

RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF GUNNISON COUNTY, COLORADO, ON JANUARY 13, 1959, AT 1:30 P.M. BY JOHANNES M. REITINGER, CLERK AND RECORDER. *J. M. Reitinger*

**DECLARATION OF GRANTS, SUBMISSIONS
AND COVENANTS ESTABLISHING CONDOMINIUM OWNERSHIP OF
ELK AVENUE BUILDING, A CONDOMINIUM
CRESTED BUTTE, COLORADO**

Sancho's Associates, (Declarant), a Colorado partnership, does hereby make the following grants, submissions and declarations:

ARTICLE I

PURPOSE AND PLAN

1.1 Purpose. The purpose of this Declaration is to submit certain land and improvements to condominium form of ownership and use pursuant to the Condominium Ownership Act, Colorado Revised Statutes, 38-33-101, et seq., 1973, as amended.

1.2 Plan. The Declarant is the owner of Lot 23, Block 21, Crested Butte, Colorado, according to the official plat thereof on file and of record with the Clerk and Recorder for Gunnison County, Colorado (Land), and which is shown and described on page 1 of the Map, filed pursuant to Section 2.4 hereinafter. The existing structure (Building) located on the land is a three-story commercial building with related improvements. The location of the Building on the Land and the dimensions thereof are shown in the Map. The Building contains three shops and storage space on the ground level, a restaurant on the second level and an office and apartment on the third level.

As shown on the Map, Units 1, 2, 3 and 4A are located on the ground level, Unit 4B is located on the second level and Units 5 and 6 are located on the third level. The Map identifies Units by number and reflects each Unit's interest of ownership in the Common Elements.

ARTICLE II

DEFINITIONS

2.1 Condominium Unit. Condominium Unit or Unit means an individual air space unit consisting of the enclosed rooms occupying a part of the floors in the Building, together with the interest in the Common Elements appurtenant to such Unit. The Units are diagrammatically shown and numbered on the Map.

2.2 General Common Elements or Common Elements. General Common Elements or Common Elements mean the Land and the Building, including the foundations, floors, ceilings, columns, girders, beams, supports, walls, roof, corridors, flues, stand-pipes, fire hose cabinets, ducts, entrances and exits, stairs, stairways, heating and airconditioning equipment, basement, yard, service rooms, equipment storage rooms, maintenance rooms, all equipment for central services of electricity, gas, hot and cold water, heating, waste removal and ventilation (including all pipes, ducts, flues, wires, cable and conduits used in connection therewith, whether located in common areas or in Units), pumps, tanks, motors, fans, compressors, boilers and

in general all apparatus and installations existing for common use that are located within the Building, and all other parts of the Building and Land necessary or convenient to its existence, maintenance and safety, or normally in common use.

2.3 Limited Common Elements. Units 4B, 5 and 6 have balconies adjacent thereto and Units 1, 2, 3, and 4A have a hallway, a hallway bathroom, and loading area adjacent thereto, all of which are for the exclusive use of each individual Unit in the case of balconies and for the exclusive joint use of Units 1, 2, 3 and 4A in the case of the hallway, hallway bathroom and loading area. All such areas are shown on the Map as Limited Common Elements and allocated thereby to the appropriate Unit or Units.

2.4 Declaration. Declaration means this document with all Exhibits attached hereto which by this reference are incorporated herein, and all supplements hereto, and which document will be recorded pursuant to the Condominium Ownership Act, Colorado Revised Statutes, 38-33-101, et seq., 1973, as amended.

2.5 Map. Map means the survey and drawings prepared by Coe, Van Loo & Jaschke, 101 East Tomichi, Gunnison, Colorado, of Elk Avenue Building, a Condominium and filed for record with the Clerk and Recorder of the County of Gunnison, Colorado, on February 9, 1979, Reception No. 235518, which reflect the legal description and location of the Land and Building and of all Units.

2.6 Owner. Owner means any person, persons, partnership, corporation or other entity or any combination thereof owning all or a part of the fee simple title to a Unit.

2.7 Declarant. Declarant means Sancho's Associates, a Colorado partnership.

2.8 Land. Land means the real property legally described and shown on the Map.

2.9 Building. The Building means the structure on the Land as shown on the Map.

2.10 Votes and Percentage of Owners. Whenever in this Declaration a vote of Owners is required or permitted, each Owner shall be entitled to vote only such Owner's percentage of ownership in his Unit multiplied by the percentage of ownership in the Common Elements allocable to such Unit as stated in the Map. Whenever in this Declaration reference is made to a percentage of Owners such percentage shall mean the aggregate percentage of ownership in the Common Elements owned by the Owners voting or represented.

2.11 Association. Association means the Colorado nonprofit corporation formed for management of the Condominium and more specifically described in Article V hereof.

2.12 Board of Managers or Managers. Board of Managers or Managers shall mean the governing board of the Association elected by the Owners to operate, maintain and manage the Condominium.

2.13 Managing Agent. Managing Agent shall mean the person or entity employed by the Association to perform the obligations of the Association relative to operation, maintenance and management of the Condominium.

2.14 Condominium. Condominium shall mean the entity created by this Declaration and the Map and shall include all of the Units, Common Elements, the Building and the Land as defined herein and in the Map known as Elk Avenue Building, a Condominium.

2.15 Common Expenses. Common Expenses are defined in Section 6.1 hereof.

ARTICLE III

GRANT AND SUBMISSION

3.1 Grant and Submission. Declarant hereby grants and submits to condominium ownership all of the Land, the Building thereon, and the improvements related or incidental thereto as located upon the Land.

3.2 Conveyance of Fixtures. Declarant hereby grants and submits to condominium ownership all of the furniture, equipment, supplies, materials, and other property which are affixed to the Land or the improvements appurtenant thereto.

ARTICLE IV

OCCUPATION AND USE

4.1 Division of Condominium into Units. The Condominium is divided into fee simple estates known as Condominium Units which are shown on the Map. The Map reflects the number of each Unit and the percentage of ownership interest of each Unit in the Common Elements which percentage is also each Unit's percentage of Common Expenses.

