

**APPLICATION FOR WATER ALLOTMENT CONTRACT  
BASALT WATER CONSERVANCY DISTRICT**

1. Applicant(s) Name(s): Ute Center Owner's Association

Applicant(s) Mailing Address: c/o Robert Ritchie  
701 W. Francis Street  
Aspen, CO 81611

Applicant(s) Street Address: Same

Applicant(s) Telephone No(s): (970) 379-1500

Applicant(s) E-mail Address: bob@rdritchie.com

Attorney Info (Name, Address, Telephone and Fax Nos., E-mail):

Kevin Patrick, Esq.  
Patrick, Miller & Kropf, P.C.  
730 E. Durant Avenue, Suite 200  
Aspen, CO 81611  
patrick@waterlaw.com  
(970) 920-1028 – Phone  
(970) 925-6847 – Fax

Emergency Contact Information (preferably local) (Name, Address, Telephone and Fax Nos.):

Contact Information (Name, Address, Telephone and Fax Nos.) of any property manager, caretaker, irrigator, system operator or agent who should be provided a copy of this contract:

2. Type of land use (development) proposed for water allotment contract (i.e. single family home, subdivision, gravel pit, etc.)

Commercial

3. Legal description of property on which District's water rights and/or contract water shall be used; Quarter, Quarter, Section, Township, Range (attach map and vesting deed with proof of ownership)\*: See Exhibit A

Basalt Water Conservancy District  
Water Allotment Application  
Page 2

4. Elevation zone of property:  6-7,000 ft., \_\_\_\_\_ 7-8,000 ft.,  
8-9,000 ft.
5. Name and legal description of water supply diversion point(s): include Quarter  
Quarter, Section, Township, Range, bearing and distance from nearby Section  
corner. (Identify if well, spring, pipeline, etc.) If diversion point is a well, please  
provide the State Permit No. \_\_\_\_\_.

See Exhibit B

Is the well operational/active?  Yes, \_\_\_\_\_ No

Is there currently an operating well meter? \_\_\_\_\_ Yes,  No

Notice: A valid well permit with operating well meter will be required under the  
contract.

6. Has Applicant applied with the Water Court for water rights, change of water  
rights and/or a water right plan for augmentation? \_\_\_\_\_ Yes,  No; If  
yes, what is the Water Court Case No.
7. Proposed waste water treatment system: (please check)
- Tap to central waste water treatment facility  
\_\_\_\_\_ Septic tank/leachfield system  
\_\_\_\_\_ Evapotranspiration system  
\_\_\_\_\_ Other:
8. Proposed use of water (please check)
- \_\_\_\_\_ Domestic/Municipal (single family home(s), duplex(s), condominium(s),  
mobile home(s), apartment). Please complete page three of this  
application.  
 Commercial (hotel, office, warehouse, restaurant, bar, retail). Please  
complete page four of this application.  
\_\_\_\_\_ Industrial (gravel pit, manufacturing). Please complete page four of this  
application.  
\_\_\_\_\_ Agricultural (crop irrigation, stock watering). Please complete page five of  
this application.

Date on which the county or other applicable governmental entities approved the land  
use for which you seek legal water service: 1993. (Note: Copy of the  
Resolution of other documentation evidencing such approval should be submitted with  
application.)

Basalt Water Conservancy District  
Water Allotment Application  
Page 3

9. What other water rights are associated with or used on the property?

Pan and Fork Ditch

10. What other uses of water occur on the property?

Please complete this page if you checked domestic/municipal use on Page 2, No. 8

DOMESTIC/MUNICIPAL WATER USES

In-House

Single family residential home(s)	Number of Units: _____
Duplex(s)	Number of Units: _____
Condominium(s)	Number of Units: _____
Apartment(s)	Number of Units/Rooms: _____
Mobil Home(s)	Number of Units: _____

Irrigation (lawns, parks, open space)

