



GROUND LEASE

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THIS GROUND LEASE made and entered into this 15<sup>th</sup> day of Feb., 2001, by and between the Housing Authority of the City of Boulder, a body corporate and politic, ("Lessor"), and \_\_\_\_\_, as Lessee (sometimes hereinafter referred to as "Lessee" or "Ground Lessee").

WHEREAS, Lessor is organized as a Colorado housing authority under state law, whose purposes include without limitation, the development and preservation of safe, decent, attractive, affordable housing for low income people in the City of Boulder; and

WHEREAS, a goal of Lessor is to increase the availability of owner-occupied, attractive, affordable, detached, single-family housing to low income people through the construction of such housing and the long-term leasing of land under said housing; and

WHEREAS, the leased premises described in this Ground Lease has been acquired and is being leased by Lessor in furtherance of these purposes; and

WHEREAS, the leased premises has been acquired and the improvements thereupon constructed using contributions of governmental funds in the amount of approximately \$60,000, as well as significant contributions of labor, materials, equipment and professional expertise by various individuals and non-governmental organizations, such as, in particular, the Affordable Housing Alliance, Inc., a Colorado non-profit corporation; and

WHEREAS, the leased premises is a part of the Poplar Homes planned community described in a survey recorded on February 29, 1996, on Film No. 2109 at Reception No. 1587457, by the Boulder County Clerk and Recorder and is the subject of a Declaration of Covenants, Conditions and Restrictions of the Poplar Homes Community recorded on March 1, 1996, on Film No. 2109 at Reception No. 1587631, by the Boulder County Clerk and Recorder; and

WHEREAS, the Lessee is a Low Income Resident as defined in this Ground Lease; and

WHEREAS, the Lessor and the Lessee recognize that there is an overriding public interest in maintaining the leased premise so that it remains affordable during the term of this Ground Lease, and any extension thereof, for purchase by other Low-Income Residents and that certain terms and conditions that might affect the marketability or resale price of the leasehold are necessary to preserve such affordability; and

WHEREAS, Lessor and Lessee recognize the special nature of the terms and conditions of the Ground Lease, and each of the parties hereto, with the independent and informed advice of legal counsel, freely accepts said terms and conditions, including, without limitation, such

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terms and conditions as might affect the marketability or resale price of any residential structures or other improvements on the leased premises; and

WHEREAS, it is mutually understood and accepted by Lessor and Lessee that the terms and conditions of this Lease further the parties' shared goals of providing decent, affordable housing to low-income people over an extended period of time and through a succession of owners;

NOW, THEREFORE, in consideration of the foregoing recitals, of the mutual promises of the parties hereto, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### **ARTICLE I: Definitions**

As used in this Ground Lease, unless the context otherwise requires, the terms set forth below shall have the following meanings:

1.1 "Annual gross household income" means the total income from all sources during a period of a year of all persons who are part of a household.

1.2 "Area Median Income" ("AMI") means the area median income reported annually for single persons and families of various size by the United States Department of Housing and Urban Development ("HUD"), or by any successor United States Government department, agency or instrumentality, for the standard metropolitan statistical area which includes the City of Boulder, Colorado.

1.3 "Ground Lessee" means each person who has entered into this Ground Lease. The rights and obligations of each Ground Lessee shall be joint and several.

1.4 "Homeowners Association" means the Poplar Homeowners Association, a Colorado non-profit corporation.

1.5 "Immediate Family Member" means the spouse, child of any age (including, without limitation, an adopted or foster child), or parent of a Ground Lessee.

1.6 "Improvements" means all buildings, structures (including, without limitation, walls, fences, concrete pads and walkways made of stone or permanent paving material), fixtures, trees, shrubs, and other landscaping elements on the Leased Premises. It does not include personal property.



1.7 "Land" means the underlying real property that is subject to this Ground Lease. It does not include Improvements.

1.8 "Leased Premises" means the Land that is subject to this Ground Lease.

1.9 "Leasehold" means the Ground Lessee's estate in real property held under this Ground Lease.

1.10 "Lessor" means the Housing Authority of the City of Boulder.

1.11 "Low Income Resident" means a person or group of persons within a family whose income does not exceed the maximum income level of low income persons or families of various sizes as determined by HUD, or any successor department or agency, for the standard metropolitan statistical area which includes the City of Boulder, Colorado.

#### ARTICLE II: Demise of Leased Premises

2.1 PREMISES: The Lessor, in consideration of the rents reserved and the terms, conditions, covenants and agreements herein, does hereby demise and lease unto Ground Lessee, and Ground Lessee does hereby take and hire from Lessor, the property (referred to in this Lease as the "Leased Premises") described in the Exhibit A which is attached hereto. The Lessor also grants to Ground Lessee as part of and during the term of this Ground Lease the non-exclusive right to use the private drive which is described on the Exhibit B attached hereto. The Lessor also grants to Ground Lessee as part of and during the term of this Ground Lease the non-exclusive right to use the center green and pedestrian walkways described in Exhibit B for purposes not inconsistent with the lease dated March 1, 1996, between the Lessor and the Homeowners Association.

2.2 RESERVATION OF MINERAL RIGHTS: Lessor reserves to itself all the minerals and other extractive resources under the Leased Premises. Said reservation shall not diminish the right of the Ground Lessee under this Lease to occupy and freely use the Leased Premises. Any eventual extraction by the Lessor of minerals or other extractive resources shall be carried out with as little disruption to the Ground Lessee as is reasonably possible. In instances requiring a material disruption of the Ground Lessee's right to use and occupancy of the Leased Premises, the Lessor shall not make said extraction without the consent of the Lessee.

#### ARTICLE III: Duration of Lease

3.1 TERM: The term of this Lease shall be ninety-nine years, commencing on the 1st day of March 1996 and terminating on the 28th day of February, 2095, unless terminated sooner

as provided herein.

**3.2 CONSIDERATION OF EXTENSION:** In the 87th year of the Ground Lease the Lessor will begin considering whether to offer to extend the Ground Lease beyond the term, what the term of such an extension would be—if it were made, and, if the term is not extended, how to mitigate the effect of the impending expiration of the Ground Lease upon Ground Lessee and the improvements. The Lessor shall consult with the Homeowner's Association and such other organizations and individuals as it believes would be prudent. The Lessor shall endeavor to decide before the 90th year of the Ground Lease whether it is willing to offer an extension of the Lease to the Ground Lessee. However, nothing in this Ground Lease obligates the Lessor to offer to extend the Ground Lease beyond its term.

**3.3 PURCHASE OF LESSEE'S INTEREST AT EXPIRATION OF LEASE:** When the Lease expires, the Lessor shall purchase the Ground Lessee's interest in the Improvements for the lesser of:

- a) the fair market value of the Leasehold and the Improvements, or
- b) the maximum re-sale price established in accordance with Section 10.6.

The fair market value of the Leasehold and the Improvements shall be established by an appraisal. Within one year prior to the expiration of this Ground Lease, the Lessor shall have the Lessee's interest in the Leasehold and the Improvements appraised by an appraiser, whom the Lessor will select. The appraiser shall be a fully qualified professional in this field who is a member of the American Institute of Real Estate Appraisers, or an equivalent professional organization, and who is licensed by the State of Colorado, if an appraiser's license is required by the State of Colorado. The value of the Leasehold shall be appraised as though the Leasehold were to extend for a term of 30 years and all of the terms and conditions of the Ground Lease would be in effect. In calculating the maximum re-sale price in accordance with Section 10.6 the Lessor shall assume that the Ground Lease would be extended for a term of another 30 years and all the terms and conditions of the Ground Lease would be in effect. At the time when the Ground Lease expires the Lessor shall pay to the Ground Lessee the lesser of the two amounts determined as set forth above.

**3.4 CHANGE OF LESSOR:** In the event that ownership of, or title to, the Land on which the Leased Premises is located is conveyed or transferred (whether voluntarily or involuntarily) by Lessor to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected.

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**ARTICLE IV: Use of Leased Premises**

**4.1 RESIDENTIAL USE ONLY:** Ground Lessee shall use, and shall cause all occupants thereof to use, the Leased Premises only for residential purposes and such incidental activities related to residential use as are currently permitted by applicable zoning law and applicable covenants, including, and without limitation, the covenants of the Forest Glen Recreation Association. In addition, transfers of Ground Lessee's interest in the Leased Premises shall be subject to the restrictions in this Ground Lease. Ground Lessee agrees and acknowledges that the foregoing limitations, all other conditions and restrictions contained in this Ground Lease, are essential to the fulfillment of the public purposes of Lessor and are conditions and restrictions on the use of the Leased Premises intended to run the full term of this Ground Lease.

**4.2 RESPONSIBLE USE:** Ground Lessee shall use the Leased Premises in a manner so as not to cause harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner.

