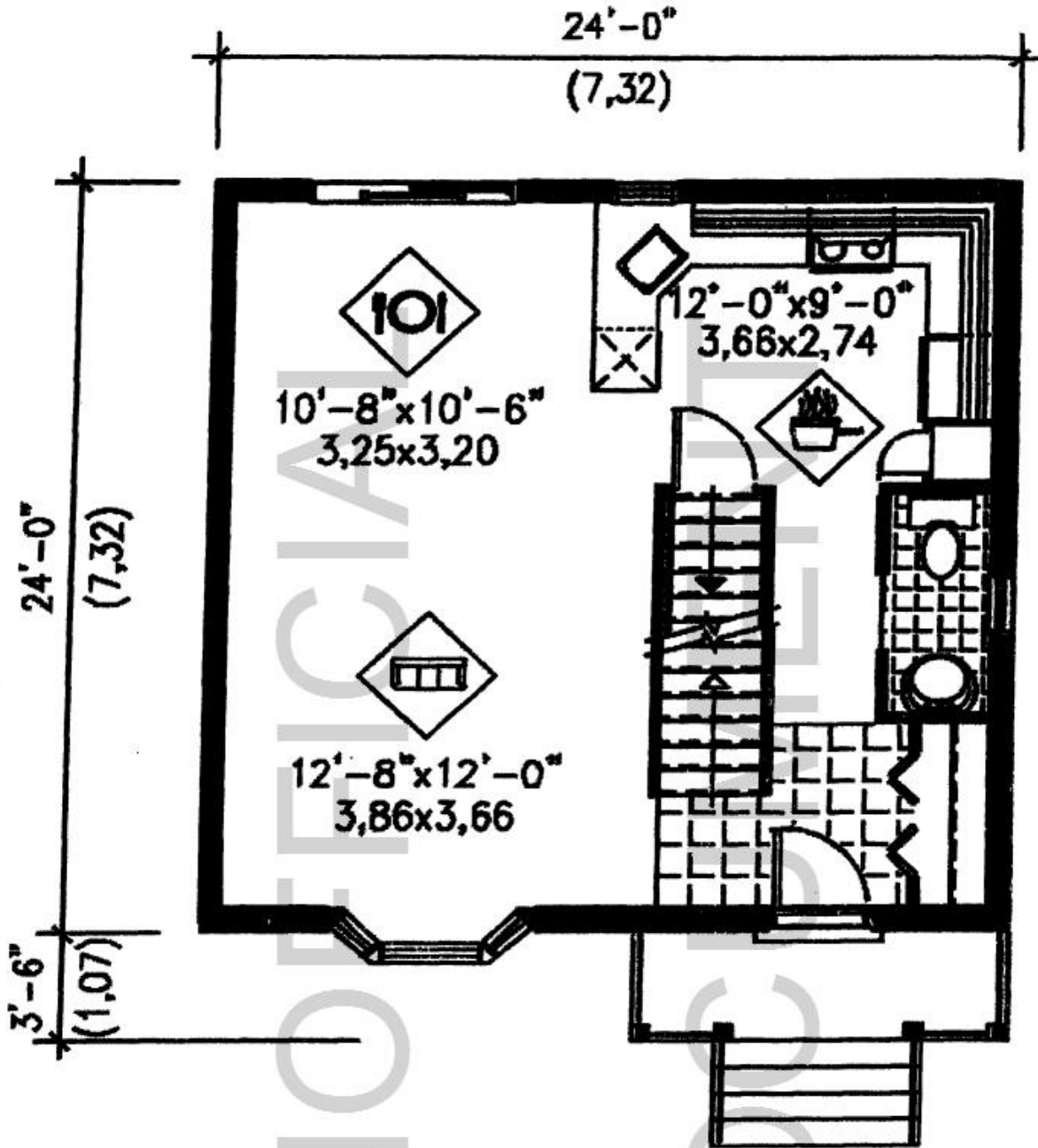
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chp-32135

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1st Floor Plan of COOLhouseplans.com Plan ID: chp-32135, Order Code: C774
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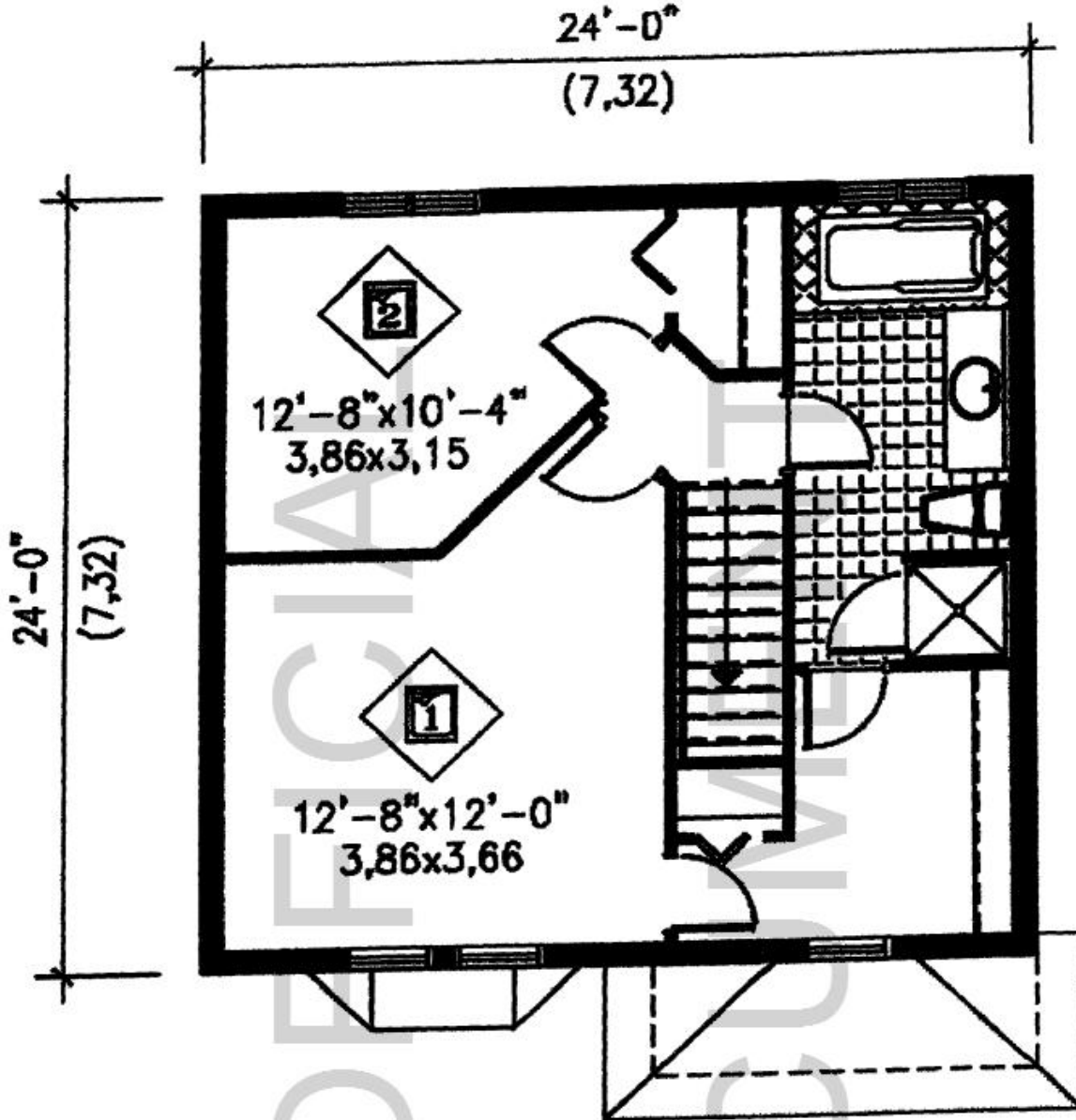
10/28/21 3:35 PM theCountyRecorder - Print Page