4.2 Easements for Encroachments of Common Elements and Apartment Units. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction of the Building, or if any such encroachments shall occur hereafter as a result of settling or shifting of the Building, or for any other reason, valid easements shall exist for such encroachments and for the maintenance of the same so long as the Building shall exist. In the event the Building or any part thereof shall be rebuilt, and if encroachments of parts of the Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements, and due to such rebuilding, valid easements shall exist for such encroachments and the maintenance thereof so long as the Building shall exist.

4.3 Conveyance of Condominium Units. Each Unit and the undivided ownership interest in the Common Elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a Condominium Unit.

4.4 Description of Condominium Units. Every deed, lease, mortgage, trust deed or other instrument may legally describe a Unit by its number followed by the words "Elk Avenue Building, a Condominium" with further reference to this Declaration and the Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber, or otherwise affect a Unit, and such Unit's percentage of interest in the Common Elements.

4.5 Exclusive Possession and Use Restriction. Each Owner shall be entitled to exclusive ownership and possession

of such Owner's Unit (including any fixtures appurtenant thereto) and exclusive possession and use of the Limited Common Elements allocated to his Unit (or joint possession and use thereof if the Limited Common Element is allocated to more than one Unit). Each Owner may use the Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of other Owners. Each Unit may be used or occupied in any manner consistent with the building and zoning regulations of the Town of Crested Butte, Colorado, or other authority having jurisdiction thereof.

4.6 Right of Access and Emergency Repairs. The Association shall have the right of access to each Unit and its appurtenant Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of Common Elements, or at any time deemed necessary for the making of emergency repairs to prevent damage to the Common Elements or to the Unit or to another Unit.

4.7 No Partition. No Owner shall bring an action for partition of his Unit or of the Common Elements, or of the Land.

4.8 Right to Mortgage. Each Owner shall have the right from time to time to encumber his interest in his Unit by deed of trust, mortgage or other security instrument.

4.9 Combination of Units. In the event that one Owner shall own two or more Units adjacent to each other on the same floor or on adjacent floors, such Owner shall have the right to combine such Units into one area and to create entries, door openings and stairways between such Units so long as such changes do not affect load-bearing walls or pipes, conduits, ducts, shafts and wiring for the utility services of the Building.

ARTICLE V

ELK AVENUE BUILDING CONDOMINIUM ASSOCIATION, INC.

5.1 Owners Association. The administration of the Condominium shall be governed by this Declaration and the Articles of Incorporation and the Bylaws of Elk Avenue Building Condominium Association, Inc. (Association), a Colorado nonprofit corporation. An Owner of a Condominium Unit shall automatically become a member of the Association and shall remain a member for the period of his ownership.

5.2 Association Management. The Association shall conduct the general management, operation and maintenance of the Condominium and the Units and the enforcement of the provisions of this Declaration and of the Articles and Bylaws of the Association and rules and regulations adopted thereunder.

ARTICLE VI

COMMON EXPENSES

6.1 Common Expenses. The costs and expenses (Common Expenses) of managing, operating and maintaining the Condominium by the Association shall be borne by all Owners. Common Expenses include the overhead expenses of the Association, costs of maintenance, repair and operation of the Common Elements, taxes and special assessments unless separately assessed, insurance premiums for insurance coverage as deemed desirable or necessary by the Association, utility charges including gas, electricity, water, sewer, trash and garbage collection, guard service, burglar alarm service, landscape maintenance and snow removal,

janitorial service, resident manager's salary, legal and accounting fees, management fees, and the creation of a reasonable contingency or other reserve or surplus funds.

6.2 Assessment. Initially Common Expenses shall be estimated by the Association for the period from the date that the Condominium was created to the end of the then calendar year and each Owner shall be assessed his pro rata share thereof at such date. Thereafter Common Expenses shall be estimated by the Association annually for the ensuing calendar year and each Owner shall be assessed for his pro rata share thereof in advance of the commencement of each such year. The assessments shall be made pro rata according to each Owner's percentage of interest as set forth in the Map. The Association may establish any reasonable system for periodic collection of assessments, in advance or arrears, as deemed desirable. At the end of each calendar year the Association shall determine actual expenses and either assess each Owner or credit him against the assessment for the next ensuing calendar year, as the case may be for his share of the difference between estimated and actual expenses. The failure of the Association to fix the assessment for any assessment period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay the Common Expenses.

6.3 Nonpayment of Assessments and Lien. All sums assessed but unpaid for the Common Expenses chargeable to any Owner shall constitute a lien on such Owner's Unit, superior to all other liens and encumbrances, except for: (i) tax and special assessment liens on the Unit in favor of any taxing authority; and (ii) the lien of a first mortgage. If any assessment shall remain unpaid after fifteen days after the due date thereof, the Association may impose a penalty on such defaulting Owner in an amount equal to one percent (1%) of such assessment per month.

6.4 Statement of Assessments and Liability of Purchasers. Upon payment of a reasonable fee and upon the written request of any Owner or of any mortgagee of a Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to the subject Unit, the amount of the current periodic assessment and the date that such assessment becomes due, any penalties due, and credit for advance payments or for prepaid items, which statement shall be conclusive upon the Association in favor of any grantee or mortgagee who relies thereon in good faith. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments as set forth in the written statement. The grantor shall remain responsible for all assessments and charges to the date of conveyance.

ARTICLE VII

MAINTENANCE AND ALTERATIONS

7.1 Maintenance. Responsibility for the maintenance of the Condominium shall be as follows:

(a) By the Owner. The Owner shall maintain and keep in good repair the interior surfaces of walls, ceilings

and floors (including carpeting, tile, wallpaper, paint or other covering) as well as all fixtures and appliances, including base-board heating elements, located within such Owner's Unit and any Limited Common Elements allocated to such Unit. An Owner shall not be responsible for repairs occasioned by damage as defined in Article IX hereinafter, unless such damage is due to the act or negligence of the Owner, his guests, invitees or tenants.