**4.3 RESPONSIBLE FOR OTHERS:** Lessee shall be responsible for the use of the Leased Premises by any residents thereof, families, their friends or visitors, or anyone else using the Leased Premises with their consent, and shall make them aware of the spirit, intent and appropriate terms of this Lease.

**4.4 OCCUPANCY:** Ground Lessee shall occupy the Leased Premises continuously during the entire term of the Ground Lease, except that the Ground Lessee shall have the right not to occupy the Leased Premises for a total of 24 months out of each eight-and-a-half year period during the term of the Ground Lease. An absence of three consecutive weeks or less shall not count against the eight and a half year period. Occupancy by immediate family members of Ground Lessee who had been occupying the Leased Premises for a period of at least nine consecutive months before the start of the Ground Lessee's absence shall be deemed occupancy by Ground Lessee.

**4.5 INSPECTION:** In the event only of emergency or a perceived danger to someone's health or safety, Lessor may inspect those portions of the Leased Premises outside of the Improvements without notice, provided the Lessor shall have made reasonable efforts to give advance notice to Ground Lessee. Lessor, however, shall have absolutely no obligation to make any inspection of any part of the Leased Premises at any time. The above notwithstanding, Lessor may inspect or have the Leased Premises inspected prior to re-sale in accordance with Section 10.5.

**4.6 LESSEE'S RIGHT TO PEACEFUL ENJOYMENT:** Lessee has the right to undisturbed enjoyment of the Leased Premises, and Lessor has no desire or intention to interfere

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with the personal lives, associations, expressions, or actions of Ground Lessee, subject to the terms, covenants, conditions, provisions, restrictions, or reservations of this Lease. Lessor shall have absolutely no obligation to take any action whatsoever against any other person to protect or preserve Ground Lessee's right to undisturbed, peaceful enjoyment.

4.7 **CONDITION OF LEASED PREMISES; COMPLIANCE WITH LAW:** Ground Lessee shall maintain the Leased Premises in good, safe, and habitable condition in all respects, except for normal wear and tear, and in full compliance with all applicable covenants and laws, ordinances, rules and regulations of any governmental authority with jurisdiction over matters concerning the condition of the Leased Premises. Non-compliance with this Section shall be an event of default.

**ARTICLE V: Ground Lease Fee**

5.1 **GROUND LEASE FEE:** In consideration of the possession, continued use and occupancy of the Leased Premises, Ground Lessee shall pay to Lessor a monthly Ground Lease Fee (the "Ground Lease Fee") equal to:

- a) a land use charge of Lessor (hereinafter defined) of one dollar (\$1.00); plus
- b) an administrative charge of Lessor of ten dollars (\$10.00); plus
- c) one-twelfth (1/12) of the annual real estate taxes and any other municipal assessments or fees whatsoever applicable to the Land (the parties recognize that as of the date of this Ground Lease there are no such taxes, fees or assessments imposed upon the Land); plus
- d) one-twelfth (1/12) of the annual premium attributable to the Land for any liability, property or other insurance carried by Lessor covering the Land; plus
- e) special assessments, fees (not including the charges of Lessor stated above), tax adjustments against the Land, prorated over the number of months for which said assessments or adjustments apply.

5.2 **CALCULATION OF GROUND LEASE FEE:** Promptly after the receipt by Lessor of bills for the upcoming year for such real property taxes, special assessments, insurance, and other items which constitute portions of the Ground Lease Fee, but in any event not later than December 15th of each year, Lessor shall give Ground Lessee notice of the estimated total amount of the Ground Lease Fee for the then coming year. If a bill for the coming year for any item included in the Ground Lease Fee is not available as of the time Lessor gives such notice, Lessor shall make a projected computation based upon the charge for such item for the immediately prior

year. A final adjustment shall be made in the Ground Lease Fee and Ground Lessee shall be notified thereof promptly after Lessor receives the applicable bill for the then current year.

5.3 PAYMENT OF GROUND LEASE FEE: Subject to the provisions of Section 6.2 below, the Ground Lease Fee shall be payable at Lessor's principal address specified herein on the first day of each month of each year of the term hereof. In the event this Lease commences between any of the aforesaid payment dates, a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the such month at the time of the execution hereof.

5.4 ADJUSTMENT OF LAND USE CHARGE: The land use charge specified in Section 5.1(a) is a nominal amount. However, if for a period of two years or more the annual gross, household income of the Ground Lessee equals or exceeds 140 percent of the Area Median Income for a household equal in number to the Ground Lessee's for the Standard Metropolitan Statistical Area that includes the City of Boulder, then, from that time forward, the land use charge shall be increased to an amount equivalent to the reasonable rental value of the Land for residential purposes at open market rates. If the annual income of the Ground Lessee subsequently falls below 140 percent of the Area Median Income for a period of one year or more, then land use charge shall be reduced prospectively to the nominal amount.

The Ground Lessee shall promptly notify the Lessor in writing if the Ground Lessee's annual gross, household income has reached or exceeded or dropped below 140 percent of the Area Median Income. The Ground Lessee shall thereafter provide to the Lessor such documents, including, without limitation, copies of Federal income tax returns, as the Lessor may reasonably request in order to establish the Ground Lessee's annual gross, household income to the Lessor's reasonable satisfaction. If the Lessor receives information from a source other than the Ground Lessee which leads it to reasonably believe that the Ground Lessee's annual gross, household income may have reached 140 percent of the Area Median Income, then it may request documents from the Ground Lessee to establish Ground Lessee's annual income, and Ground Lessee shall promptly provide those documents.

If the Ground Lessee reasonably asserts that any part of the documents provided to the Lessor is subject to a privilege recognized by Colorado or Federal law, then the Lessor shall treat that part as confidential and as not subject to inspection under the Colorado Public Records Act or any successor statute. The Ground Lessee may redact any part of a document which is not relevant to the question of annual gross household income.

The parties acknowledge that the purpose of this Section is to encourage people whose income is significantly greater than that of a Low Income Resident to move to other, more appropriate housing and to allow the Improvements and Leased Premises to be occupied by a Low Income Resident.

5.5 ADJUSTMENT TO ADMINISTRATIVE CHARGE. The administrative charge shall be increased at the end of every three year period in an amount commensurate to the increase since the last adjustment in the Consumer Price Index for the standard metropolitan statistical area that includes the City of Boulder.

ARTICLE VI: Taxes and Assessments

6.1 PAYMENT OF LAND TAXES BY LESSOR WITH GROUND LEASE FEE PROCEEDS: Provided that Ground Lessee has paid the Ground Lease Fee promptly and fully in accordance with the foregoing Article V, the Lessor shall pay all taxes or assessments owed for its ownership of the Land with the proceeds generated from the Ground Lease Fee. Lessor shall keep that portion of the Ground Lease Fee designated for taxes or assessments in a tax escrow account. Such tax escrow account may contain funds collected for such purpose from other lessees of Lessor. Ground Lessee shall be entitled to half of any interest earned by Lessor on the portion of the tax escrow account attributable to Ground Lessee's payments. The Lessor may from time to time at its discretion change the number and/or location of said tax escrow account. Lessor and Ground Lessee shall cooperate in securing any discount that may be available for early payment of taxes or assessments.

6.2 LESSEE'S RESPONSIBILITY FOR TAXES AND ASSESSMENTS ON IMPROVEMENTS: Ground Lessee shall be responsible for payment of all taxes and assessments, no matter how designated, that relate to the Leased Premises and the Improvements (any or all of the foregoing, "Taxes"). So long as Ground Lessee shall not be in monetary default hereunder, Ground Lessee shall be permitted to pay such Taxes directly to the taxing or assessing authority. From and after notice of a monetary default to Ground Lessee so stating, Lessor may require that some or all of such payments of Taxes be made to Lessor as part of the Ground Lease Fee, such that one twelfth (1/12) of the annual amount of such Taxes shall thereafter be included with each monthly Ground Lease Fee payment.

To the extent any Taxes are not collected as part of the Ground Lease Fee, Ground Lessee shall pay promptly when due such Taxes directly to the taxing or assessing authority. Ground Lessee shall also pay directly, when due, any and all other service bills, utilities charges, or other governmental assessments charged against the Leased Premises.

6.3 GROUND LESSEE'S RIGHT TO CONTEST: Ground Lessee shall have the right to contest the amount or validity of any taxes or assessments relating solely to the Leased Premises and the Improvements. Lessor shall, upon written request by Ground Lessee, join in any such proceedings if Ground Lessee shall reasonably determine that it shall be necessary or convenient for Lessor to so join in order for Lessee to prosecute such proceedings. All costs and



expenses of such proceedings shall be paid by Ground Lessee. Notwithstanding the foregoing, taxes or assessments against or including the Land shall be contested only with the concurrence of Lessor in its sole discretion.