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2nd Floor Plan of COOLhouseplans.com Plan ID: chp-32135, Order Code: C774
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<http://www.cooinhouseniars.com>

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Houseplans.com | Plan 16-1040 Summer

Page 2 of 3



REAR ELEVATION

More Info

Additional House Features

covered front porch
great room
kitchen island
sulted for narrow lot

Designer Comments

CAD files options are available in DXF format only.



Country home plans typically have a front porch, dormers, and a roof line that runs parallel to the road. Country homes also feature a large front porch with an open railing. The Country style also includes French country home plans and farmhouse plans.

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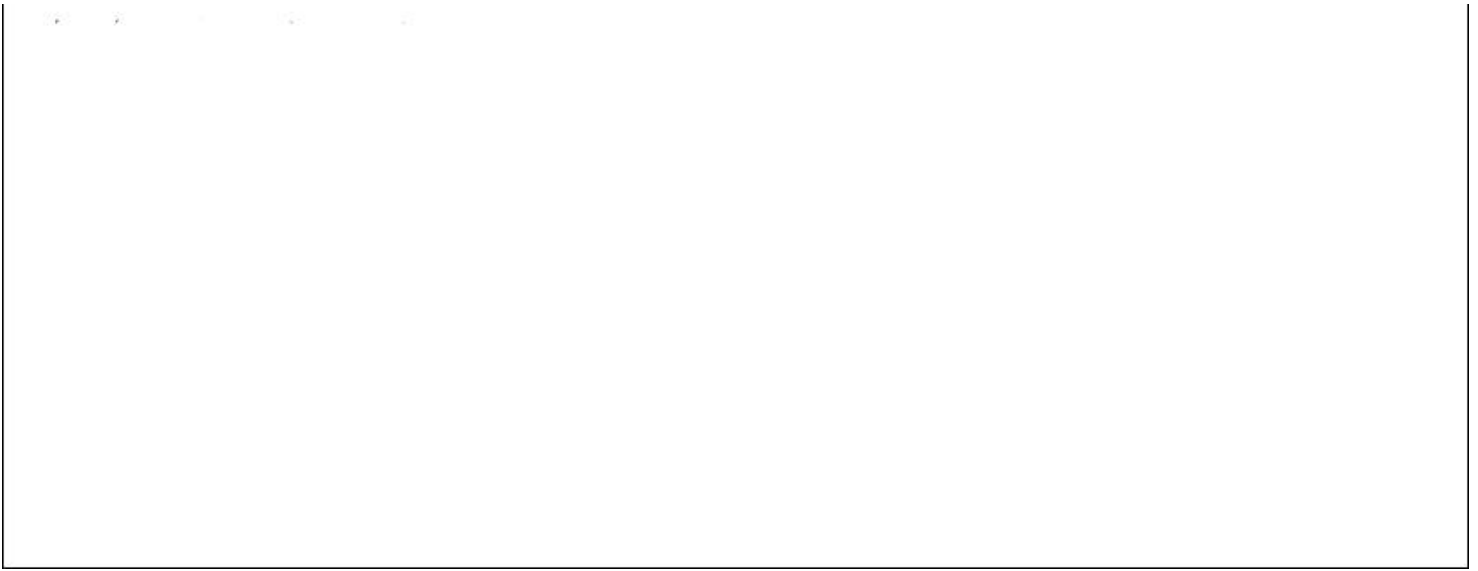
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EXHIBIT D

OPTION TO PURCHASE GRANTED BY WANAKAH LTD. PARTNERSHIP TO THE CITY OF OURAY, COLORADO

THIS AGREEMENT made and entered into this _____ day of _____, 200_ by and between Wanakah Ltd. Partnership, a Colorado partnership and the City of Ouray, Colorado, a Colorado municipal corporation:

WITNESSETH:

WHEREAS, Wanakah Ltd. Partnership (hereinafter "Owner") is the owner of certain real property located in Ouray County, Colorado, containing 7584 square feet and more particularly on that certain Legal Description prepared by Monadnock Mineral Services dated August 22, 2007, a copy of which is attached hereto and incorporated by this reference (hereinafter "Property"); and

WHEREAS, for good and valuable consideration, the receipt and adequacy of which is acknowledged by Owner, the Owner wishes to grant to the City of Ouray, its housing authority, or any housing authority to which it is a party or participant, and the successor, assignee or designee of either the City or such housing authority (hereinafter "City"), an Option to Purchase all or a part of the above described Property as more particularly described below.

NOW, THEREFORE, in consideration of value received, the sufficiency of which is hereby acknowledged by Owner, the parties to this Agreement agree as follows.

1. In the event that owner shall determine to sell, transfer, assign, convey, or otherwise alienate all or any part of the Property, Owner shall immediately give notice of the same to the City in the manner provided for herein.

2. Upon receipt of such notice the Owner and City shall proceed to establish the market value of the Property to be conveyed in the following manner. The City and Owner shall jointly appoint an appraiser to determine the market value of the Property and the cost of such appraisal shall be borne equally by Owner and the City.

3. Upon receipt of the appraisal report and the determination of market value, the City shall have the option to purchase the Property at the appraised market value. The City may exercise its option to purchase by notifying the Owner, in writing, of its election, within thirty (30) days of the receipt of notification of the determination of value.

4. The City and Owner shall thereupon enter into the appropriate standard form of contract to buy and sell real estate as shall be in use and have been published by the Colorado Real Estate Commission (hereinafter "Purchase Contract"). The Purchase

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Contract, in addition to the standard provisions, shall:

(a) Provide for closing ninety (90) days from the date of the Purchase Contract, or at a mutually agreed to earlier date.

(b) Require conveyance by General Warranty Deed free and clear of all liens and encumbrances, except the standard exceptions.