(b) By the Association. The Association shall maintain and keep in good repair all that part of the Building and related improvements not required to be maintained and kept in good repair by an Owner.

7.2 Alterations. No Owner shall alter, modify, remove or destroy any Common Element without the prior written consent of the Association, except for room partitions and dividers located within a Unit which are non-load-bearing and which do not contain any utility service lines or ducts. All alterations made to the Common Elements must be performed under the supervision of an architect or other expert approved by the Association, with approval of any governmental authority having jurisdiction thereof, and performed in a good and workmanlike manner. Alteration work shall be completed as rapidly as possible and in such a manner as to not interfere with the use and occupancy of any other Unit and of the Common Elements of the Building. An Owner owning two or more Units adjacent to each other on the same floor of the Building or on adjacent floors of the Building shall have the right to combine such Units by common doorways or stairs and stairways provided, however, that the plans, specifications and performance of work in combining such Units must be approved in writing by the Association. In like manner, the relocation of any balcony must be approved in writing by the Association. No balcony on any floor of the Building may be enclosed in any fashion other than as originally constructed, without such approval.

ARTICLE VIII

INSURANCE

8.1 Insurance Coverage. The Association shall obtain and pay, as a Common Expense, the premium for insurance on the Building and related improvements in an amount equal to the maximum insurable replacement value thereof, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to buildings similar in construction, location and use as the Building, including by way of example vandalism and malicious mischief. The Association shall determine at least annually the replacement value of the Building and in so doing may employ such experts as it may deem necessary. The Association shall also obtain and pay, as a Common Expense, the premiums for public liability and workmen's compensation and may obtain and pay the premiums for such other types of insurance as it deems necessary or desirable. Each Owner may obtain and pay the premium for insurance coverage of the contents of his Unit and public liability and property damage on his Unit in his discretion. Each Owner's share of the Common Insurance Expense shall be computed by the Association's insurance underwriter, according to the risk and value assigned to each Unit by such underwriter, and shall not be computed by the Unit's participation in Common Expenses assigned and set forth in the Map. Such Common Insurance Expense shall be a Common Expense under Article VI, notwithstanding the differing method of apportionment thereof between the Owners.

8.2 Certificates of Insurance. A certificate or Memorandum of the insurance coverage maintained by the Association shall be furnished by the Association upon request to any Owner or mortgagee of a Unit.

ARTICLE IX

DAMAGE AND REPAIR

9.1 Repair or Reconstruction after Damage. For the purposes of this Article IX total damage is defined as such damage as to render, in the judgment of the Association, all the Units in the Building untenable. Any damage less than total damage as so defined is partial damage for the purposes of this Article IX. Repair or reconstruction as used in this Article IX means restoration of improvements to substantially the same condition which they existed prior to the damage, with each Unit and the Common Elements having substantially the same horizontal and vertical boundaries as before.

9.2 Insurance Proceeds Sufficient to Repair. In the event that proceeds from insurance coverage are sufficient to cover the cost of repair or reconstruction after damage to the Building or any part thereof, then such repair or reconstruction shall be promptly performed by the Association, as attorney-in-fact for the Owners.

9.3 Insurance Proceeds Insufficient to Repair. If insurance proceeds are insufficient to repair the damaged Building, the following provisions shall govern:

(a) Partial Damage. A partial damage to the Building shall be repaired as promptly as possible under the direction of the Association, and any cost of such repair in excess of insurance proceeds shall be assessed against all Owners as a Common Expense.

(b) Total Damage. In the event of total damage to the Building a special meeting of the Owners shall be held for the purpose of determining whether the reconstruction should be done. If seventy-five percent (75%) of the Owners vote in favor of reconstruction, and all first mortgagees consent thereto, then all Owners shall be bound and the cost of reconstruction in excess of insurance proceeds shall be assessed against all Owners as a Common Expense. If seventy-five percent (75%) of the Owners and all first mortgagees do not vote in favor of reconstruction, then the Association shall forthwith sell the entire Condominium Property as attorney-in-fact for the Owners. In such case the insurance proceeds, if any, payable as a result of the damage shall be collected by the Association and after payment of costs of collection thereof and of other outstanding obligations and charges owed by the Association as a result of the damage, the Association shall disburse the insurance proceeds and the proceeds of sale to the Owners in accordance with each Owner's percentage interest in the Common Elements. Such proceeds as may be necessary to satisfy any lien, mortgage or deed of trust against a Unit may be paid out of such Owner's share of proceeds.

9.4 Power of Attorney. This Declaration hereby appoints the Association as the irrevocable attorney-in-fact

for all Owners to deal with the Condominium Property upon its damage and repair.

ARTICLE X

FIRST RIGHT OF REFUSAL

10.1 Offer of Purchase or Lease. No Owner, except Declarant, may sell or lease such Owner's Unit or any interest therein except pursuant to the provisions of this Article X. Any Owner, except Declarant, who receives a bona fide offer for the purchase or lease of his Unit, which he intends to accept, shall give prompt written notice to the Association of such offer and of such intention, the name and address of the proposed purchaser or lessee, the terms of the proposed transaction, and such other information as the Association may reasonably require, and such Owner shall thereupon offer to sell or to lease his Unit, through the agency of the Association, to all other Owners, whether one or more of them, on the same terms and conditions as contained in the bona fide offer. The giving of notice shall constitute a warranty and representation to the Association for the benefit of the remaining Owners, that such Owner believes the offer to purchase to be bona fide in all respects.

10.2 Notice to Remaining Owners. Within five (5) business days after the receipt of notice of a bona fide offer, the Association shall mail by regular United States mail, postage prepaid, to each Owner the information as to the bona fide offer to purchase or lease. For a period of fifteen (15) days beginning on and including the date of the actual mailing of such information, the other Owners shall have the right to purchase or to lease the subject Unit on the same terms and conditions as contained in the bona fide offer.