Total area to be irrigated \_\_\_\_\_ Sq. Ft. or \_\_\_\_\_ Acres

Type of irrigation system (please check)

\_\_\_\_\_ Sprinkler

\_\_\_\_\_ Flood (irrigation ditch)

Domestic stock watering (cattle, horses)

Number of animals:

Period of use (months):

Other domestic/municipal uses not listed:

Please complete this page if you checked commercial or industrial use on Page 2, No. 8

### COMMERCIAL WATER USES

#### In-House

Hotel: N/A

Office(s), square footage: N/A

Warehouse/distributor, square footage: N/A

Retail, square footage: N/A

Restaurant, number of seats: N/A

Bar, number of seats: N/A

#### Irrigation (lawns, parks, open space)

Total area to be irrigated 25,621 Sq. Ft. or 0.588 Acres

Type of irrigation system (please check)

Sprinkler

Flood (irrigation ditch)

#### Other Commercial Uses Not Listed:

### INDUSTRIAL WATER USES

Please describe your industrial development in some detail:

#### Irrigation (lawns, parks, open space)

Total area to be irrigated \_\_\_\_\_ Sq. Ft. or \_\_\_\_\_ Acres

Type of irrigation system (please check)

Sprinkler

Flood (irrigation ditch)

Please complete this page if you checked agricultural use on Page 2, No. 8.

### AGRICULTURAL WATER USE

#### Irrigation

Type of crop(s) (pasture, alfalfa, beans, etc.) and irrigation system:

Crop: \_\_\_\_\_ Acres: \_\_\_\_\_ Sprinkler: \_\_\_\_\_ Flood:

Crop: \_\_\_\_\_ Acres: \_\_\_\_\_ Sprinkler: \_\_\_\_\_ Flood:

Crop: \_\_\_\_\_ Acres: \_\_\_\_\_ Sprinkler: \_\_\_\_\_ Flood:

Crop: \_\_\_\_\_ Acres: \_\_\_\_\_ Sprinkler: \_\_\_\_\_ Flood:

#### Stock Watering (cattle, horses)

Number of animals:

Months of use:

Other agricultural uses not listed:



BARGAIN AND SALE DEED

MARY POST, whose address is P.O. Box Y, Basalt, Colorado 81621, ALEX FERKOVICH, JR. and CHARLENE C. FERKOVICH, whose address is 8817 27th Avenue, Seattle, Washington 98115, PHYLLIS CARVER, whose address is P.O. BOX Y, Basalt, Colorado 81621 and STEPHEN FERKOVICH, whose address is 707 Southwest 75th Street, Gainsville, Florida 32601, Grantors, for TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid, does hereby bargain, sell and convey to BASALT CENTER, INC., a Colorado Corporation, in c/o ROBERT RITCHIE, whose address is 701 W. Frances, Aspen, Colorado 81611, Grantee, the following described water and water rights, to-wit:

All right, title and interest of grantors in and to all ditch rights, reservoir rights and water rights appurtenant to or adjudicated to or used upon or in connection with the property described in Schedule A attached, including without limitation, all water and water rights awarded the Pan and Fork Ditch and Reservoir, for 1 c.f.s direct flow and 1/2 acre foot storage right, as adjudicated on June 18, 1971 in Case No. W-98, Water District No. 5.

TO HAVE AND TO HOLD the same together with all appurtenances and privileges thereto belonging or in anywise thereto appertaining.

SIGNED this 28 day of June, 1989.

Mary Post  
Mary Post

Phyllis Carver  
Phyllis Carver

Alex Ferkovich, Jr.