(c) Provide that the real Property shall be conveyed together with:

(1) Any and all taps, permits or development approvals obtained with respect to the Property; and

(2) Any and all rights which the Owner may have to studies or plans undertaken for the Property, including, but not limited to, soils, geohazard, engineering, toxic and other waste reports, and all surveys and architectural and building plans.

If applicable, all or some of the above described inclusions shall be conveyed by bill of sale or other legal instrument.

(d) Grant to the City, in addition to the standard rights of inspection and document review contained in the Purchase Contract, a sixty (60) day due diligence period during which time the City may, at its expense and without damaging the Property, enter onto the property and complete any tests, surveys, studies, inspections or research concerning the Property that the City deems prudent or necessary, including, but not limited to, a physical inspection, review of leases and existing debt, review of service and maintenance contracts, status of guarantees and warranties, availability, terms and cost of insurance, easements, permits, licenses, water and other utilities, environmental issues and liability, research on building and zoning regulations, regulatory compliance, title review, surveys, engineering reports, public records search, review of common interest community documents, real property taxes and assessments, etc. And further provide that if for any reason whatsoever, at the City's sole and absolute discretion, the City wishes to cancel the Purchase Contract after completing its "due diligence" it may do so without penalty by sending written notice of its election to Owner within the due diligence period.

(e) Contain a representation by the Owner that it does not have any actual knowledge of any of the following: (1) any ongoing or past environmental contamination or pollution of the Property; (2) any existing or previous use thereof for the storage of or as a landfill or dumping ground or any existing or previous other presence or location thereon of any toxic materials, wastes, hazardous substances, or other pollutants or contaminant; or (3) any release, spill or discharge of any such materials, wastes, substances or pollutants in, on, or about the Property. In addition, neither Owner's acquisition or subsequent use of the Property has been or is subject to any federal, state, municipal or local law, statute, rule, regulation or ordinance requiring or allocating responsibility for the removal of toxic materials, wastes, hazardous substances or other

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pollutants or contaminants from the Property, nor has the Owner caused the Property to be in violation of any said federal, state, municipal or local environmental law, rule statute, regulation or ordinance. And further that no lien has ever attached to the Property by reason of any state, federal, or local agency or body expending monies to clean up or remove toxic or hazardous wastes, material or substances, or other pollutants of contaminants from the Property.

(f) Contain a representation by the Owner that is has received no notice that the Property violates any law or governmental regulation, statute, ordinance, code, rule or regulation applicable to the Property.

(g) Contain a representation that the Owner has not received any notice regarding dangerous, illegal or other conditions requiring corrective action relating to the Property.

(h) Contain a representation by the Owner that there are no actions, suits or proceedings presently pending or, to Owner's knowledge, threatened against the Owner of the Property.

(i) Provide that the City may assign any and all rights and obligations it has in the Purchase contract to a housing authority formed by it, or a housing authority to which it is a party or participant, or any successor, assignee or designee of the City or such housing authority.

5. Owner agrees that during the term of this Option to Purchase it will not encumber the Property in an any manner so as to defeat or diminish any or all of the rights conveyed by this Option to Purchase; provided, however, that nothing herein shall be construed to pertain to any encumbrance customarily released at closing (e.g., Deed of Trust).

6. In the event that the City shall determine not to exercise this Option to Purchase as provided for herein, the City shall cause to be recorded in the records of the Clerk and Recorder of Ouray County a full and complete release of this Option; provided, however, that if the Owner shall have offered for sale to the City less than all of the Property for which this option is given, then the release shall pertain only to the Property offered and this Option to Purchase shall continue in full force and effect for the balance of the Property.

7. This Option to Purchase and every related document are to be governed and construed in accordance with the laws of the State of Colorado. Venue for any legal action arising from this Option to Purchase shall be in Ouray County, Colorado

8. This Option to Purchase shall be a burden upon and run with the Property for the benefit of the City, its housing authority or any housing authority to which is a party

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or participant, or the successor, assignee or designee of either the City or such housing authority, which may enforce this covenant and compel compliance therewith by the initiation of judicial proceedings for, but not limited to, specific performance, injunctive relief, reversion, eviction and damages. Reasonable attorney's fees and costs shall be awarded to the successful party in any litigation instituted to enforce the provisions of this Option to Purchase.

9. Any notices to be given under this Option to Purchase shall be in writing and shall be sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

To the City of Ouray:	City Administrator City of Ouray Post Office Box 468 Ouray, CO 81427
To Wanakah Ltd. Partnership:	Wanakah Ltd. Partnership Post Office Box 1817 Ouray, CO 81427

The address to which any notice may be given to any party may be changed by written notice given by such party as above provided.

10. If any terms of this Option to Purchase shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraint on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provisions shall continue only for the period of the terms of the current duly elected members of the City Council for the City of Ouray, Colorado, their now living descendants, if any, and the survivors of them, plus twenty-one (21) years.

11. The parties agree that any modification to the Option to Purchase shall be effective only when made by writing signed by both parties and recorded with the Clerk and Recorder of Ouray County, Colorado.

12. The Owner and City agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement.

13. Owner certifies that it has the full rights, power and authority to and has taken all requisite action to enter into this Agreement and to carry out the obligations required to be performed by Owner. This Agreement constitutes a legal, valid and binding obligation of Owner and is enforceable against Owner in accordance with its terms.

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14. This Option to Purchase shall be recorded in the property records of Ouray County, Colorado and the original executed and recorded document returned to the City.

15. The provisions and covenants contained herein shall inure to and be binding upon the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year above first noted.

THE CITY OF OURAY, COLORADO

ATTEST:

By _____

WANAKAH LTD. PARTNERSHIP

ATTEST:

By _____

STATE OF COLORADO)

) ss

COUNTY OF OURAY)

The foregoing was acknowledged before me this _____ day of _____, 2007 by _____ and _____ the _____ and _____, respectively of the City of Ouray, Colorado.

Witness my hand and official seal.

Notary Public

STATE OF COLROADO)

) ss

COUNTY OF OURAY)

The foregoing was acknowledged before me this _____ day of _____, 2007 by _____ and _____ the _____ and _____, respectively of the Wanakah Ltd. Partnership.

Witness my hand and official seal.