6.4 **PAYMENTS IN EVENT OF DELINQUENCY:** In the event that Ground Lessee fails to pay the Taxes or other charges specified in Section 6.2 above which are not otherwise part of the Ground Lease Fee, Lessor may increase Ground Lease Fee payments in amounts such that the total sum collected will offset the cost of any delinquent and current Taxes or other charges, and make such payments in a timely manner.

6.5 **PROOF OF COMPLIANCE:** Concurrently with the payment thereof, each party shall furnish a paid receipt or a photocopy of a paid receipt to the other documenting the payment of all taxes, assessments, and charges paid by such party as required or permitted by the provisions of this Ground Lease.

#### ARTICLE VII: Improvements

7.1 **OWNERSHIP:** It is expressly understood and agreed that any and all Improvements located on the Leased Premises as of the date of this Ground Lease and other Improvements purchased by the Ground Lessee or constructed or placed by the Ground Lessee upon any part of the Leased Premises at any time during the term of this Ground Lease shall be and remain the property of the Ground Lessee. Title to such Improvements shall be and remain vested in the Ground Lessee. The Ground Lessee's exercise of the rights of ownership is subject and subordinate, however, to the provisions of this Ground Lease, in particular Section 7.6 and Article X below, regarding the disposition of Improvements by the Ground Lessee and the Lessor's option to purchase the Improvements. In addition, Ground Lessee shall not sever or move the Improvements from the Land.

7.2 **PURCHASE OF IMPROVEMENTS BY LESSEE:** The Ground Lessee has simultaneously purchased and had conveyed to Ground Lessee the Improvements now located on the Leased Premises as of the date of this Ground Lease and described in a Warranty Deed and Bill of Sale, the form of which is attached hereto as Exhibit C.

7.3 **CONSTRUCTION AND ALTERATION:** Any construction in connection with an existing or new Improvement is subject to the following conditions: (a) all costs shall be borne and paid for by the Ground Lessee or by some other person, not the Lessor, with whom Ground Lessee has made prior arrangements to bear costs; (b) all construction shall be performed in a skillful, workman-like manner and shall comply with all applicable covenants, laws, ordinances and regulations, including without limitation the requirements of local and state public health authorities; (c) all construction must be consistent with the permitted uses set forth in Article IV;

(d) the exterior (including, without limitation, height increases and porch expansions) of such Improvements shall not be added to, increased or expanded and new Improvements (i.e. new buildings or structures which are detached from existing buildings or structures) shall not be constructed without the prior written consent of Lessor and of the Homeowner's Association, each of which shall grant or deny its consent within thirty days after receiving a request therefor; and (e) Ground Lessee shall furnish to Lessor a copy of any plans therefor and all building permits for such construction prior to commencing construction.

7.4 PROHIBITION OF LIENS: No lien for services, labor or materials resulting from Lessee's Improvements shall attach to the Lessor's title to the Land or to Lessor's interest in the Leased Premises or to any other property owned by the Lessor. Ground Lessee shall not suffer or permit any vendor's, mechanic's, laborer's, or materialman's statutory or similar lien to be filed against the Leased Premises, the Improvements, or any interest of Lessor or Ground Lessee which remains more than sixty days after filing thereof, and Ground Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or as otherwise permitted by law. If Ground Lessee shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy of Lessor, Lessor may, but shall not be obligated to, discharge the same by paying the amount in question. Ground Lessee in good faith and at Ground Lessee's expense may contest the validity of any such asserted lien, provided Ground Lessee has furnished a bond in an amount set by statute or otherwise sufficient to release the Leased Premises and Improvements from such lien. Ground Lessee shall indemnify and defend Lessor against any lien or claim against Lessor's interest in the Land or against Lessor directly arising from any construction or alteration undertaken or allowed by Ground Lessee on the Leased Premises. Any amounts paid by Lessor hereunder in respect of such liens or claims shall be deemed to be an additional Ground Lease Fee payable by Ground Lessee upon demand.

7.5 MAINTENANCE: Ground Lessee shall, at Ground Lessee's sole expense, maintain the Leased Premises in accordance with all applicable covenants and all applicable laws, rules, ordinances, orders and regulations of all governmental agencies and entities with jurisdiction, the homeowners' association and all insurance companies insuring all or any part of the Leased Premises or Improvements. The Ground Lessee shall every month pay a sum as required by the Homeowners Association into a maintenance escrow fund. Lessor shall not be required to furnish any services or facilities, including but not limited to, heat, electricity, air conditioning or water, or to make any repairs to the Leased Premises, and Ground Lessee hereby assumes the full and sole responsibility for furnishing all services or facilities.

7.6 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OR TERMINATION OF LEASE TERM: Upon the expiration or termination of this Ground Lease, Ground Lessee shall yield up and surrender the Improvements together with the Leased Premises to the Lessor.

The Improvements shall thereupon revert in title to Lessor, and Ground Lease shall forthwith execute and deliver to Lessor such documents showing the change in title as Lessor may reasonably require. The Ground Lessee shall be paid for the Improvements in accordance with Section 3.3.

#### ARTICLE VIII: Financing

8.1 PERMITTED MORTGAGE(S) ONLY: Ground Lessee may mortgage, pledge, or encumber the Leasehold and the Improvements or any portion thereof or interest therein (but not the underlying land) only pursuant to a Permitted Mortgage. A "Permitted Mortgage" shall be a deed of trust or mortgage which:

a) runs in favor of either (1) an "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency (including, but not limited to, FNMA), a bank (including, but not limited to, a saving and loan association or insured credit union), an insurance company, a pension and/or profit-sharing fund or trust, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision, or (2) a "community loan fund", or similar non-profit lender to housing projects for low and moderate income persons (as defined by reference to the membership criteria for the National Association of Community Development Loan Funds, a non-profit corporation with its principal office located in Philadelphia, Pennsylvania);

b) is a first lien on all or any of the Improvements and on this Leasehold, but not the Land (the "Security");

c) provides (or which shall be deemed by Lessor to provide, if not expressly stated in the mortgage or deed of trust), among other things, that in the event of a default in any of the mortgagor's obligations thereunder, the holder of the Permitted Mortgage shall notify Lessor of such fact and Lessor shall have the right (but shall not have the obligation) within 30 days after its receipt of such notice, either (i) to cure such default in the mortgagor's name and on mortgagor's behalf, provided that current payments due the holder during such 30 day period are made to the holder, or (ii) upon notifying the holder of its intent to do so, to pay off the indebtedness secured by the Permitted Mortgage and to acquire the Security; and

d) provides (or which shall be deemed by Lessor to provide if not expressly stated in the mortgage or deed of trust), that such holder shall sell the Security pursuant to any sale or lease in lieu of foreclosure to a purchaser who is a Low Income Resident as defined herein.

8.2. LESSOR'S CONSENT TO PERMITTED MORTGAGE: Ground Lessee shall give Lessor prior written notice of any mortgage or deed of trust and shall furnish to Lessor true and

correct copies of each and every document and instrument to be executed in connection with the transaction represented by such mortgage. Lessor's prior consent to a mortgage or deed of trust being placed on the Leasehold or the Improvements shall not be required, provided that the mortgage or deed of trust is a Permitted Mortgage as defined by the provisions hereof.

8.3 RIGHTS OF PERMITTED MORTGAGEE: Any Permitted Mortgagee shall without requirement of consent by the Lessor have the right, but not the obligation, to:

a) cure any default under this Ground Lease, and perform any obligation required hereunder, such cure or performance by a Permitted Mortgagee being effective as if the same had been undertaken and performed by Ground Lessee;

b) acquire and convey, assign, transfer and exercise any right, remedy or privilege granted to Ground Lessee by this Ground Lease or otherwise by law, subject to the provisions, if any, in said Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and

c) rely upon and enforce any provisions of this Ground Lease to the extent that such provisions are for the benefit of a Permitted Mortgagee.

Permitted Mortgagee shall not, as a condition to the exercise of its rights hereunder, be required to assume personal liability for the payment and performance of the obligations of the Ground Lessee hereunder. Any such payment or performance or other act by Permitted Mortgagee hereunder shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Security and the Leased Premises. In the event Permitted Mortgagee does take possession of the Security and thereupon transfers the Security, any such transferee shall be required to enter into a written agreement assuming such personal liability, and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability hereunder.

In the event that title to the estates of both Lessor and Ground Lessee shall be acquired at any time by the same person or persons, no merger of said estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in said mortgage. In the event that the estate of Lessor is owned at any time by Ground Lessee (regardless of a merger), or by any person in which Ground Lessee has a direct or indirect interest, Permitted Mortgagee shall not be obligated to cure any default of Ground Lessee hereunder as condition to the forbearance by Lessor in the exercise of Lessor's remedies as herein provided.