By: Phyllis Carver  
Phyllis Carver  
attorney-in-fact

Charlene C. Ferkovich

By: Phyllis Carver  
Phyllis Carver  
attorney-in-fact

Stephen Ferkovich

By: Phyllis Carver  
Phyllis Carver  
attorney-in-fact

119

5-1

(5)

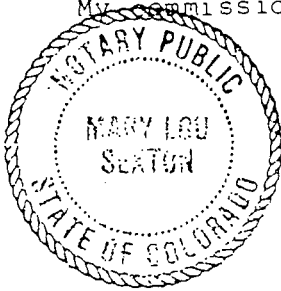


STATE OF COLORADO )  
 ) ss:  
COUNTY OF EAGLE: )  
*admitted*

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of June, A.D. 1989, by Mary Post and by Phyllis Carver and by Phyllis Carver, as attorney-in-fact for Alex Ferkovich, Jr. and by Phyllis Carver, as attorney-in-fact for Charlene C. Ferkovich and by Phyllis Carver, as attorney-in-fact for Stephen Ferkovich.

Witness my hand and official seal.

My commission expires: 1/1/91



Mary Lou Sexton  
Notary Public

00015

## Property Description

A tract of land situate in Tracts 45 and 48, Township 8 South, Range 86 West of the 6<sup>th</sup> Principal Meridian, being more particularly described as follows:

Beginning at a point on the south right-of-way line of Colorado State Highway No. 82, whence a brass cap for A.P. 2 of said Tract 48 bears N. 82 degrees 24' 39" E. 1082.91 feet; thence 1200.32 feet along the arc of a 1223.30 foot radius curve to the right, having a central angle of 56 degrees 13' 10" and subtending a chord bearing S. 63 degrees 33' 35" E. 1152.74 feet; thence S. 35 degrees 27' 00" E. 216.92 feet; thence along the south line of a parcel described in Reception No. 98835 of the records of the Clerk and Recorder of Eagle County the following five (5) courses:

- 1) S. 50 degrees 45' 00" W. 93.99 feet; thence
- 2) N. 82 degrees 20' 00" W. 190.00 feet; thence
- 3) N. 63 degrees 35' 00" W. 390.00 feet; thence
- 4) N. 74 degrees 05' 00" W. 285.00 feet; thence
- 5) N. 50 degrees 45' 00" W. 237.11 feet to the easterly line of a tract of land described in Book 148 at Page 205 of said Eagle County Records; thence N. 03 degrees 31' 00" E. 125.88 feet along the East line described in said Book 148 at Page 205; thence N. 75 degrees 35' 00" W. 111.54 feet along the north line described in said Book 148 at Page 205; thence N. 03 degrees 31' 00" E. 169.31 feet to the point of beginning.

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE**

I, Bernie Buescher, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

**UTE CENTER OWNERS ASSOCIATION**

is a **Nonprofit Corporation** formed or registered on 09/17/1998 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19981168814.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 07/22/2009 that have been posted, and by documents delivered to this office electronically through 07/27/2009 @ 08:09:56.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 07/27/2009 @ 08:09:56 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 7421552.



A handwritten signature in black ink that reads "Bernie Buescher".

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click Business Center and select "Frequently Asked Questions."*

COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

UTE CENTER SUBDIVISION

LOTS A THROUGH H

TABLE OF CONTENTS

	<u>Page</u>
I. Definitions . . . . .	1
II. Restrictions Applicable to Particular Property Classifications . . . . .	4
III. Restrictions Applicable to All Property Classifications . . . . .	4
IV. The Association . . . . .	7
V. Certain Rights and Obligations of the Association . . . . .	8
VI. Assessments . . . . .	9
VII. Insurance . . . . .	12
VIII. Condemnation . . . . .	14
IX. Compulsory Arbitration . . . . .	14
X. Revocation or Amendment . . . . .	15
XI. Mortgagee's Rights . . . . .	15
XII. General Provisions . . . . .	16

10037

129  
8/11

434186

COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

UTE CENTER SUBDIVISION

LOTS A THROUGH H

These Covenants, Conditions, and Restrictions (hereinafter referred to as the "CCRs") are declared by BASALT CENTER, INC., a Colorado corporation (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant is the fee owner of certain real property situate in the Town of Basalt, County of Eagle, State of Colorado, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, commonly referred to as Lots A through H, Ute Center Subdivision, according to the recorded plat thereof filed for record in the Office of the Clerk and Recorder of Eagle County, Colorado, in Book 538 at Page 34, as Reception No. 434185 (hereinafter referred to as the "Property"); and