Notary Public

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Bob & Pam Larson
342 7th Avenue
P.O. Box 85
Ouray, CO 81427



Phone/Fax 970-325-460
e-mail: larsouray@qwest.net

MONADNOCK MINERAL SERVICES
Professional Geologists / Land Surveyors

August 22, 2007

Legal Description for Lots 40, 41 & 42 of the Silver Shield PUD:

Beginning at the northwest corner of Lot 42, from whence Corner No. 9 of the Watson Placer, MS 143, bears S07°38'52"E, 1729.69 feet;

Thence, N66°59'34"E, 158.00 feet, along the northern boundary of Lots 40, 41 & 42 of the Silver Shield PUD, also being the southerly R.O.W. of Silver Shield Trail, to the northeast corner of Lot 40, to the westerly R.O. W. of North Oak Street;

Thence, S23°00'26"E, 48.00 feet, along the east boundary of said Lot 40, also being the westerly R.O.W. of North Oak Street, to the southeast corner of said Lot 40, also the northeast corner of Lot 39 of said Silver Shield PUD;

Thence, S66°59'34"W, 158.00 feet, along the southern boundary of said Lots 40, 41 & 42, also being the northern boundary of Lots 39 & 43, to the southwest corner of said Lot 42, also being the northwest corner of said Lot 43, to the easterly R.O.W. of Hinkson Terrace;

Thence, N23°00'26"W, 48.00 feet, along the west boundary of said Lot 42, also being the easterly R.O.W. of Hinkson Terrace, to the northwest corner of said Lot 42, the place of beginning.

Said Lots 40, 41 & 42 contain 7584 square feet.

Robert A. Larson
PLS 31160






UNOFFICIAL DOCUMENT

City Right to Purchase

Silver Shield PUD

Legend

-  BLM
-  Fire_Hyd
-  WaterMai

ACCOUNT = R006190
PARCELNB = 451725112040
LAND_STATU = Private
EditStatus = Verified Parcel Match only
EDIT_STATU = Assessor Edit Add Codes
MS_Number =
MS_Name =
ACRES_calc = 0.171602
ACCT_URL = <https://ouraycountyassessor.org/assessor/taxweb/account.jsp?accountNum=R006190>
Note = 10/14/08: dig from City CAD 7_21; plat @197520 ??; Add T44R8 sec 25 to legal
NAME = WANAKAH PROPERTIES LLC
CAREOF =
ADDRESS1 =
ADDRESS2 = PO BOX 1817
CITY = OURAY
STATE = CO
ZIPCODE = 81427
ACCTTYPE = 0
STREETNO = 1730
EXTENT =
DIRECTION =
STREETNAME = OAK
DESIGNATIO = ST
DIRECTIONS =
SUFFIX =
UNITNUMBER =
LOCCITY = Ouray
SUBNAME = SILVER SHIELD PUD
CONDONAME =
SALEP = 0
SALEDT = 12/31/2012
ACRES = 0

Date: 2-23-22

To: Mayor Ethan Funk and City Manager Silas Clarke

From: Board of Directors/Bachelor Switch Water Users Association

Subject: **A Case for Fairness - City of Ouray/BSWUA contract addendum**

Per telephone conversation between Mayor Funk and Wayne Pandorf, we submit this factual information for your consideration in negotiating an addendum to the 1972 contract between BSWUA and the City of Ouray. As members and officers of Bachelor Switch Water Users, we noted with interest the city council's need to renegotiate "outdated and poorly written" contracts, i.e., the 2002 co-planning one with Ouray County. We agree, as the contract between BSWUA and the City is 50 years old and poorly written. The addendum that BSWUA submitted to the City for review last October has some elements that we wished to discuss further, but were told that they were not negotiable at the time. Our main area of requested additional negotiation is the charge of two times the city resident fee. This may have been considered fair and equitable 50 years ago when the contract was executed. However, a review of current water rates for those customers outside city limits across Colorado and the country are generally much less for non-resident customers, even when the city owns and maintains the infrastructure (which they do not in our case). We offer two main points to illustrate our case.

POINT #1

Table 1 below shows 2021 water rates to non-resident customers for a few cities in Colorado, and the corresponding BSWUA theoretical annual bill, keeping in mind that in these examples the cities maintain the infrastructure. We note that even the Telluride rate is only 1.25 times a city resident for non-resident customers. These cities were chosen for no other reason than their published rates were readily available on line and were straightforward.

TABLE 1 - 2021 Water Rate Comparison for Non-Resident Customers

Municipality	Base Rate City Resident	Usage Rate	Multiplier over city resident	**Theoretical BSWUA annual cost
Montrose	\$28.50/mo	plus \$5.09/1000 gal	*1.5	~\$52,000
Telluride	\$48/mo	up to 8000 gal/mo	*1.25	~\$49,000
Monte Vista	\$28/mo	up to 5000 gal/mo	*2	~\$46,000
			average	~\$49,000
Ouray			***2	actual ~\$65,000

*Note: City owns and maintains all infrastructure

** Based on 68 active taps and SCADA metered usage of 2.2 million gal/yr (avg ~85 gal/day/tap)

*** BSWUA owns and maintains own infrastructure

CONCLUSION: BSWUA customers are getting charged \$16,000/ yr (\$235/tap) more than the average of these three municipal non-resident rates AND BSWUA maintains our own infrastructure. BSWUA customers use less than 25% EQR on an average annual basis.

POINT #2

We opine that the City of Ouray/BSWUA water delivery arrangement actually resembles that of the City providing bulk potable water through a water station. Therefore, the rate we get charged should be more like that charged at public potable water stations, the only difference being we pipe the water to our customers after receipt, while at a water station the customers cart away their own water after receipt. Table 2 shows what BSWUA would pay for water annually (2021) based on bulk potable water rates used by several Colorado cities. Again, the Colorado cities chosen were based on what was available for review on line.

TABLE 2 - 2021 BSWUA Annual Cost per Various Bulk Potable Water Rates

Municipality/ Provider	Bulk Potable Rate	BSWUA Annual Usage	**Theoretical BSWUA annual cost
Aspen	\$11.25/1000 gal	2,200,000 gal	~\$25,500
Wellington	\$15.20/1000 gal	2,200,000 gal	~\$34,500
Monument	\$23/1000gal	2,200,000 gal	~\$50,500
Greeley	\$11.20/1000 gal	2,200,000 gal	~\$25,000
Tri-County	\$3.75/1000 gal		Outlier not considered
		Average	~\$33,875

** Based on 68 active taps and SCADA metered usage of 2.2 million gal/yr (avg ~85 gal/day/tap)

This information illustrates that for 2021, BSWUA non-resident customers were charge nearly twice that of comparable bulk potable water station average rates. If we eliminate the high Monument value, it would be more than twice. We understand that the City needs to have a minimum required fee for providing a utility service, similar to an electric utility company, but it doesn't seem fair or equitable that it be twice what can be paid on a bulk potable water basis.

CONCLUSION: While we are thankful and grateful that the City is able to provide our members with good potable water, we submit that a multiplier no greater than 1.5 times a city resident rate would be a fair and equitable return for the City given that we built and maintain our own infrastructure. We are confident that the council will also see the current inequity of this contract provision and reduce it. In summary, we request a revision to Item 12 (a) of the original agreement and to paragraph 2 (f) in the draft addendum to reduce the non-resident multiplier.

We thank Mayor Funk for the opportunity to submit this information for consideration, and look forward to further discussion when council is ready to proceed with this agenda item.