8.4 APPROVAL OF AMENDMENTS: Any amendments to this Ground Lease shall be subject to the written approval of Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty days after submittal to Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

8.5 NEW LEASE TO PERMITTED MORTGAGEE: If this Ground Lease is terminated for any reason, or in the event of a rejection or disaffirmance of the Ground Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall enter into a new lease of the Leased Premises with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to Lessor's approval, which approval shall not be unreasonably withheld), not more than thirty days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of this Ground Lease, effective as of the date of such termination, rejection or disaffirmance, and upon all the terms and provisions contained in this Ground Lease. However, the Permitted Mortgagee shall make a written request to Lessor for such new lease within sixty days after the effective date of such termination, rejection or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Lessee thereunder, and the Permitted Mortgagee shall have cured all defaults under the Ground Lease which can be cured by the payment of money. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Leased Premises as the Ground Lease. The provisions of this Section shall survive the termination, rejection, or disaffirmance of the Ground Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by Lessor, Ground Lessee and the Permitted Mortgagee.

8.6 NO TERMINATION DURING FORECLOSURE: The Lessor shall have no right to terminate this Ground Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions hereof and is diligently pursuing the same.

8.7 NOTICE: Whenever in this Article notice is to be given to Permitted Mortgagee, such notice shall be given in the manner set forth in Section 14.1 hereof to the Permitted Mortgagee at the address which has been given by the Permitted Mortgagee to Lessor by a written notice to Lessor sent in the manner set forth in Section 14.1 hereof.

8.8 COSTS OF PERMITTED MORTGAGE: Ground Lessee shall pay to Lessor at Lessor's option, as additional rent hereunder, all reasonable fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by Lessor in connection with any Permitted Mortgage.

ARTICLE IX: Liability, Insurance, Damage and Destruction, Eminent Domain

9.1 LESSEE'S LIABILITY: From and after the date hereof, Ground Lessee assumes sole responsibility and liability to any and all persons and authorities related to its possession, occupancy and use of the Leased Premises and Improvements.

9.2 INDEMNIFICATION OF LESSOR: Ground Lessee shall defend, indemnify and hold Lessor harmless against all liability and claims of liability for damage or injury to persons or property from any cause on or about the Leased Premises or Improvements, except for claims that are determined by a court of competent jurisdiction in a final judgment no longer subject to appeal to have been caused solely by Lessor's gross negligence or willful misconduct. The above notwithstanding, Ground Lessee shall defend the Lessor against all such liability and claims from any cause on or about the Leased Premises or Improvements, regardless of any assertions about Lessor's fault in causing the damage or injury, until such time as a court of competent jurisdiction determines in a final judgment no longer subject to appeal that the damage or injury was caused solely by Lessor's gross negligence or willful misconduct. Upon such a determination, Lessor will re-imburse Ground Lessee for the reasonable costs of Lessor's defense, including, without limitation, reasonable attorney's fees.

Ground Lessee waives all claims against Lessor for damage or injury to person or property on or about the Leased Premises or Improvements arising, or asserted to have arisen, on or about the Leased Premises or Improvements from any cause whatsoever. Nothing in this Ground Lease is intended to waive or limit the protection provided to the Lessor by the Colorado Governmental Immunity Act, Section 24-10-101, C.R.S., et seq., or any successor statute or statutes.

9.3 PAYMENT BY LESSOR: In the event the Lessor shall be required to pay any sum whatsoever which is the Ground Lessee's responsibility or liability, the Ground Lessee shall promptly reimburse the Lessor therefor and for reasonable expenses caused thereby.

9.4 INSURANCE: Lessee shall, at Lessee's sole expense, keep all Improvements continuously insured against loss or damage by fire and extended coverage hazards for the full replacement value of such Improvements. All insurance policies shall name the Ground Lessee, Ground Lessee's mortgagee and the Lessor as insureds or loss payees, and the proceeds thereof shall be payable to said parties, as their respective interests may appear. To the greatest extent reasonably possible, all proceeds from fire or extended coverage shall be used to repair or rebuild the Improvements.

Lessee shall, at Lessee's sole expense, maintain continuously in effect bodily injury liability insurance covering the Leased Premises and Improvements in the amount of not less than three hundred thousand dollars (\$300,000) for injury to or death of any number of persons in one

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occurrence, and \$250,000 for property damage. The dollar amount of each such coverage shall be adjusted at least every two years from the date hereof or upon Lessor's demand given not more often than annually, upon thirty days notice to Ground Lessee. This adjustment shall be equal to the percentage of change (positive or negative) over the period since the last adjustment in the Consumer Price Index for urban wage earners and clerical workers for the urban area in which the land is located. Such index is maintained by the Office of Prices and Living Conditions of the Bureau of Labor Statistics, of the U.S. Department of Labor. Such insurance shall specifically insure Ground Lessee against all liability assumed hereunder, as well as all liability imposed by law, and shall also insure Lessor as an additional insured so as to create the same liability on the part of insurer as though separate policies had been written for Lessor and Ground Lessee.

Ground Lessee shall provide Lessor with copies of all policies and renewals thereof. All policies shall also contain endorsements providing that they shall not be canceled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without not less than thirty days prior written notice being given to Lessor. Lessor shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance.

9.5 DAMAGE OR DESTRUCTION: Except as provided below in this Section 9.5, in the event of fire or other casualty to any Improvements, Ground Lessee shall forthwith commence, and thereafter diligently and continuously prosecute to completion, the repair of such damage and the restoration of such Improvements to their condition immediately prior to such damage. All such repairs and restoration shall be completed as promptly as possible. Ground Lessee shall also promptly take all steps necessary to assure that the Leased Premises shall be and remain safe and the damaged Improvements not constitute a hazard or damage to persons or property from the time of the fire or other casualty.

In no event shall the Ground Lease Fee be suspended or abated, unless Lessor, in its absolute discretion, decides to do so in consideration of the personal hardship or incapacity of Ground Lessee. (The intent of this section is to foster perpetual occupancy by Low Income Residents, as defined below, despite the occurrence of unforeseeable financial and personal hardship.)

9.6 EMINENT DOMAIN AND PUBLIC DEDICATION: In the event of a taking of the entire Leased Premises by reason of eminent domain or other action of a public authority prior to the expiration or termination of the term of this Lease, this Lease shall terminate as of the date Ground Lessee is thereby required to give up possession of the Leased Premises. After payment of the expenses of collection, if any the entire award attributable to the Land shall be paid to the Lessor, and the entire compensation award attributable to the Leasehold and the Improvements shall be paid to the Ground Lessee and the mortgagee as their interests may appear.

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In the event of a taking (as aforesaid) of less than the entire Leased Premises, then the proceeds paid or payable by reason of such taking shall be allocated as follows:

a) If the Improvements may reasonably be restored to a residential use consistent with this Ground Lease, the Lessor may in its discretion allocate some or all of the proceeds to enable Ground Lessee to repair and restore that which may remain thereof.

b) Any remainder after such allocation shall be paid over in accordance with an allocation made as provided above for a taking of the entire Leased Premises.

Any and all proceedings brought by a party in connection with the claim or claims for damages as a result of any taking referred to in this Section shall be conducted by and at the sole expense of such party. If any provision of law now or hereafter in effect shall require that said proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party covenants and agree to do any and all acts and to execute any and all documents which may be required to enable the other to maintain such proceedings. If such party required to join in the proceedings shall incur any cost or expense in connection with such proceedings, such party shall be entitled to reimbursement for the reasonable amount thereof and same shall likewise constitute a first charge against any award.

#### ARTICLE X: Transfer, Sale or Disposition of Leasehold and Improvements

10.1 INTENT AND EFFECT: It is the express understanding and intent of the parties that the terms and conditions hereof, and in particular of this Article X, are intended in part to enhance the marketability of the Leasehold and the Improvements on the Leased Premises by making them affordable to low income families who, absent such provisions, would be unable to afford them.

10.2 TRANSFERS TO INCOME-QUALIFIED RESIDENTS: Ground Lessee may sell, transfer, or otherwise dispose of the Leasehold and the Improvements only to someone who is a Low Income Resident. However, such transfers shall be subject to Lessor's review and purchase option rights set forth in this Article X. Any purported sale, transfer or other disposition to any other person or entity done without following the procedures set forth below or in violation of such price limitations, except in the case of a sale, transfer or other disposition to a Permitted Mortgagee in lieu of foreclosure or a disposition to heirs under Section 10.3 below in accordance with the terms hereof, shall be null and void.