WHEREAS, Declarant, its successors and assigns, will construct a mixed-use development on the Property, together with other improvements thereon; and

WHEREAS, Declarant desires to convey the Property subject to a uniform scheme of protective Covenants, Conditions, and Restrictions as hereinafter set forth; and

WHEREAS, certain provisions, terms, and conditions of these Covenants constitute conditions of approval of the Ute Center Subdivision by the Town of Basalt.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the following protective Covenants, Conditions, and Restrictions, all of which are declared and agreed to be for the protection of the value and desirability of the Property and for the benefit of any person having any right, title, or interest in the Property, which shall run with the land, and shall be a burden and incumbrance to the benefit of Declarant, its successors and assigns.

I.

DEFINITIONS

As used in these CCRs, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

00088

1.1 "Annexation Agreement" shall mean that certain agreement entered into between the Town of Basalt and Declarant entitled Annexation, P.U.D. Master Plan, P.U.D. Preliminary Development Plan, and Preliminary Subdivision Plat Agreement dated June 13, 1990, recorded in the Office of the Clerk and Recorder of Eagle County as Reception No. 434183.

1.2 "Articles" shall mean the Articles of Incorporation of the Association, as hereinafter defined.

1.3 "Association" shall mean Ute Center Owners Association, a Colorado non-profit corporation, its successors and assigns, the Articles and Bylaws of which, along with this instrument, shall govern the administration of the Property, the members of which shall be all of the Owners.

1.4 "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, duly elected pursuant to the Bylaws of the Association. The Board of Directors shall also constitute the Architectural Control Committee whose duties shall include administering the architectural guidelines set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

1.5 "CCRs" shall mean this document of Covenants, Conditions, and Restrictions of Ute Center Subdivision, Lots A through H, as may be amended from time to time; provided, however, that any amendments to the Covenants, Conditions, and Restrictions shall be subject to the terms of Article X, below.

1.6 "Common Area" shall mean all Property (including the improvements thereto) dedicated for the common use and enjoyment of the owners as shown on the Final Plat for the Ute Center Subdivision. This property is privately owned by the respective lot owner but dedicated on the Plat for the use of all of the Owners and/or the general public as specified on the Plat. The Association may own and/or hold water and water rights and ditch and ditch rights, or the right to use the same, which shall also be included in the term Common Area.

1.7 "Common Area Expenses" shall mean and include:

- A. All sums lawfully assessed against the owners by the Board of Directors, as hereinafter defined;
- B. Expenses of administration, maintenance, repair, or replacement of Common Area improvements, as hereinafter defined;
- C. Expenses declared Common Area Expenses by provisions of this Declaration and the Bylaws of the Association; and
- D. Expenses agreed upon as Common Area Expenses by a vote of the owners representing an aggregate square footage

ownership interest in the lots, without regard to the size of the improvements thereon of at least 51 percent. The percentages of square footage ownership are set forth for each lot in Exhibit "C" attached hereto and incorporated herein by this reference.

1.8 "Common Assessment" shall mean assessments levied on the basis of the Common Cost Center.

1.9 "Common Cost Center" shall mean the expenses incurred by the Association for the common good of all Owners.

1.10 "Declarant" shall mean Basalt Center, Inc., its successors, and assigns as may be designated hereafter in a written notice duly recorded by Declarant.

1.11 "Development Agreement" shall mean that certain agreement dated June 27, 1990, between the Declarant and the Town of Basalt entitled Final P.U.D. Development Plan, Site Specific Development Plan, Vested Property Rights Agreement, and Subdivision Improvement Agreement

1.12 "Gabion" shall mean the wire baskets filled with stones and located adjacent to the river abutting the Property. Gabion shall also include the grading and landscaping located upon such wire baskets and the structural support for such wire baskets.