Date: March 14, 2022

To: Mayor Funk, Administrator Clarke

From: Wayne Pandorf, BSWUA VPres

RE: A Case for Fairness Sequel

After reviewing and analyzing info within the Water System PNA that was provided on the city website, it became clear that the city is grossly overcharging BSWUA for water. The points made below support our contention that the provision of the 50-year old agreement that charges our customers twice that of a city resident is akin to exploitation. I only consider this analysis possible due to recent availability of such data, as none of us could have envisioned the scale of the inequity shown.

1. BSWUA (per city SCADA data) uses an average of 6000 gal/day of city purchased water. Per Attachment 17 of the PNA, the city average daily water use is 625,000 gal/day. So BSWUA uses about 1% of the city's average daily water use.
2. Per Attachment 8 of the PNA, the city serves a demand of about 1400 EQRs. BSWUA represents about 70 EQRs of this demand which is 5% of the EQRs on the entire system.
3. Per Page 10 of the administrative budget in the PNA, the city estimates collecting \$500,000 from water customers in 2021. The city billed and collected about \$68,000 (revised bill) from BSWUA in 2021. Therefore, BSWUA contributed 13.5% of the water revenues the city estimates to collect in 2021.
4. SUMMARY- BSWUA is contributing 13.5% of the city's water customer revenues, while using only 1% of the average daily city water demand and representing only 5% of the city's total EQR demand.
5. Now is the time to rectify this inequitable situation. I appeal to your sense of decency and fair play to make it so.
6. One final point. If the 2021 bill were adjusted so that BSWUA members paid the same as a city resident, we would still be contributing more than 8% of the city's annual water customer revenues. This is still a much higher percentage of revenues than our percentage of demand.
7. Although BSWUA members are "non-residents", we support, and contribute to, Ouray's success. On behalf of all BSWUA members, I am not asking for a favor, just a fair shake.



Silas Clarke <sclarke@cityofouray.com>

More thoughts on Multiplier

Bachelor Switch WUA <bswuassociation@gmail.com>

Mon, Apr 25, 2022 at 10:49 AM

To: Ethan Funk <funke@cityofouray.com>, Silas Clarke <clarkes@cityofouray.com>, rickblackford01@gmail.com, Ben Tisdell <btisdell@ouraycountyco.gov>

Good morning,

I have a few more thoughts on the issue of the BSWUA multiplier over the resident water rate for your consideration. It seems to me that you guys should be thinking long term which includes incentives to conserve water. Right now, there is no such incentive and that creates Mineral Farm type problems. It also creates no method/incentive for BSWUA to incentivize conservation on the part of our members. So here are some ideas to consider:

1. Set the multiplier on a sliding scale based on use since master meter readings for our use are available. Currently, our average annual use is about 25% of "allowable" EQR (350 gpd). But if the multiplier remains high, encouraging residents to sell, turning the area slowly into rental riviera, that water use will increase, probably significantly. Long term water use may be more of an issue than revenue. So let's say you set the multiplier as follows: Usage less than 20% EQR- multiplier= 1.25; Usage between 20-30% EQR- multiplier=1.5; Usage between 30-50% EQR-multiplier=1.75; Usage over 50% EQR, multiplier=2. This could still meet the spirit of your ordinance, and generate revenue above a resident rate, but on a more equitable basis and reward conservation.
2. Give long time resident seniors a discount by setting their multiplier as of 1.25 if they also qualify for the property tax discount with the assessor which requires 10 years as a permanent resident. This eliminates short-term ownership getting a break and rewards local citizenship, community participation and incentive to stay.

Both of these ideas display a measure of "good will" on the part of the city. If the city ever wants to consider annexation, this would surely help the cause.

Let's not let the current wording of an ordinance dictate a path forward. Please let me know your thoughts on these approaches. Thanks.

Wayne Pandorf, VPres BSWUA



Silas Clarke <sclarke@cityofouray.com>

BSWUA - Agreement Updated

Bachelor Switch WUA <bswuassociation@gmail.com>

Wed, Jul 27, 2022 at 2:12 PM

To: Silas Clarke <sclarke@cityofouray.com>, tisdell Email <tisdell@gmail.com>, rickblackford01@gmail.com

Good afternoon Silas,

Since this contract is very much different than what BSWUA sent to the prior city council last November for discussion and consideration (Ben copied you at the May council meeting), and out of step with what our membership voted to submit to the city, we recommend that this not be placed on the Aug 1 agenda. Rick, Ben and I are in agreement that a work session with the council to have a meaningful face-to-face discussion is preferred at this point before we approach the members with a way forward. We are therefore requesting a work session at the council's earliest convenience.

Respectfully,

Wayne Pandorf, BSWUA VP

[Quoted text hidden]

Ouray Municipal Code

Chapter 9 Water and Sewer Systems

9-10 Water and Sewer Use Rates

D. Special Charges

2. All water user rates for users outside of the City limits shall be classified according to the above contained and set forth classifications, but the rates therefor shall be twice the rates applicable to users inside the City limits.

Ouray Municipal Code

Chapter 9 Water and Sewer Systems

9-4-A Water and Sewer System Investment and Tap Fees

4. Investment fees imposed upon property located outside City limits shall be twice the charges specified in accordance with this section.

RATIFICATION AND RELEASE

Agreement made this date between the City of Ouray, a Colorado municipal corporation, hereinafter designated OURAY; Paul H. Boslaugh, G. R. Schey, Robert K. Williams and Robert W. Schey, hereinafter designated DEVELOPERS; and the Bachelor Switch Water Users Association, a Colorado corporation, hereinafter designated CORPORATION.

Ouray and Developers are parties to an agreement dated October 7, 1969, providing for supply of water by Ouray to users located north of the city limits of Ouray.

Ouray and Developers are parties to a subsequent agreement dated July 10, 1972, providing for conveyance by Developers of part of the subject water pipeline system to Ouray, and the remainder to the Corporation which has been formed pursuant to that agreement.

All conditions provided in the agreement of July 10, 1972 for release of Developers from their rights and obligations under that agreement, and the agreement of October 7, 1969, have been met.

1. The Corporation hereby ratifies the agreement of July 10, 1972, and assumes the rights and obligations conferred on the Corporation by that agreement.

The rights and obligations of Developers under the two agreements are hereby terminated.

The rights and obligations of Ouray under the agreement of October 7, 1969, between Ouray and Developers, are hereby terminated.

Done this 10 day of July, 1972.

DEVELOPERS

Robert H. Williams
for Paul H. Boslaugh
Paul H. Boslaugh

G. R. Schey
G. R. Schey

Robert K. Williams
Robert K. Williams

Robert W. Schey
Robert W. Schey

OURAY

Frank L. Messard
Mayor

Attest:

Richard G. Messard
Clerk

CORPORATION

Richard G. Messard
President

Attest:

Sharon R. Brown
Secretary

WATER SUPPLY AGREEMENT

Agreement made this date between the City of Ouray, a municipal corporation of the State of Colorado, hereinafter designated OURAY; and Robert K. Williams, G. R. Schey, Robert W. Schey and Paul H. Boslaugh, hereinafter designated DEVELOPERS.