10.3 Exercise of Right. In order to exercise the right of first refusal, the Owners, whether one or more of them, must on or before the end of such fifteen-day period, actually deliver to the Association a written commitment or commitments to purchase or lease the subject Unit. If only one Owner shall submit a written commitment, then such Owner shall be deemed to have the sole right to acquire the offered Unit by lease or purchase, pursuant to the terms of the bona fide offer. If more than one written commitment is delivered, the Association shall give immediate notice by telephone or telegram to all Owners who delivered such written commitment of the fact of multiple commitments. For a period of five (5) days beginning on and including the day of telephone or telegram notice, the Owners who submitted the multiple commitments may agree among themselves as to a form of undivided ownership and procedure for purchase or lease of the offered Unit. Notice of such agreement shall be delivered to or received by the Association in writing within the five (5) day time period. If no such agreement is delivered to or received by the Association, then the Association shall promptly conduct a drawing between the Owners who submitted the multiple commitments to determine priority as between them and the priority so determined shall be conclusive. The Owner or Owners who shall have validly exercised the right hereunder shall enter into a contract with the offering Owner to purchase or lease the offered Unit upon the same terms and conditions as contained in the bona fide offer, or upon terms and conditions no less favorable to the offering Owner, and tender to the offering Owner any down payment or deposit theretofore made under the bona fide offer.

10.4 Non-exercise of Right. If no Owner shall exercise his right hereunder within the time period provided, the offering Owner shall be free to accept and close upon the basis of the bona fide offer with the person or persons who made the bona fide offer. If the offering Owner shall not within the period provided in the bona fide offer close the transaction on the terms and conditions as originally contained therein, then the offering Owner shall be required to again comply with all of the terms and provisions of this Article X in order to subsequently sell or lease the Unit.

10.5 Failure to Comply. Any sale or lease of a Unit without full compliance with the terms and provisions of this Article X shall be voidable at the election of the Association.

10.6 Certificate. After full compliance by an offering Owner with this Article X, and after all periods of time provided for purchase by remaining Owners have expired and the right of first refusal has not been exercised, then the Association shall execute a certificate in recordable form stating that the provisions of this Article X have been complied with and that any right or rights of first refusal theretofore vested in the remaining Owners have terminated. Such certificate may be signed by any member of the Board of Managers of the Association and shall be conclusive upon the Association and the remaining Owners in favor of all persons who rely thereon in good faith.

10.7 Exceptions. The following transfers or conveyances of a Unit are expressly excepted from the provisions of this Article X:

(a) A transfer to or purchase by any mortgagee which acquires its title as a result of foreclosure proceedings or conveyance in lieu thereof; and a transfer, sale or lease by any such mortgagee after acquisition of the Unit by foreclosure or conveyance in lieu thereof.

(b) A transfer, conveyance or lease between or among Owners, whether of separate Units or co-tenants of the same Unit.

(c) A transfer or conveyance by gift, devise or inheritance or by operation of law.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Separate Tax Assessment. Declarant shall advise the Assessor of Gunnison County, Colorado, of the creation of the Condominium so that each Unit shall be deemed a separate parcel of real property and subject to separate assessment and taxation.

11.2 Compliance with Declaration. Each Owner shall comply strictly with the provisions of this Declaration, the

NONPROFIT

ARTICLES OF INCORPORATION
OF

FILED

SEP -6 1992

ELK AVENUE BUILDING CONDOMINIUM ASSOCIATION, INC. STATE OF COLORADO
DEPARTMENT OF STATE

KNOW ALL MEN BY THESE PRESENTS, that the undersigned have associated themselves together to establish a non-profit corporation pursuant to the Colorado Non-Profit Corporation Act and do hereby certify:

ARTICLE I.

Name

The name of this corporation shall be:

Elk Avenue Building Condominium Association, Inc.

ARTICLE II.

Duration

The corporation shall have perpetual existence.

ARTICLE III.

Purposes

The corporation is established not for profit and its objects and purposes are:

A. To govern the condominium property situate in the Town of Mt. Crested Butte, County of Gunnison, State of Colorado, which is termed Elk Avenue Building Condominium Association, Inc.

B. To constitute the association to which reference is made in the Condominium Declaration for Elk Avenue Building recorded in Book 527 at Page 595, of the records of Gunnison County, Colorado, and to perform all of the rights, duties and obligations and to exercise all of the powers as specified in said Condominium Declarations.

C. To perform all of the rights, duties and obligations and to exercise all of the powers as specified in said Condominium Declarations.

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D. To provide an entity for the furtherance of the interests of the owners of condominium units in the project.

E. To make and collect regular and special assessments against members of the corporation for the purpose of defraying the costs, expenses and any losses of the corporation.

F. To manage, control, operate, maintain, repair and improve common elements, as defined in the Colorado Condominium Ownership Act and the Condominium Declarations.

G. To enforce covenants, restrictions or conditions affecting any property to the extent this corporation may be authorized under any covenants, restrictions or conditions.

H. To make and enforce rules and regulations with respect to the use of property in the project.

I. To engage in any activities and endeavors which may now or hereafter be allowed or permitted by law to actively foster, promote and advance the common interests of owners of condominium units within the project.

ARTICLE IV.

Powers

The corporation shall have and may exercise all powers conferred upon non-profit corporations organized and existing under the laws of the State of Colorado.

ARTICLE V.

Members

A. The owner of a condominium unit in Elk Avenue Building, upon becoming such owner, shall be entitled and required to be a member of the corporation for the period of ownership of a condominium unit.

B. The terms and conditions of membership shall be as set forth in these Articles, the Bylaws of this Corporation and the Condominium Declarations of Elk Avenue Building.

C. There shall be one class of members. The Corporation may issue a certificate evidencing membership therein.

ARTICLE VI.

Board of Directors

A. The affairs of the corporation shall be managed by a Board of Directors.

B. The Board of Directors shall consist of three (3) members; the numbers of directors, their term of office and the manner of their election shall be as set forth in the Bylaws of the Corporation.