1.13 "Lot" shall mean and refer to Lots A through H shown upon the Final Plat for the Ute Center Subdivision, with the exception of the Common Area.

1.14 "Owner" shall mean and refer to the fee owner of record of any Lot. In the event a condominium association is hereafter created on any Lot, Owner shall mean such condominium association.

1.15 "Person" shall mean an individual, corporation, partnership, association, or other legal entity or any combination thereof.

1.16 "Plat" shall mean the subdivision map for the Ute Center Subdivision, Lots A through H, filed for record in the Office of the Clerk and Recorder of Eagle County, Colorado, depicting thereon the legal description of the Property and a survey thereof, the name and general location of the Property, the location and description of the Lots and Common Area, and the location and description of easements and rights-of-way.

1.17 "Rules" shall mean the rules and regulations adopted by the Association, as amended from time to time.

0000

II.

RESTRICTIONS APPLICABLE TO PARTICULAR  
PROPERTY CLASSIFICATIONS

2.1 Common Area Restrictions. The Common Area shall at all times be kept exclusively as an open area except as herein stated. The Declarant as Owner, or the Owner, as the case may be, shall construct any public improvements required to be constructed on the Common Area, as more fully set forth in the Development Agreement. Upon completion, such improvements shall be maintained, repaired, improved, and replaced by the Association. For purposes of this paragraph, the Common Area shall include the Gabions. Portions of the Common Area may be developed as may be reasonably necessary for installation of underground utilities.

2.2 Fishermen's Easement. The easement shown and reserved on the Plat as "fishermen's easement" over and across a portion of the subdivision shall be a passive easement only and shall not entitle the public or any entity or person to remove any vegetation therefrom, except that the fee simple Owner of any Lot may remove vegetation from such easement. The word "fishermen" as used in this connection only, shall include any member of the public enjoying the fishermen's easement for purposes of nature or scenic utilization as well as actual fishing. No fence or any other obstruction to the use by fishermen of said easement shall be constructed or otherwise placed or permitted on said easement by any Person.

2.3 Building Envelopes. All buildings constructed on a lot shall be constructed within the Building Envelope, shown on the Plat. At the time of construction of each building, each Lot Owner shall be required to comply with the terms of the development agreement, including without limitation the provisions of Paragraph 14.

III.

RESTRICTIONS APPLICABLE TO  
ALL PROPERTY CLASSIFICATIONS

3.1 Maintenance of Property. Each Lot Owner shall maintain the improvements on his respective Lot except those portions of each Lot which are Common Area which shall be maintained by the Association as set forth in Paragraph 2.1, above.

3.2 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done or placed on any portion of the Property which is or may become a nuisance.

3.3 No Hazardous Activities. No activities shall be conducted on any portion of the Property and no improvements

10001



constructed on any portion of the Property which are or may be unsafe or hazardous to any Person or Property.

3.4 Unsightly Uses. The Property, or any portion thereof, shall not be subject to any unsightly use.

3.5 No Annoying Lights, Sounds, or Odors. No sound shall be emitted on any portion of the Property which is unreasonably loud or annoying, and no odor shall be emitted on any portion of the Property which is noxious or offensive to others.

3.6 No Temporary Structures. No tent or shack or other temporary building, improvement, or structure shall be placed upon any portion of the Property, except in connection with actual construction and, in such event, no longer than six (6) months.

3.7 Restriction on Animals. No animals, birds, insects, or livestock shall be kept on any portion of the Property except domesticated household pets which do not unreasonably bother or constitute a nuisance to others. Neither dogs nor cats shall be allowed to run at large. It shall be each pet owner's obligation to confine their pets for excretion to the pet owner's Lot or such other areas as may be designated by the Association. Each pet owner shall be responsible for cleaning up after that owner's pet. Pets constituting a nuisance may be ordered by the Board, in its sole and absolute discretion, to be kept within the Owner's residence or expelled from the Property.