10.3 TRANSFER TO LESSEE'S HEIRS: Upon receipt of notice from the administrator, personal representative or executor of the decedent's estate given within ninety days

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of the death of the last surviving Ground Lessee, Lessor shall, unless for good cause shown, consent to a transfer of the Improvements and an assignment and assumption of this Ground Lease to and by one or more of the following possible heirs of Ground Lessee:

- a) the spouse of the Ground Lessee; or
- b) the child or children of the Lessee; or
- c) any member of the Lessee's household who has resided upon the Leased Premises for at least a year immediately prior to the Lessee's death, provided, however, that such a person's annual gross, household income at the time of the Ground Lessee's death may be no more than 140 percent of the Area Median Income. In order for the Ground Lease to be transferred to such a person, he or she must prove to the Lessor's satisfaction that his or her annual gross, household income was at or below 140 percent of the Area Median Income for a period of one year before the time of the Ground Lessee's death. If such a person is unable to do so, then he or she shall not be entitled to possession of the Leased Premises, but must transfer the Leased Premises in accordance with the provisions hereof. In determining the annual, gross household income of such person, the decedent's annual, gross income shall not be included, nor shall the gross annual incomes of decedent's Immediate Family Members who had been residing on the Leased Premises.

Any person or persons other than those identified above in this Section who are heirs, legatees or devisees of the Ground Lessee must demonstrate to Lessor's reasonable satisfaction that they meet the definition of Low Income Resident herein, and if any such person is unable to do so, then such person shall not be entitled to possession of the Leased Premises and Improvements but must transfer promptly the Leased Premises and Improvements in accordance with the provisions hereof.

10.4 RE-SALE AND ASSIGNMENT PROCESS. The Lessee shall notify both the Homeowners Association and the Lessor of his or her desire to sell and transfer the Leasehold and Improvements. The Homeowners Association shall promptly, and at a reasonable cost, advertise the Leasehold and Improvements in a manner designed to make its availability widely known to potential low-income buyers in the City of Boulder and the County of Boulder. The Homeowners Association shall use such other means in addition to advertising as it believes will make the availability of the Leasehold and Improvements known at a reasonable cost to potential low-income buyers. The Homeowners Association will also select the buyer. The selection will be made on the basis of objective criteria, consistently applied, that insure that the selection process is fair to all applicants. No preference may be given in the selection process to relatives, friends, acquaintances, or associates of the Ground Lessee. The above notwithstanding, preference may be given to another lessee within the Poplar Homes Community on the condition that that other

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lessee's Leasehold and Improvements will be sold and transferred immediately to a third-party purchaser who has not resided within the Poplar Homes Community if that lessee purchases the Lessee's Leasehold and Improvements. If only one applicant is willing to pay the maximum re-sale price, that buyer shall be selected by the Homeowners' Association. If the Lessor, in its discretion, determines that the Homeowners Association is not adequately fulfilling the responsibilities set forth in this Section, it may, but shall not be obligated to, discharge those responsibilities in lieu of the Homeowners Association. Once a buyer has been selected, the purchase of the Leasehold and Improvements shall be evidenced by a written assignment of this Ground Lease on a form provided by Lessor. The assignment shall be approved by the Lessor in writing, which approval shall not be unreasonably held, and recorded in the real property records of the Clerk and Recorder of Boulder County, Colorado.

10.5 INSPECTION AND REPAIR: As soon as reasonably feasible after receiving a notice of the Ground Lessee's desire to sell, the Lessor shall arrange for the Improvements to be inspected. The purpose of the inspection shall be to determine whether the Improvements are in a good, safe, and attractive condition, with all appliances and fixtures working properly. The Ground Lessee shall thereafter make such repairs to the Improvements as the Lessor may reasonably request in order to restore the Improvements to a good, safe, and attractive condition. If the Ground Lessee refuses or fails to make such repairs within a reasonable period of time in advance of the sale of the Improvements and Leasehold, the Lessor shall make these repairs itself or through contractors. The reasonable costs thereof shall be deducted from the proceeds of the sale of the Improvements and Leasehold and paid by Ground Lessee to Lessor prior to the assignment of this Ground Lease.

10.6 MAXIMUM RE-SALE PRICE. The Ground Lessee may sell the Leasehold and Improvements for no more than the maximum re-sale price. There is no guarantee, however, that at any particular time a buyer will be willing to pay the maximum re-sale price.

The maximum re-sale price is established to assure that the Leasehold and Improvements remain affordable to Low Income Residents during the entire term of the Ground Lease. The original price of the Leasehold and Improvement was Sixty Four Thousand Five Hundred Dollars (\$64,500). This original price was set to be affordable to persons or families within range of 45-55% of AMI for a family size of 2.5 persons financing the purchase with an eight percent interest rate mortgage amortized over a thirty year term. There shall be no upward adjustment to the resale price of the Leasehold and Improvements nor compensation provided to the Ground Lessee for any additions, work or additional Improvements. There may be a deduction to the resale price of the Leasehold and Improvements, as stated in Section 10.5, in the event repairs of the Improvements are needed to bring the Improvements to a good, safe, and attractive condition at the time of resale.

All points and applicable closing costs shall be paid equally between buyer and seller. There shall be no minimum or maximum down payment requirement of the buyer, except as may be required by the Permitted Mortgagee that is used to finance the purchase the Improvement and the Leasehold.

The Lessee shall notify the Lessor of Lessee's intention to sell at least forty-five days prior to the selection of a buyer. The maximum re-sale price of the Improvements and the Leasehold shall thereupon be established by the Lessor within fourteen days of the receipt of the notice by following the procedure set forth below:

a) The Lessor shall determine a putative interest rate by calculating the average of interest rates charged at the time of Lessor's inquiry for a 30 year fixed rate mortgage with no points by at least three mortgage lending institutions which make such mortgage loans in the City of Boulder;

b) The Lessor shall then multiply the price (exclusive of points and closing costs) which the Ground Lessee paid for the Leasehold and Improvements by the percentage of increase in the Area Median Income for a family of 2.5 persons that occurred between the date on which Ground Lessee purchased the Leasehold and Improvements and the date on which Ground Lessee notified the Lessor of his or her intent to sell. The product of that multiplication shall then be added to the price paid by the Ground Lessee for the Leasehold and Improvements;

c) If the putative interest rate is 8 percent or less, the above amount shall be the maximum re-sale price for the Leasehold and Improvements;

d) If the putative interest rate is above 8 percent, the Lessor shall then determine what the monthly payment of principal and interest would be on a mortgage loan for the amount determined above in paragraph (b) at a fixed interest rate of 8 percent with a 30 year term and no points; and

e) The Lessor shall then calculate the amount of a hypothetical mortgage loan that could be obtained if the monthly principal and interest payment were the amount determined above in paragraph (d), if the interest rate on the mortgage is fixed over the entire term at the putative interest rate, if the term of the mortgage is 30 years, and if no points are charged. The amount of that hypothetical mortgage is the maximum re-sale price for the Leasehold and Improvements.

10.7 LESSORS' OPTION TO PURCHASE: Upon receipt of a copy of any notice given in accordance with Section 10.4 above, Lessor shall have the option to purchase the Leasehold and Improvements at the maximum re-sale price calculated as set forth in Section 10.6 above.

Such price is designed to further the goals and purposes set forth herein by helping to preserve the affordability of the Leasehold and Improvements to succeeding Low Income Resident households. If Lessor does purchase the Leasehold and Improvements from Ground Lessee before the 89th year of this Ground Lease, a condition of such purchase shall be that Lessor shall make good faith efforts for at least a year after that purchase to re-sell the Leasehold and Improvements to qualified Low-Income Residents.

10.8 PERIOD FOR EXERCISE: If Lessor shall elect to exercise the purchase option set forth in Section 10.7, Lessor shall: (a) notify Ground Lessee of its election to purchase within thirty days of the receipt of the notice to the Homeowners Association, and (b) exercise the foregoing option to purchase within sixty days of Lessor's notice of election to purchase or its option will expire.

#### ARTICLE XI: Sublease and Assignment

11.1. SUBLEASING: Ground Lessee may not sublease any of Ground Lessee's rights under this Lease for more than a total of 24 months out of every eight-and-a-half year period. Ground Lessee shall not sublease without the prior written consent of the Lessor. Lessee agrees that Lessor shall have sole discretion to withhold such consent in order to further the mutual purposes and goals set forth herein. Any subleasing may only occur pursuant to a written sublease agreement between the Lessee and the sub-lessee. If permission is granted, any sublease shall be subject to the following conditions:

- a) any such sublease shall be subject to all of the terms and provisions of this Ground Lease and may only be to a Low Income Resident or Residents;
- b) the rental or occupancy fee charged the sublessee shall not be more than the Ground Lessee fee charged the Ground Lessee by the Lessor, plus an amount approved by Lessor equal to the principal and interest due on Ground Lessee's mortgage, taxes due on the Leasehold, insurance premiums due for the insurance required by this Ground Lease, and Homeowners Association fees, plus an amount equal to six percent of all the above-described amounts;
- c) a refundable security deposit may be charged to the sublessee not to exceed one month's rent; and
- d) a copy of each sublease shall be provided to the Lessor.