C. Three (3) directors shall constitute the initial Board of Directors and their names and addresses are as follows:

David Leinsdorf
P.O. Box 187
Crested Butte, CO 81224

Randy P. Wolfe
215 Elk Avenue
Crested Butte, CO 81224

Kathleen A. Berndt
P.O. Box 1090
Crested Butte, CO 81224

ARTICLE VII.

Registered Office and Agent

A. The address of the initial registered and principal office of the Corporation is:

111 Elk Avenue
Crested Butte, CO 81224

B. The name of its initial registered agent at such address shall be: Gloria Wojtalik.

ARTICLE VII.

Bylaws

The initial Bylaws of the corporation shall be adopted by the Board of Directors. The power to alter, amend or repeal the Bylaws or adopt new bylaws shall be vested in the Board of Directors.

ARTICLE IX.

Incorporator

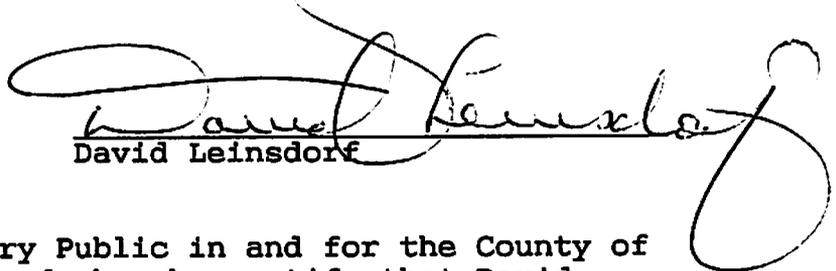
The name and address of the incorporator is:

David Leinsdorf
215 Elk Avenue
P.O. Box 187
Crested Butte, CO 81224

ARTICLE X.

Distribution of Assets Upon Dissolution

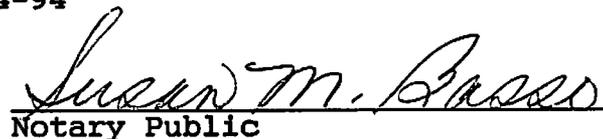
Upon dissolution of the Corporation and after paying or making provision for the payment of all the liabilities of the Corporation, the board of directors shall dispose of all of the assets of the Corporation only in furtherance of the purposes of the Corporation and none of the assets of the corporation shall be distributed to the members of the corporation or in violation of any statute or regulation of the State of Colorado or the United States of America.


David Leinsdorf

I, Susan M. Basso, a Notary Public in and for the County of Gunnison and State of Colorado, do hereby certify that David Leinsdorf, who is to me personally known to be the person whose name is subscribed to the foregoing Articles of Incorporation, appeared before me this day in person and upon oath, swore to the truth of the facts therein stated and acknowledged that he signed and delivered said instrument of writing as his free and voluntary act.

Given under my hand and official seal this 2nd day of September, 1992.

My commission expires: 09-24-94


Notary Public

BYLAWS

OF

ELK AVENUE BUILDING CONDOMINIUM ASSOCIATION, INC.,

A Nonprofit Corporation

ARTICLE I.

Principal Office and Corporate Seal

Section 1. The principal office and place of business of the Association in the State of Colorado shall be at the offices of David Leinsdorf, Unit 5, 215 Elk Avenue, P. O. Box 187, Crested Butte, Colorado, 81224. Other offices and places of business may be established from time to time by resolution of the Board of Managers.

Section 2. The seal of the Association shall have inscribed thereon the name of the Association, the year of its incorporation, and the words "Colorado" and "Seal", and shall be in such form as may be approved by the Board of Managers, which shall have power to alter the same at pleasure.

ARTICLE II.

Members

Section 1. Annual Meeting. The annual meeting of the Members shall be held ~~on~~ in the month of April of each year, beginning with the year 1979 ~~at the hour of~~ for the purpose of electing Members of the Board of Managers and for the transaction of such other business as may properly come before the meeting.

Section 2. Place of Meeting. The Board of Managers may designate the place of meeting for the annual meeting or any special meeting, within or without the State of Colorado. If no such designation be made, the place of meeting shall be the principal office and place of business of the Association.

Section 3. Special Meetings. Special meetings of the Members may be called by the President, or in the absence of the President, by the Vice President, or the Board of Managers, or by the holder of not less than ten percent of the total memberships in the Association.

Section 4. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than two nor more than thirty days before the date of meeting, either personally, by mail, or by leaving written notice of such meeting firmly affixed to or slipped under the door of each condominium unit within the subject Elk Avenue Condominium Building, by or at the direction of the person calling the meeting to each Member of record. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears on the membership transfer book of the Association, with postage paid thereon.

Section 5. Quorum. Fifty-one percent of the memberships of the Association represented in person or by proxy, shall constitute a quorum at a meeting of the Members. If a quorum be present, the affirmative vote of the majority of the percentage of memberships represented at the meeting shall be the act of the Members, unless the vote of a greater number is required by the Articles of Incorporation or the laws of the State of Colorado.

Section 6. Proxies. At all meetings of the Members a Member may vote either in person or by proxy executed in writing by the Member or by his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after eleven months after the date of its execution unless otherwise provided in the proxy.

Section 7. Voting of Memberships. Each member shall be entitled to vote on all matters, each vote weighted in accordance with the percentage of ownership of the common elements of the Elk Avenue Condominium Building attributable to each respective Condominium Unit, set forth as follows:

Unit 1	11.1%
Unit 2	4.9%
Unit 3	8.2%
Unit 4	45.3%
Unit 5	11.5%
Unit 6	19.0%
	<u>100%</u>

At each election for members to the Board of Managers, every member entitled to vote at such election shall have the right to vote, in person or by proxy, the percentage of ownership owned by him for as many persons as there are Managers to be elected, and cumulative voting shall be permitted.