On October 7, 1969, Ouray entered into an agreement with Robert K. Williams, G. R. Schey and Paul H. Boslaugh, providing that Ouray would sell domestic water to Williams, Schey and Boslaugh, and their successors in interest to certain real property lying north of the city limits of Ouray. Since that time G. R. Schey has conveyed part of his interest under that agreement to Robert W. Schey.

Incident to delivery of water under that agreement, Developers have installed a pipeline from the northern city limit of Ouray, running north approximately 7/10 of a mile along the right of way of U. S. Highway 550, and then branching off east and west to serve property owned by Developers.

The parties would find it mutually beneficial to revise the arrangement created by their agreement of October 7, 1969, and such revision is the purpose of this agreement.

Now, therefore, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Conveyance to Ouray - Developers will convey to Ouray all their right title and interest in and to the subject water pipeline, from the northern city limits of Ouray to a point where it no longer lies in the right of way of U. S. Highway 550.
2. Easements and Rights of Way - This conveyance shall include all easements or rights of way owned by Developers and which pertain to the subject pipeline from its southernmost point to a point at which it is no longer in the right of way of U. S. Highway 550.
3. Highway Relocation - The conveyance described in paragraphs (1) and (2) shall take place only upon receipt of reasonable assurance by Ouray that the possible relocation of that part of the subject pipeline, incident to the proposed relocation of the right of way of U. S. Highway 550, shall be undertaken at no expense to Ouray. If the subject conveyances are effected, and it shall later develop that Ouray will be held liable for the cost of this pipeline relocation, then Ouray will convey back to Developers, or their successors

in interest hereunder, for the same consideration if any, which Developers were given by Ouray for the conveyance from Developers to Ouray.

Ouray shall have the right to install a pipeline larger than that presently in use, when relocation of the pipeline is necessary incident to the Highway 550 relocation. If Ouray is to be held liable for the increased cost of the larger pipeline, the corporation shall compensate Ouray for such liability.

4. Consideration - The consideration to be paid by Ouray to Developers in paragraphs (1) and (2) is One Dollar (\$1.00) in cash, payable at the time of closing.

5. Corporation - Developers shall form a corporation, tentatively named the Bachelor Switch Water Users Association, and offer membership or stockholder status to all parties presently obtaining their domestic water supply by virtue of the agreement of October 7, 1969 between Ouray and Developers. This entity shall be designated herein as the CORPORATION.

Upon due creation, authorization and registration of the corporation, Developers, Ouray and the Corporation shall execute a ratification of this agreement, acknowledging the release of Developers from their rights and obligations under the agreement of October 7, 1969 and this agreement, and effecting a designation of the Corporation as a party in interest under this agreement. A copy of the ratification agreement to be used is attached hereto as Exhibit A.

6. Conveyance to Corporation - Developers will convey to the Corporation all their right, title and interest in and to the subject pipeline, together with any easement, rights of way and personal property incident thereto.

7. Termination of Prior Agreement - Upon due creation, authorization and registration of the Corporation, and execution and delivery of the conveyances described in paragraphs (1), (2) and (6), the agreement of October 7, 1969 between Ouray and Developers shall be terminated and of no further effect.

8. Sale of Water - Upon due creation, authorization and registration of the Corporation, and execution and delivery of the conveyances described in paragraphs (1), (2) and (6), Ouray agrees to sell domestic water to the Corporation, in accordance with the terms and conditions set forth below.

9. Amount - Ouray shall convey and deliver to the Corporation's pipeline an amount of water equal to that presently passing through the existing connection between Ouray's three inch pipeline, through two three-fourths inch (3/4") corporation taps, to Developers' two inch pipeline. The number of domestice taps to be served shall not exceed seventy (70) in number.

The Corporation or Developers shall install and cause to be hooked onto the Corporation's pipeline a water storage facility of at least 5,000 gallons capacity, to alleviate possible water pressure problems in the Corporation pipeline. When such a water storage facility is installed, it shall be equipped with a time release device which will permit filling of the water storage facility only between the hours of 10:00 P.M. and 6:00 A.M. Authorized agents of employees of Ouray shall have a right to enter upon the premises of the water storage facility for the purpose of inspection.

10. Use - The members and stockholders shall be subject to the same rules governing water use which apply to users within the city limits of Ouray, to the extent that such rules are consistent with this agreement. No tap using water under this agreement shall be used to irrigate more than one-half acre of ground, and no tap shall be used for any but ordinary domestic purposes where such use would materially impair receipt of water by other members or stockholders of the Corporation. The articles of incorporation or bylaws of the Corporation shall positively provide for this rule as binding on all members or stockholders.

11. Shutoff of Supply - The obligation of Ouray described in paragraph (9) shall be excused only where the continued delivery of water would materially impair delivery of water to users within the city limits of Ouray. Except in case of an emergency, which does not permit more timely notice, Ouray shall give 10 days' notice to the Corporation that the supply of water shall be turned off or limited, whichever the case may be. Ouray shall effect only such turning off or limitation of supply as is necessary to insure delivery of water to all users inside the city limits of Ouray.

Ouray shall also have the right to shut off the water supply to the Corporation's pipeline in the following cases:

(a) Failure of the Corporation to pay the amount due hereunder for water use, within 45 days of the sending of the statement therefor by Ouray.

(b) Failure of the Corporation or its members to adhere to the other obligations imposed by this agreement, where such failure continues after reasonable warning has been given by Ouray.

Except in case of an emergency, which does not permit more timely notice, Ouray shall give 10 days notice to the Corporation that the supply of water is to be turned off. Such notice shall describe the reason for the proposed shutoff.

12. Fee for Water - Ouray shall be compensated by the Corporation as follows:

(a) For taps in use, twice the amount then charged to water users within the city limits of Ouray for the same type of water use;

(b) For taps connected to the Corporation's pipeline but not in use, twice the amount then charged for taps not in use within the city limits of Ouray.

13. Time Periods - For the purpose of computing the time period for determining the amount due Ouray hereunder, the following shall apply;

(a) Those taps already connected to the Corporation's pipeline shall be deemed to have been connected from July 1st, 1972;

(b) Where taps are added or deleted, or where the status of a tap changes from active to inactive, or inactive to active, on or before the 15th day of a month, that tap shall be deemed to have been added, deleted or had its status changed, on the first day of that month.

(c) Where taps are added or deleted, or where the status of a tap changes from active to inactive, or inactive to active, after the 15th day of a month, that tap shall be deemed to have been added, deleted or had its status changed, on the first day of the next month.