The above notwithstanding, the Ground Lessee may enter into one or more subleases with one person or with different persons in a family or group of persons for up to a period of three consecutive months without following the conditions concerning the Lessor's consent and a written

sublease agreement and the conditions stated in paragraphs (a) and (d) above.

11.2 ASSIGNMENT: There shall be no assignment of this Lease except as provided in Articles VIII or X.

#### ARTICLE XII: Homeowners' Association

At all times during the terms of this Ground Lease the Ground Lessee shall be a voting member of the Homeowners' Association in good standing and shall abide by all of its rules, regulations, requirements and authorized decisions and actions.

#### ARTICLE XIII: Default

13.1 EVENTS OF DEFAULT: It shall be an Event of Default:

a) if Ground Lessee shall fail to pay the Ground Lease Fee or other charges for which provision is made herein within thirty days after Lessor has sent to Ground Lessee notice of such default and such default is not cured by any Permitted Mortgagee within thirty days after a subsequent notice from Lessor to such Permitted Mortgagee of Ground Lessee's failure to cure such default within the initial thirty-day grace period; however, if Ground Lessee shall make a good faith partial payment of at least two-thirds of the Lease Fee during such initial thirty day grace period, then such period shall be extended one additional thirty day period; or

b) if Ground Lessee shall fail to perform or observe any other material term or condition in this Lease, and such failure is not cured by Ground Lessee or a Permitted Mortgagee within sixty days after notice thereof from Lessor to Ground Lessee and such Permitted Mortgagee; however, in the case where the Ground Lessee or Permitted Mortgagee has commenced to cure such default within such sixty day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure; or

c) if the estate hereby created shall be taken on execution or by other process of law, or if Ground Lessee shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Ground Lessee for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Ground Lessee's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Ground Lessee under any provisions of the Bankruptcy Code now or hereafter enacted, or if Ground Lessee shall file a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Code

now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

Upon the occurrence of an event of default, the Lessor may, immediately or at any time thereafter, terminate this Lease and obtain possession of the Leased Premises by initiating an action under the Colorado Forcible Entry and Detainer statutes, Article 40, Title 13 of the Colorado Revised Statutes, or any successor statutes. Ground Lessee shall be liable for any unpaid Ground Lease fee, for damages which may be due or sustained prior to or in connection with such termination or forcible entry and detainer action, and for all reasonable costs, fees, and expenses (including, without limitation, reasonable attorneys' fees) incurred by Lessor in pursuit of its remedies under this Lease. Lessor, however, shall not be entitled to reasonable costs, fees and expenses, including without limitation, attorneys' fees, if there is a final determination by the court that no default occurred.

In addition to the above, Lessor may exercise any other remedy available to it as a matter of law or equity.

If Lessor shall elect to terminate the Ground Lease pursuant to any provision thereof, then the Permitted Mortgagee shall have the right (subject to Lessor's rights under Article VII above) to postpone and extend the specified date for the termination of the Ground Lease for a period sufficient to enable the Permitted Mortgagee or its designee to acquire Lessee's interest in the Ground Lease by foreclosure of its mortgage or otherwise.

13.2 LESSOR'S DEFAULT: Lessor shall in no event be in default in the performance of any of Lessor's obligations hereunder unless and until Lessor shall have failed to perform such obligations within sixty days, or such additional time as is reasonably required to correct any default, after notice by Ground Lessee to Lessor properly specifying wherein Lessor has failed to perform any such obligation.

ARTICLE XIV: General Provisions

14.1 NOTICES: Whenever this Ground Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

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If to Lessor:

Housing Authority of the City of Boulder  
Attn: Cindy Brown  
3120 N. Broadway  
Boulder, Colorado 80304



**2119604**  
Page: 23 of 31  
02/16/2001 03:29P  
Boulder County Clerk, CO LEASE R 155.00 D 0.00

with a copy to:

Director of the Division of Housing  
City of Boulder  
Post Office Box 791  
Boulder, Colorado 80304

If to Lessee:

If to Permitted Mortgagee:

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

14.2 NO BROKERAGE: Lessee warrants and represents that it has not dealt with any broker in connection with the consummation of this Ground Lease. In the event any claim is made against Lessor relative to dealings with brokers. Lessee shall defend the claim against Lessor with counsel of Lessor's selection and save harmless and indemnify Lessor on account of loss, cost or damage which may arise by reason of any such claim.

14.3 SEVERABILITY AND DURATION OF: If any clause, Article, Section, paragraph, or subparagraph of this Ground Lease shall be unenforceable or invalid, such material shall be read out of this Ground Lease and shall not affect the validity of any other Section, clause, Article, paragraph, or subparagraph, or give rise to any cause of action of either party to

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clause, Article, paragraph, or subparagraph, or give rise to any cause of action of either party to this Ground Lease against the other, and the remainder of this Ground Lease shall be valid and enforced to the fullest extent permitted by law.

14.4 WAIVER: The informal or oral waiver by Lessor of, or the failure of Lessor to take action with respect to, any breach of any term, covenant, condition, provision, restriction, or reservation herein contained shall not be deemed to be a waiver of such term covenant, condition, provision, restriction, or reservation or subsequent breach of same, or of any other term, covenant, condition, provision, restriction, or reservation herein contained. The foregoing sentence notwithstanding, Lessor may grant express waivers in the terms of this Ground Lease, but such must be in writing expressly denominated as a waiver and signed by Lessor before being effective.

The subsequent acceptance of Ground Lease Fee payments hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, condition, provision, restriction, or reservation of this Ground Lease, other than the failure of the Lessee to pay the particular lease fee so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such lease fee payment.

14.5 LESSOR'S RIGHT TO PROSECUTE OR DEFEND: Lessor shall have the right, but shall be under no duty or obligation, to prosecute or defend, in its own or the Lessee's name, any actions or proceedings appropriate or necessary to the protection of its title to, and Lessee's occupancy, use, and possession of or interest in the Leased Premises. Whenever requested by Lessor, Ground Lessee shall give Lessor all reasonable aid in any such action or proceeding, in effecting settlement, securing evidence, obtaining witnesses, or prosecuting or defending such action or proceeding.

14.6 DISPUTES: If a dispute arises between the parties concerning the Ground Lease, and the dispute is not resolved through discussions between the Lessee and appropriate employees of the Lessor, the Lessee may raise the issue or issues in dispute before the Lessee's Board of Commissioners during one of its regularly scheduled meetings. If the dispute remains unresolved after being discussed with the Board, either party may propose mediation of the dispute through a neutral third-party mediator. After such a proposal has been made in writing and received by the other party, both parties shall participate in a mediation effort. The costs of the mediation, if there are any, shall be borne by the party proposing mediation. Both parties recognize that purpose of mediation is to facilitate the voluntary resolution of disputes.

14.7 CONSTRUCTION: Whenever in this Ground Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

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14.8 CAPTIONS: The captions appearing in this Ground Lease are for convenience only, and are not a part of this Ground Lease and do not in any way limit or amplify the terms, covenants, conditions, provisions, restrictions, or reservations of this Ground Lease.

14.9 PARTIES BOUND: This Ground Lease sets forth the entire agreement between the parties hereto with respect to the leasing of the Land; it is binding upon and inures to the benefits of the parties hereto and, in accordance with the provisions hereof, their respective successors in interest. This Ground Lease may be altered or amended only by written notice executed by the parties hereto or their legal representatives or, in accordance with the provisions hereof, their successors in interest.

14.10 GOVERNING LAW: This Ground Lease shall be interpreted in accordance with and governed by the laws of the State of Colorado.

14.11 RECORDING: This Ground Lease shall be recorded in the real property record of the Clerk and Recorder of Boulder County, Colorado.

IN WITNESS WHEREOF, the parties have executed this Ground Lease at Boulder, Colorado on the day and year first above written.

HOUSING AUTHORITY OF THE CITY OF BOULDER, A BODY CORPORATE AND POLITIC

By: Cindy Brown  
Co-Executive Director, Development

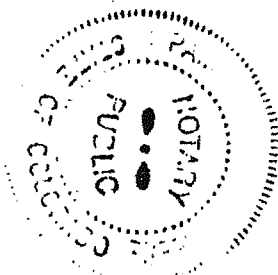
STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER )

The foregoing instrument was acknowledged before me on this 14th day of February, 2001, by Cindy Brown, Executive Director for the Housing Authority of the City of Boulder, a body corporate and politic.

Witness my hand and official seal.

My commission expires: 1/22/2005

Pamela J. Gibson Quere  
Notary Public



LESSEE:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this 15th day of Feb, 2001, by \_\_\_\_\_, Lessees.

Witness my hand and official seal.