Section 8. Order of Business. The order of business at the annual meeting, and as far as possible at all other meetings of the Members, shall be as follows:

1. Calling the roll,
2. Secretary's proof of due notice of the meeting,
3. Reading and disposal of any unapproved minutes,
4. Reports of officers, annual or otherwise,
5. Election of Managers,
6. Unfinished business,
7. New business,
8. Adjournment.

ARTICLE III.

Board of Managers

Section 1. General Powers. The business and affairs of the Association shall be managed by the Board of Managers.

Section 2. Number, Tenure and Qualifications. The number of Managers of the Association shall be four, which number shall include the President of the Association who shall also be the Chairman of the Board of Managers, the Vice President, Secretary and Treasurer.

Directors need be Members of the Association.

Section 3. Annual Meeting. The annual meeting of the Board of Managers shall be held without other notice than these Bylaws immediately after, and at the same place as, the annual meeting of the Members. The Board of Managers may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than this resolution.

Section 4. Special Meetings. Special meetings of the Board of Managers may be called at any time by the President, or in his absence, by the Vice President, or by any Manager. Such special meetings shall be held at the registered office of the Association, unless otherwise specified, and may be held within or without the State of Colorado.

Section 5. Notice. Notice to any special meeting shall be given at least two days prior thereto by written notice delivered personally or mailed to each Manager at his last known address or by telegram, or by leaving written notice of such meeting firmly affixed to or slipped under the door of the condominium unit, within the subject Elk Avenue Condominium Building, owned by such Manager. Any Manager may waive notice of any meeting. The attendance of a Manager at a meeting shall constitute a waiver of notice of such meeting except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of, any regular or special meeting of the Board of Managers need be specified in the notice or waiver of notice of such meeting.

Section 6. Quorum. A majority of the Managers as fixed by these Bylaws, shall constitute a quorum for the transaction of business at any meeting of the Board of Managers. The act of the majority of the Managers present at a meeting at which a quorum is present shall be the act of the Board of Managers, unless the act of a greater number is required by the Articles of Incorporation or these Bylaws.

Section 7. Vacancy. Any vacancy occurring in the Board of Managers may be filled by the affirmative vote of a majority of the remaining Managers though less than a quorum of the Board of Managers. A Manager elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office, and shall hold such office until his successor is duly elected and shall qualify. Any Managership to be filled by reason of an increase in the number of Managers shall be filled by the affirmative vote of a majority of the Managers then in office or by an election of an annual meeting, or at a special meeting of Members called for that purpose. A manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until the next annual meeting of Members and until his successor shall have been elected and shall qualify.

Section 8. Compensation. Managers may receive reasonable travel expenses for attendance at each meeting of the Board of Managers, but shall not receive a salary or stated fee for their services as a Manager. Such limitations shall not preclude any Manager from serving the Association in any other capacity and receiving compensation therefor.

Section 9. Removal. The members may, at a meeting called for the express purpose of removing Managers, by a majority vote of the memberships, remove the entire Board of Managers or any lesser number, with or without cause.

ARTICLE IV.

Officers

Section 1. Number. The elective officers of the Association shall be a President, Vice President, Secretary and Treasurer, each of whom shall be elected by the Board of Managers at their annual meetings. Any two or more offices may be held by the same person at the same time, except that one person may not simultaneously hold the offices of President and Secretary.

Section 2. Election and Term of Office. The officers set forth above shall be elected by the Board of Managers at its annual meeting, and shall hold their respective office or position until the next annual meeting of the Board of Managers and until their successors are elected and shall qualify.

Section 3. Vacancy. A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Managers for the unexpired portion of the term.

Section 4. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Managers, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members and of the Board of Managers. He may sign with the Secretary, or any other proper officer of the Association, any deeds, mortgages, bonds, contracts or other instruments which the Board of Managers has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Managers or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Managers from time to time.

Section 5. The Vice President. In the absence of the President, or in the event of his death or inability or refusal to act, the Vice President shall perform the duties of and be subject to all restrictions upon the President, and shall perform such other duties as from time to time may be assigned to him by the President or the Board of Managers.

Section 6. Secretary. The Secretary shall keep accurate minutes of the members and the Board of Managers meetings. He shall keep or cause to be kept a register of Members of the Association, as determined by the legal title to each subject Condominium Unit, and shall be responsible for the giving of notice of meetings of the Members or of the Board of Managers. The Secretary shall be custodian of the records and of the seal of the Association and shall attest the affixing of the seal of the Association when so authorized. The Secretary shall perform all duties commonly incident to his office and such other duties as may from time to time be assigned to him by the President.

Section 7. Treasurer. The Treasurer, subject to the order of the Board of Managers, shall have the care and custody of the money, funds, valuable papers and documents of the Association. He shall keep accurate books of account of the Association's transactions, which shall be the property of the Association, and shall render financial reports and statements of condition of the Association when requested by the Board of Managers or President. The Treasurer shall perform all duties commonly incident to his office and such other duties as may from time to time be assigned to him by the President.

Section 8. Salaries. The salaries of the officers shall be fixed from time to time by the Board of Managers and no officer, agent or employee shall be prevented from receiving such salary by reason of the fact that he is also a member of the Board of Managers of the Association.

Section 9. Removal. Any officer may be removed by the Board of Managers, at a meeting called for that purpose, whenever in its judgment the best interest of the Association will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election of an officer or agent shall not, of itself, create contract rights.

ARTICLE V.

Contracts, Loans, Checks and Drafts

Section 1. Contracts. The Board of Managers may authorize, by resolution, any officer or officers, agent or agents, to enter into any contract or execute and delivery any instruments in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Managers. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, etc. All checks, drafts or other order for payment of money, drafts, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by the President of the Association, or such other person or persons as may from time to time be designated by appropriate resolution of the Board of Managers.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Managers may elect.

Section 5. Negation of Pecuniary Gain. This Association is not organized for a pecuniary profit. It shall not have any power to issue certificates of stock or declare dividends, and no part of its net earnings shall inure to the benefit of any Members, member of the Board of Managers, or individual. The balance, if any, of all money received by the Association from its operations, after the payment in full of all debts and obligations of the corporation of whatever kind or nature, shall be used and distributed exclusively for charitable, scientific, and educational purposes.