14. Credit for Prior Billing - If a member or stockholder of the Corporation is presently paying for water use under the agreement of October 7, 1969 between Ouray and Developers, and if the billing period for such member or stockholder goes beyond July 1st, 1972, then an appropriate pro-rata credit shall be made on the old account of such member or stockholder to avoid double billing for that period covered by the old billing period.

15. List of Users - Within 15 days of the execution of this agreement the Corporation shall deliver to Ouray a list of those parties who are to receive water as members or stockholders of the Corporation. This list shall give the full names of such members or stockholders, their mailing addresses, and a description of the real estate which is served by each tap. As members or stockholders are added or withdrawn, the Corporation shall promptly notify Ouray of such additions or withdrawals, giving in each case the same data which is required for the original members or stockholders of the Corporation.

16. Maintenance of Ouray Pipeline - The Corporation shall be responsible for effecting and paying for any repairs or maintenance required on the pipeline which is to be conveyed to Ouray pursuant to this agreement.

17. Succession in Interest - The rights and obligations conferred

herein shall bind the parties hereto and their respective heirs, executors, successors and assigns.

18. Damages - The failure of a party to perform the obligations imposed by this agreement shall entitle any other party to compensation for attorneys' fees incurred in any legal action arising out of such default.

19. Geographical Limitation - Water conveyed under this agreement shall be used only on or for the benefit of the tracts of land owned by the members of the proposed corporation. These tracts of land are all located in Ouray County, Colorado, and more particularly described as follows:

A tract of land in Ouray County, Colorado, described as follows:

Beginning at a point from whence the North Quarter Corner of Section 24, Township 44 North, Range 8 West, N.M.P.M. bears North 71° 05' West a distance of 540.46 feet, said point being Corner Number 1 of the Norfolk Placer, U.S. Survey No. 252; thence North 183.6 feet; thence West 843.0 feet; thence South 24° 11' East 767.2 feet; thence South 45° 41' West 159.0 feet; thence South 36° 41' East 702.83 feet; thence West 572.53 feet; thence South 421.0 feet; thence East 1190.80 feet; thence South 08° 23' East 298.4 feet; thence East 295.2 feet; thence North 06° 08' East 202.5 feet; thence South 84° 13' West 51.0 feet; thence North 08° 17' West 100.00 feet; thence North 19° 53' West 159.0 feet; thence North 43° 28' West 159.5 feet; thence North 62° 32' West 260.0 feet; thence North 55° 55' West 64.0 feet; thence South 84° 05' West 43.25 feet; thence South 89° 35' East 613.2 feet; thence South 21° 00' East 240.0 feet; thence South 74° 05' East 483.0 feet; thence South 10° 15' East 286.0 feet; thence South 28° 24' East 439.0 feet; thence South 24° 21' East 302.8 feet; thence North 1300.0 feet; thence West 17.0 feet; thence North 571.36 feet; thence West 399.99 feet; thence North 320.09 feet; thence South 86° 00' West 400.21 feet; thence North 1° 45' East 216.22 feet; thence West 260.84 feet; thence South 82° 00' West, 564.21 feet; thence North 47° 15' West, 279.7 feet to the place of beginning.

20. Publication Costs - Developers or Corporation shall pay the cost of the preparation and publishing the proposed ordinance authorizing entry into this agreement by Ouray.

Done this 10th day of July, 1972.

DEVELOPERS

OURAY

Robert K. Williams
Robert K. Williams

Frank L. Mussard
Mayor

G. R. Schey
G. R. Schey

Attest:

Robert W. Schey
Robert W. Schey

Paul H. Boslaugh
Clerk

Paul H. Boslaugh
Paul H. Boslaugh

STATE OF COLORADO)
County of Ouray) ss.

The foregoing was acknowledged before me this 10th day of July, 1972,
by Frank L. Massard as Mayor of the City of Ouray, Colorado, LaVaughn E.
Merling as Clerk of the City of Ouray, Colorado, G. R. Schey, Robert W. Schey
and Robert K. Williams, for himself and as attorney in fact of Paul H. Boslaugh.

My Commission Expires 10/31/73


Notary Public

4

AN ADDENDUM TO
THE "WATER SUPPLY AGREEMENT"
DATED OCTOBER 2, 1993, BETWEEN
THE CITY OF OURAY, COLORADO
AND THE BATCHELOR SWITCH WATER USERS ASSOCIATION (BSWUA).

Both parties agree as follows:

1. The BSWUA will parallel the pipeline referred to in the above referenced Agreement, using 6" Class C-900 PVC Pipe, installed to City specifications.
2. The City of Ouray agrees to participate in this project by providing no more than \$14,000 to the BSWUA to pay for the cost of increasing the size of the new pipeline from 4" to 6".
3. The new pipeline is to be located in both the right-of-way of Highway 550 and on property owned by Dick and Gail Jossi. The BSWUA will obtain the permits necessary from the Colorado Department of Transportation and the easement necessary from the Jossis on a form acceptable to the City.
4. Upon satisfactory installation and testing, the new pipeline and easements lying between Rotary Park and the Y, serving the Panoramic Heights and Whispering Pines Subdivisions, shall be conveyed to the City, free and clear of liens or encumbrances and owned and maintained by the City thereafter.
5. All other requirements of the above referenced Contract shall remain in effect.

CITY OF OURAY

BATCHELOR SWITCH WATER
USERS ASSOCIATION

By Claude B. Neuman
Mayor

By R. Blackford

Date: 12-20-93

Date: 12-29-93

ATTEST: Colleen Bisler

**SECOND ADDENDUM TO
WATER SUPPLY AGREEMENT DATED OCTOBER 2, 1972
BETWEEN THE CITY OF OURAY
AND BACHELOR SWITCH WATER USERS' ASSOCIATION**

This Second Addendum (“Addendum”) to the Water Supply Agreement by and between the City of Ouray and the Bachelor Switch Water Users Association dated October 2, 1972 (“1972 Agreement”) is entered into this ___ day of _____, 2022 by and between the City of Ouray (“City” or “Ouray”) and the Bachelor Switch Water Users Association (“BSWUA” or “Corporation”).

WHEREAS the City has provided potable water to BSWUA which is located outside City limits under the 1972 Agreement and the 1993 Addendum, both of which are incorporated herein by reference, and which limited the number of taps to no more than 70 and identified the location for the taps.

WHEREAS under the 1993 Addendum, BSWUA is solely responsible for its domestic water infrastructure and delivery system from the Y near Rotary Park and onto Panoramic Heights and Whispering Pines Subdivision.

WHEREAS, over the years and as land has been bought and sold, real properties not contemplated in the boundaries set forth in the 1972 Agreement received water taps along CR17, CR14, Hwy 550 and Lowes Subdivision.

WHEREAS, BSWUA has used 70 of its allowed 70 domestic taps and the parties agree to increase the number of available taps and to identify the exact location of the future taps so the area the City services with domestic water will not increase any further.