My commission expires:

LESLEY L. DRAPER  
NOTARY PUBLIC  
STATE OF COLORADO

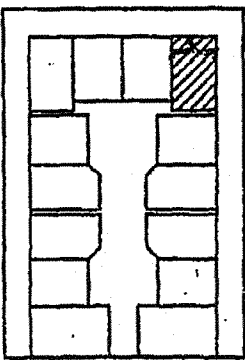
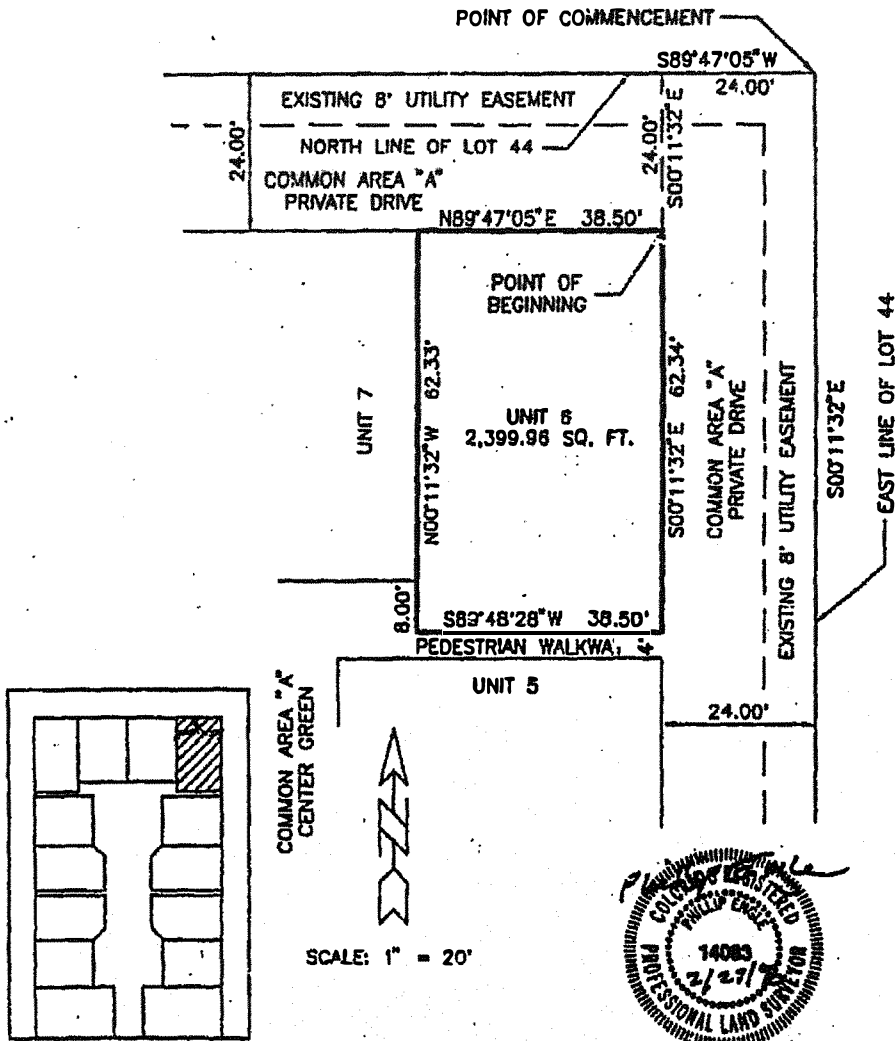
My Commission Expires Oct. 11, 2005

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

(seal)

**EXHIBIT "A"**  
**UNIT 6**

A PART OF LOT 44, FOREST GLEN SECOND FILING, A SUBDIVISION RECORDED IN PLANFILE P-5, F-3, NO. 9 OF THE BOULDER COUNTY RECORDS, BEING LOCATED IN THE SE 1/4 OF SECTION 13, TOWNSHIP 1 NORTH, RANGE 71 WEST, OF THE 6th P.M., TO BE ALSO KNOWN AS UNIT 6 OF THE POPLAR PROJECT, DESCRIBED AS FOLLOWS:  
 COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 44; THENCE S89°47'05"W, 24.00 FEET ALONG THE NORTH LINE OF SAID LOT 44 TO A POINT ON A LINE, SAID LINE BEING 24.00 FEET WESTERLY OF, AND PARALLEL TO, THE EASTERLY LINE OF SAID LOT 44; THENCE S00°11'32"E, 24.00 FEET ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; THENCE S00°11'32"E, 62.34 FEET ALONG SAID PARALLEL LINE; THENCE S89°48'28"W, 38.50 FEET; THENCE N00°11'32"W, 62.33 FEET TO A POINT 24.00 FEET SOUTHERLY OF, AND PARALLEL TO, THE NORTH LINE OF SAID LOT 44; THENCE N89°47'05"E, 38.50 FEET ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING.  
 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.  
 THE ABOVE DESCRIBED PARCEL CONTAINS 2399.96 SQUARE FEET, MORE OR LESS. THE BEARINGS ARE BASED ON THE RECORDED PLAT OF FOREST GLEN SECOND FILING, RECORDED IN PLANFILE P-5, F-3, NO. 9 OF THE BOULDER COUNTY RECORDS.



**ACCURATE**  
 557 BIRNBANK STREET, SUITE M,  
 BROOKFIELD, CO 80520  
 (303)469-2202 FAX (303)469-9083

PHILLIP R. ENGLE, P.L.S. 14083

DRAWN BY: SZ	APPROVED BY: PRE	REV. FEBRUARY 26, 1998	DATE: JANUARY 30, 1998	DWG. NO. 1ARCO106-U6
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RECORDER'S NOTE: 2-16-01  
 PORTION OF DOCUMENT IS A  
 PHOTOCOPY.

RECORDER'S NOTE: 2-16-01  
 PORTION OF RECORDED DOCUMENT  
 MAY NOT REPRODUCE LEGALLY.

PHOTOCOPY

A.V.K.



31-28

### EXHIBIT "B" COMMON AREA "A"

**LEGAL DESCRIPTION:**

A PART OF LOT 44, FOREST GLEN SECOND FILING, A SUBDMISION RECORDED IN PLANFILE P-5, F-3, NO. 9 OF THE BOULDER COUNTY RECORDS, BEING LOCATED IN THE SE 1/4 OF SECTION 13, TOWNSHIP 1 NORTH, RANGE 71 WEST, OF THE 0th P.M., TO BE ALSO KNOWN AS COMMON AREA "A", CENTER GREEN OF THE POPLAR PROJECT, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 44; THENCE N89°48'28"E, 92.50 FEET ALONG THE SOUTH LINE OF SAID LOT 44 TO THE POINT OF BEGINNING; THENCE N00°11'32"W, 44.00 FEET; THENCE S89°48'28"W, 17.50 FEET; THENCE N00°11'32"W, 42.00 FEET; THENCE N44°48'28"E, 14.14 FEET; THENCE N00°11'32"W, 29.00 FEET; THENCE S89°48'28"W, 61.00 FEET; THENCE N00°11'32"W, 4.00 FEET; THENCE N89°48'28"E, 61.00 FEET; THENCE N00°11'32"W, 29.00 FEET; THENCE N45°11'32"W, 14.14 FEET; THENCE N00°11'32"W, 42.00 FEET; THENCE S89°48'28"W, 51.00 FEET; THENCE N00°11'32"W, 4.00 FEET; THENCE N89°48'28"E, 38.50 FEET; THENCE N00°11'32"W, 8.00 FEET; THENCE N89°48'28"E, 85.00 FEET; THENCE S00°11'32"E, 8.00 FEET; THENCE N89°48'28"E, 38.50 FEET; THENCE S00°11'32"E, 4.00 FEET; THENCE S89°48'28"W, 51.00 FEET; THENCE S00°11'32"E, 42.00 FEET; THENCE S44°48'28"W, 14.14 FEET; THENCE N00°11'32"E, 29.00 FEET; THENCE N89°48'28"E, 61.00 FEET; THENCE S00°11'32"E, 4.00 FEET; THENCE S89°48'28"W, 61.00 FEET; THENCE S00°11'32"E, 29.00 FEET; THENCE S45°11'32"E, 14.14 FEET; THENCE S00°11'32"E, 42.00 FEET; THENCE S89°48'28"W, 17.50 FEET; THENCE S00°11'32"E, 44.00 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 44; THENCE S89°48'28"W, 25.00 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING.