ARTICLE VI.

Certificates of Memberships

This Association shall be a membership corporation without certificates or shares of stock. There shall be one class of memberships, and there shall be one membership in the Association for each owner of a Condominium Unit within the Elk Avenue Building Condominium, defined as any person, persons, partnership, corporation or other entity or any combination thereof owning all or a part of the fee simple title to such Condominium Unit.

If title to any Condominium Unit shall be held by two or more

Association and shall be entitled to a vote equal in weight to such co-tenant's percentage of ownership of the subject Condominium Unit applied to the percentage of ownership of the Condominium common elements allocated to such Condominium Unit. The co-tenant's percentage of ownership of a Condominium Unit shall be as determined by the title documents of such Condominium Unit; in the absence of specific limitation, co-tenants shall be presumed to have equal undivided interests. No person or entity other than an owner of a Condominium Unit may be a member of the Association.

A membership in the Association and the share of a member in the assets of the Association shall not be assigned, encumbered or transferred in any manner except as an appurtenance to transfer of title to the Condominium Unit to which the membership pertains; provided, however, that the rights of membership may be assigned to the holder of a mortgage, deed of trust, or other security instrument on a Condominium Unit as further security for a loan secured by a lien on such Condominium Unit.

A transfer of membership shall occur automatically upon the transfer of title to the Condominium Unit to which the membership pertains. However, before any new owner may vote as a Member of the Association, such new owner shall provide the Secretary with sufficient and proper evidence that such person is the new legal owner, in fee, of the subject Condominium Unit, which fact, and transfer of membership shall be noted in the Association's records by the Secretary, along with copies of the applicable title documents.

The Association may suspend the voting rights of a member for failure to comply with the rules and regulations of the Association or of their Bylaws or with any other obligations of the owners of a Condominium Unit under the Condominium Declaration, or agreement created thereunder.

ARTICLE VII

Dues

Section 1. Annual Dues. The Board of Managers shall determine from time to time the amount of annual dues payable to the Association by the Members, according to the estimated and projected costs and expenses of managing, operating and maintaining the Elk Avenue Building Condominiums, pursuant to the Condominium Declarations, and shall give appropriate notice of such dues to the Members.

Section 2. Payment of Dues. Dues shall be payable in advance on the first day of the beginning month in each fiscal year of the Association.

Section 3. Additional Assessments. Pursuant to, and in accordance with, the Condominium Declarations, at the end of each fiscal year of the Association, the Association shall determine the actual expenses for the previous year, and shall either assess each Member or credit him against the dues for the next ensuing fiscal year, as the case may be, for his share of the difference between the estimated and actual expenses.

ARTICLE VIII.

Fiscal Year

The fiscal year of the Corporation shall begin on the 1st day of January and end one year later on the 31st day of December.

ARTICLE IX.

Waiver of Notice

Whenever notice is required to be given to any Member or member of the Board of Managers of the Association under the provisions of these Bylaws or under the provisions of the Articles of Incorporation or under the provisions of the laws of the State of Colorado, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE X.

Indemnification of Managers and Officers

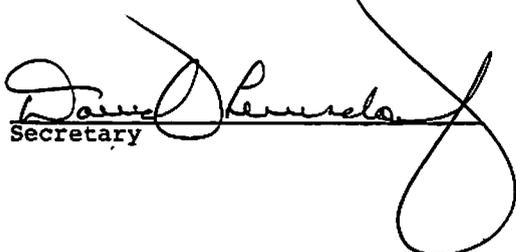
The Association shall indemnify every member of the Board of Managers or Officer, his heirs, executors and administrators, against expenses reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a member of the Board of Managers or Officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; in the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified did not commit such a breach of duty. The foregoing right of indemnification shall not be exclusive of other rights to which he may be entitled.

ARTICLE XI.

Amendments

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board of Managers at any regular or special meeting of the Board of Managers.

The above Bylaws were approved and adopted by the Board of Managers on August 15, 1979.


Secretary



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1 of 8 R 40.00 D 0.00 N 0.00 Gunnison County

MUTUAL EASEMENT AGREEMENT

THIS MUTUAL EASEMENT AGREEMENT, is by and between:

Linda R. Camp, whose address is 1690 Newcomb Avenue, NW Cakato, MN 55321 ("Camp");

and

Elk Investments, LLC, a Colorado limited liability company, P.O. Box 5108, Mt. Crested Butte, CO 81225 ("Elk");

and

Kathleen A. Berndt, Villanueva Family Trust and David Leinsdorf, whose address is c/o David Leinsdorf, P.O. Box 187, Crested Butte, CO 81224 ("Berndt/Villanueva/Leinsdorf").

WHEREAS, Camp owns Lot 21, Block 21, Town of Crested Butte, County of Gunnison, State of Colorado ("Lot 21");

WHEREAS, Elk owns Lot 22, Block 21, Town of Crested Butte, County of Gunnison, State of Colorado ("Lot 22");

WHEREAS, Berndt/Villanueva/Leinsdorf are the owners of Lot 23, Block 21, Crested Butte, County of Gunnison, State of Colorado ("Lot 23");

WHEREAS, the parties are willing to grant to each other reciprocal utility easements upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. **Utilities Easements.** The parties hereby grant and convey to each other, their heirs, representatives, successors and assigns, perpetual easements and rights of way approximately 9 feet wide to install, construct, reconstruct, replace, renew, maintain and use underground water, sewer, electrical, natural gas, telephone, cable television and other underground utilities ("Utilities") under Lots 21, 22 and 23 in the area between Coal Creek and the



buildings south of Coal Creek on each of such Lots, together with the right of ingress and egress over and across the easement area as may be necessary for the installation, use and maintenance of such Utilities. Such easement and right of way shall be subject to the following terms and conditions:

- 1.1 Each lot owner shall have the right to use such lot owner's lot for any purpose not inconsistent with the full use and enjoyment of the right herein granted to the other lot owners.
- 1.2 Immediately upon completion of the installation or maintenance of Utilities, the party installing or maintaining the Utilities shall restore the property disturbed or damaged by such installation or maintenance to a condition as near as reasonably possible as it was prior to the installation or maintenance of the Utilities and otherwise restore the area of such installation or maintenance to a level and clean condition.
- 1.3 Each lot owner shall repair any damage that it shall do to the landscaping, vegetation, structures and/or other improvements upon the lot of another party and shall further defend and indemnify and hold harmless such other party, its heirs, representatives, successors and assigns, against any and all cost, expense, claim or damage of any kind, including reasonable attorneys' fees, which shall be caused by or arise from the exercise of the privileges granted pursuant to this Mutual Easement Agreement.