WHEREAS the parties desire to continue the 1972 Agreement with the modifications set forth below.

NOW, THEREFORE, the parties hereto agree, for good and valuable consideration, the receipt and sufficiency of which is hereby confessed and acknowledged, as follows:

1. Paragraph 9 of the 1972 Agreement is amended to reflect that the 1993 Addendum added a new 6” pipeline in addition to the two ¾” BSWUA taps. The number of domestic taps to be served is increased from seventy (70) to eighty-nine (89) in number. The second paragraph is deleted entirely.

2. Paragraph 12 of the 1972 Agreement is amended to read, fees for water delivered shall be in accordance with Ouray Municipal Code, as amended from time to time.
3. Paragraph 12 is amended by the addition of a sentence reading, in addition to charges for water delivery being twice the charges of those within City limits also extend to investment fees under Ouray Municipal Code 9-4-A-4.
4. Paragraph 15 of the 1972 Agreement is amended to require BSWUA to deliver to the City on December 1 of each year a revised list of waters users, including name, mailing address, and property address for each tap. As water users are added or removed, BSWUA shall promptly notify the City so invoicing can be updated.
5. Paragraph 19 of the 1972 Agreement is amended by the addition of certain real properties which may be served by the Corporation as reflected on the attached Exhibit A. The additional lots to be served by City water totals 19 in number where one tap serves one single family residence. These additional 19 taps are for the specific real properties identified in Exhibit A, in addition to the 70 taps already issued and accounted for under the 1972 Agreement.
6. A new paragraph 21 is added to read, other than as specifically provided herein, the terms and conditions of the 1972 Agreement, as amended by the 1993 Addendum, remain in full force and effect.

BACHELOR SWITCH WATER USERS' ASSOCIATION

_____ Date: _____
 By: _____
 Its: _____

CITY OF OURAY

_____ Date: _____
 Ethan Funk, Mayor

Attest:

 Melisa Drake, Clerk

Lots without taps in BSWUA Service Area (4-19-22)

Refer to Attached Maps 1 and 2

- 1 Lot 22 Whispering Pines
- 2 Lot 3 Whispering Pines
- 3 Lot 9 Mill Valley
- 4 Lot 1 Mill Valley
- 5 Lot 7 Mill Valley
- 6 Lot 5 Mill Valley
- 7 Tract A Mill Valley
- 8 Common Area 1 Mill Valley
- 9 Common Area 2 Mill Valley
- 10 Lot 3 Lowes Subdivision
- 11 15722 Highway 550
- 12 Lot 10 Panoramic Heights
- 13 Lot 11 Panoramic Heights
- 14 Lot 14 Panoramic Heights
- 15 Lot 7 Panoramic Heights
- 16 Lot 4 Bachelor Bluff
- 17 Parcel No. 451724100015
- 18 Parcel No. 451724100008

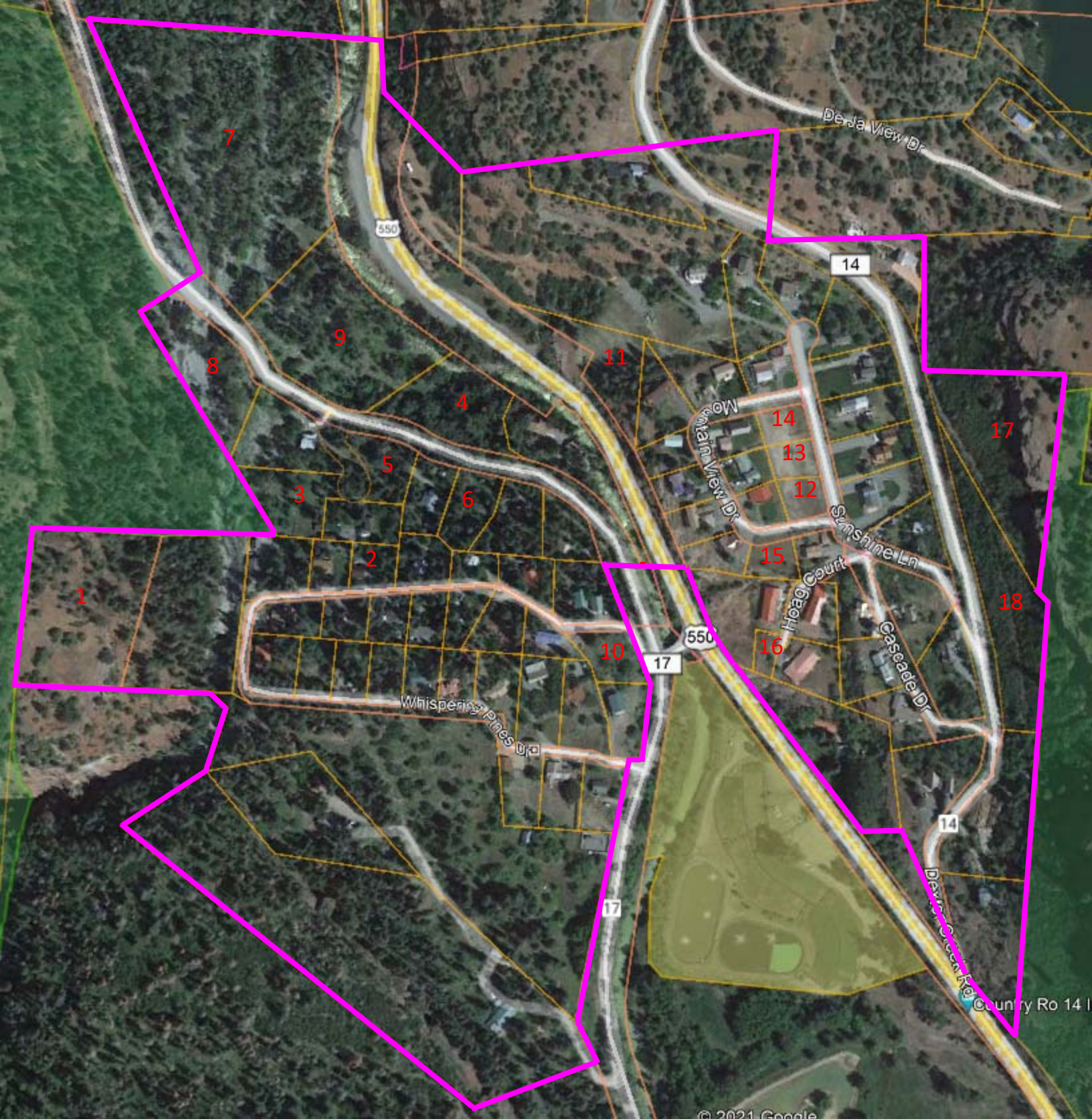


EXHIBIT A

Updated BSWUA SERVICE AREA

Shown on Ouray County Assessor's GIS Base Map