TOGETHER WITH A PART OF SAID LOT 44, FOREST GLEN SECOND FILING, TO BE ALSO KNOWN AS COMMON AREA "A", PRIVATE DRIVE DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 44; THENCE N00°11'32"W, 300.27 FEET ALONG THE WEST LINE OF SAID LOT 44 TO THE NORTHWEST CORNER THEREOF; THENCE N89°47'03"E, 210.00 FEET ALONG THE NORTH LINE OF SAID LOT 44 TO THE NORTHEAST CORNER THEREOF; THENCE S00°11'32"E, 300.35 FEET ALONG THE EAST LINE OF SAID LOT 44 TO THE SOUTHEAST CORNER THEREOF; THENCE S89°48'28"W, 24.00 FEET ALONG THE SOUTH LINE OF SAID LOT 44 TO A POINT THAT IS 24.00 FEET WESTERLY OF, AND PARALLEL TO, THE EASTERLY LINE OF SAID LOT 44; THENCE N00°11'32"W, 276.34 FEET ALONG SAID PARALLEL LINE TO A POINT THAT IS 24.00 FEET SOUTHERLY OF, AND PARALLEL TO, THE NORTHERLY LINE OF SAID LOT 44; THENCE S89°47'03"W, 162.00 FEET ALONG SAID PARALLEL LINE TO A POINT THAT IS 24.00 FEET EASTERLY OF, AND PARALLEL TO, THE WESTERLY LINE OF SAID LOT 44; THENCE S00°11'32"E, 276.28 FEET ALONG SAID PARALLEL LINE TO A POINT ON THE SOUTH LINE OF SAID LOT 44; THENCE S89°48'28"W, 24.00 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING.

CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

THE ABOVE DESCRIBED PARCEL CONTAINS 29,738.88 SQUARE FEET, MORE OR LESS. THE BEARINGS ARE BASED ON THE RECORDED PLAT OF FOREST GLEN SECOND FILING, RECORDED IN PLANFILE P-5, F-3, NO. 9 OF THE BOULDER COUNTY RECORDS.



PHILLIP R. ENGLE, P.L.S. 14083



817 MARSHALL STREET, SUITE 14  
BOULDER, CO 80504  
(303)444-1202 FAX: (303)444-8098

REV. FEBRUARY 26, 1996	SHEET 1 OF 2
DRAWN BY: BZ	DATE: FEBRUARY 8, 1995
APPROVED BY: PRE	DWG. NO. 1AR00108-CAA

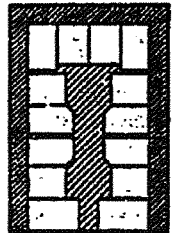
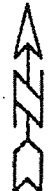
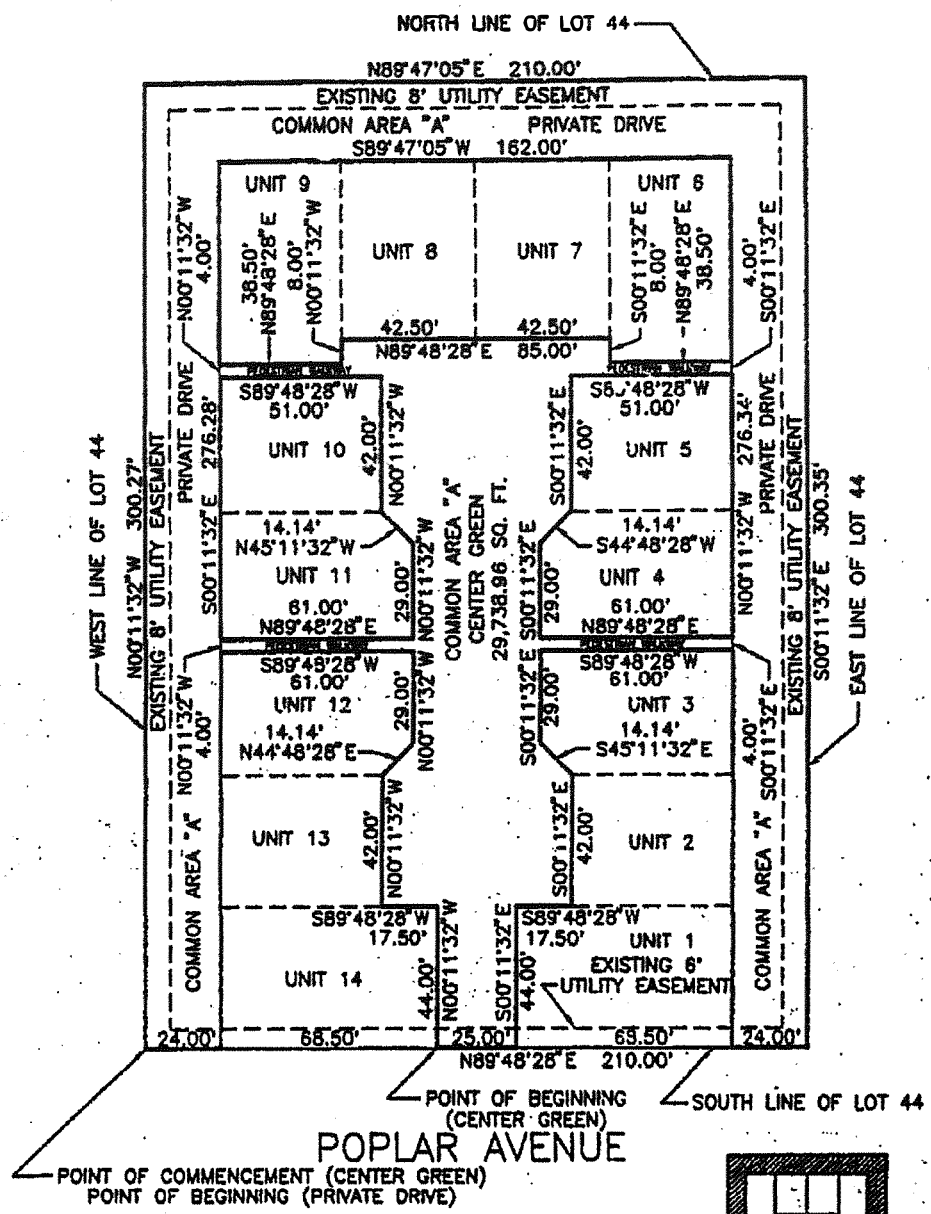
PHOTOCOPY

A.V.H.



### EXHIBIT "B" COMMON AREA "A"

3129



PHILLIP R. ENGLE, P.L.S. 14083      SCALE: 1" = 40'  
 557 BURNBANK STREET, SUITE 11, BOULDER, CO 80503  
 (303)449-2292 FAX (303)449-9083

REV. FEBRUARY 26, 1998	SHEET 2 OF 2
DRAWN BY: BZ	DATE: FEBRUARY 8, 1998
APPROVED BY: PRE	DWG. NO. 1ARCO108-CAA

PHOTOCOPY

AVH



2119604

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02/18/2001 03:29P

Boulder County Clerk, CO LEASE R 155.00 D 0.00

EXHIBIT C

WARRANTY DEED AND BILL OF SALE

THIS DEED AND BILL OF SALE made this \_\_\_\_\_ day of \_\_\_\_\_, 1996, between the Housing Authority of the City of Boulder, Colorado, a body corporate and politic, whose legal address is 3120 North Broadway, Boulder, Colorado 80304, grantor, and \_\_\_\_\_, grantee, whose legal address is \_\_\_\_\_, County of Boulder, State of Colorado.

WITNESSETH, that the grantor, of and in consideration of \_\_\_\_\_, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantee, and his or her heirs and assigns forever, all of the improvements located on the real property described in the attached Exhibit A subject to the Ground Lease dated \_\_\_\_\_, 1996, between grantor and grantee.

TO HAVE AND TO HOLD the said improvements above bargained and described unto the grantee, his or her heirs, and assigns forever. The grantor covenants, grants, bargains, and agrees to and with the grantee, his or her heirs and assigns, that at the time of the ensembling and delivery of these presents grantor is well seized of the improvements above conveyed, and has good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, assessments, encumbrances and restrictions of whatever kind or nature.

The grantor shall warrant and defend the sale of the improvements against all and every person or persons whomever.

Where used herein, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor has executed this warranty deed and bill of sale on the date set forth above.

HOUSING AUTHORITY OF THE  
CITY OF BOULDER, COLORADO,  
a body corporate and politic

By: *Eric Brown*  
Co-Executive Director, Development

A.V.H



2119604

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02/16/2001 03:29P

Boulder County Clerk, CO

LEASE

R 155.00

D 0.00

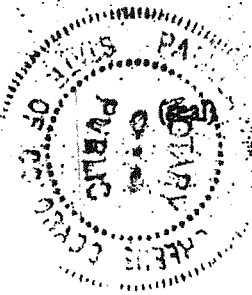
STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER )

The foregoing WARRANTY DEED AND BILL OF SALE was acknowledged before me  
this 14<sup>th</sup> day of February, 2001, by Pamela S. Gibson Greene.

Witness my hand and official seal.

My commission expires:

Pamela Gibson Greene  
Notary Public



Please return a copy to each of the following:

Housing Authority of the City of Boulder  
Attn: Pamm Gibson Greene, Development  
3120 Broadway  
Boulder, CO 80304

Lora LeFhae  
Housing and Human Services  
P.O. Box 791  
Boulder, CO 80306

AVA