2. **Attorneys' Fees.** It is agreed that if any action is brought in a court of law by any party to this Mutual Easement Agreement as to the enforcement, interpretation, construction or arbitration of this Mutual Easement Agreement or any document provided for herein or related hereto, the substantially prevailing party in such action shall be entitled to recover all reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

- 3. **Appurtenant Agreement.** This Mutual Easement Agreement shall be perpetually appurtenant and run with title to Lots 21, 22 and 23, Block 21, Town of Crested Butte, County of Gunnison, State of Colorado and shall be binding upon the heirs, representatives, successors and assigns of the parties hereto.
- 4. **Counterparts.** This Mutual Easement Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties have executed this Mutual Easement Agreement as of the ____ day of _____, 1999.

CAMP

ELK

Linda R. Camp

Elk Investments, LLC, a Colorado limited liability company

By: _____
Thomas C. Filchner, Member

BERNDT/VILLANUEVA/LEINSDORF

COX & HAGEN ASSOCIATES, INC.

By: _____
Kathleen A. Berndt, President

Kathleen A. Berndt, individually

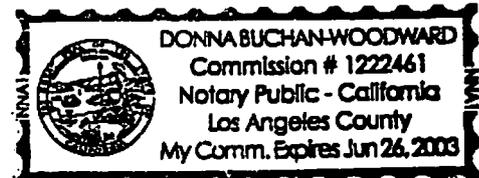
VILLANUEVA FAMILY TRUST

12-7-99 Alfred + Nidia Villanueva

By: *Alfred Villanueva*
Alfred Villanueva, Trustee

Nidia Villanueva
Nidia Villanueva, Trustee

By: *David Leinsdorf*
David Leinsdorf



Donna Buchanan-Woodward

June 26, 2003



- 3. **Appurtenant Agreement.** This Mutual Easement Agreement shall be perpetually appurtenant and run with title to Lots 21, 22 and 23, Block 21, Town of Crested Butte, County of Gunnison, State of Colorado and shall be binding upon the heirs, representatives, successors and assigns of the parties hereto.
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CAMP

ELK

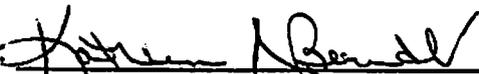
Linda R. Camp

Elk Investments, LLC, a Colorado limited liability company

By: _____
Thomas C. Filchner, Member

BERNDT/VILLANUEVA/LEINSDORF

COX & HAGEN ASSOCIATES, INC.

By: 
Kathleen A. Berndt, President

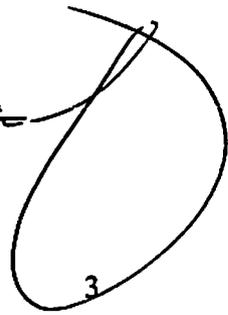

Kathleen A. Berndt, individually

VILLANUEVA FAMILY TRUST

By: _____
Alfred Villanueva, Trustee

Nidia Villanueva, Trustee

By: 
David Leinsdorf



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- 4. **Counterparts.** This Mutual Easement Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties have executed this Mutual Easement Agreement as of the ____ day of _____, 1999.

CAMP

Linda R. Camp
Linda R. Camp

ELK

Elk Investments, LLC, a Colorado limited liability company

By: Thomas C. Filchner
Thomas C. Filchner, Member

BERNDT/VILLANUEVA/LEINSDORF

COX & HAGEN ASSOCIATES, INC.

By: _____
Kathleen A. Berndt, President

Kathleen A. Berndt, individually

VILLANUEVA FAMILY TRUST

By: _____
Alfred Villanueva, Trustee

Nidia Villanueva, Trustee

By: _____
David Leinsdorf

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Mutual Easement Agreement was acknowledged before me this ___ day of _____, 1999 by Linda R. Camp.

Witness my hand and official seal. My commission expires:

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Mutual Easement Agreement was acknowledged before me this ___ day of _____, 1999 by Thomas C. Filchner, Member of Elk Investments, LLC, a Colorado limited liability company.

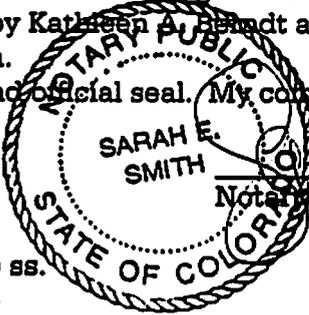
Witness my hand and official seal. My commission expires:

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Mutual Easement Agreement was acknowledged before me this 6th day of December, 1999 by Kathleen A. Berndt as President of Cox & Hagen Associates, Inc., a Colorado corporation.

Witness my hand and official seal. My commission expires:



Notary Public

MY COMMISSION EXPIRES
6-11-03.

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Mutual Easement Agreement was acknowledged before me this 9th day of December, 1999 by Kathleen A. Berndt.

Witness my hand and official seal. My commission expires:

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Mutual Easement Agreement was acknowledged before me this ___ day of _____, 1999 by Alfred Villanueva and Nidia Villanueva as Trustees of the Villanueva Family Trust.

Witness my hand and official seal. My commission expires:

Notary Public