3.8 Restrictions on Signs. No signs, billboards, or advertising devices of any nature except signs in compliance with the Rules of the Association and the sign ordinance of the Town of Basalt, as amended from time to time, whichever is more restrictive, shall be erected or maintained on any portion of the Property without written consent of the Association; provided, however, Declarant shall be exempt from the requirements of the Association while any portion of the Property remains unsold. As set forth in the Development Agreement with the Town of Basalt, signs may be required to be erected at the time a building permit indicating which parking areas constitute reserved parking and which parking areas constitute public parking spaces, restrictive in use to periods of no longer than two (2) hours.

3.9 Parking. In order to optimize the benefits of parking, Declarant may assign parking spaces on Lots A, B, G, and H to individual Lots and uses within those Lots. The Homeowners Association shall enforce timed parking on Lots A, B, G, and H. However, spaces assigned for employee parking shall not be subject to the timed parking restriction nor shall parking for residential use be restricted as to time. No inoperable vehicles shall be allowed to remain anywhere on the Property, inoperable vehicle being defined for this purpose as an unregistered vehicle. No boats, trailers, motor homes, or

recreational vehicles shall be allowed to occupy parking spaces on the Property. The provisions of this paragraph may be specifically enforced by the Town of Basalt as an obligation of the Homeowners Association. In addition, each Lot is subject to the terms and conditions concerning parking set forth in the Development Agreement and the Annexation Agreement.

3.10 Mineral Exploration. No portion of the Property shall be used to explore for or to remove any water, soil, gravel, oil, gas, hydrocarbons, or other minerals of any sort.

3.11 Construction Period Exception. During the course of actual construction of any permitted structures or improvements, the provisions, covenants, conditions, and restrictions contained in this Declaration or in any supplemental Declaration, shall be deemed waived to the extent necessary to permit such construction, provided that during the course of such construction nothing is done which will result in a violation of any of said provisions, covenants, conditions, and restrictions upon completion of construction.

3.12 Emergency Easement. A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Property, to enter upon all portions of the Property in performance of their duties.

3.13 Compliance With Provisions of CCRs. Each Owner shall comply strictly with, and shall cause each of his guests to comply strictly with, all of the provisions of these CCRs, the Articles and Bylaws, and the decisions, rules, regulations, and resolutions of the Association or the Board adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of these shall be grounds for an action to recover sums due and for damages or injunctive relief, or both, along with costs of suit and reasonable attorneys' fees, maintainable by the Board in the name of the Association on behalf of the Owners, or by an aggrieved Owner.

3.14 Setbacks. At all times, each Lot Owner shall be required to comply with the setback requirements for the Ute Center Subdivision, which setback requirements are more fully set forth on the Final Plat and Final P.U.D. Development Plan for the Ute Center Subdivision and, without limitation, the provisions of Paragraph 14.G. of the Development Agreement.

3.15 Flood Plain Issues. Each Owner shall comply with any and all relevant terms and conditions concerning flood plain issues set forth in the Municipal Code of the Town of Basalt, the Annexation Agreement, and the Development Agreement. Declarant hereby discloses that the Property lies within a flood plain and thus may occasionally be subject to flooding. However, all spaces intended for occupancy by persons either for

0093

human occupancy as residential or commercial or office use shall be and are required to be in an elevation in excess of that of the flood plain. The foundations of all such buildings shall be engineered so that such foundations take into account the location of the property relative to the flood plain.

IV.

THE ASSOCIATION

4.1 Membership. Every Owner shall be required to be a member of the Association and shall comply with the Association's Charter, Bylaws, and Rules and Regulations as may be promulgated from time to time. If title to a Lot is held by more than one Person, the membership related to that Lot shall be shared by all such Persons in the same proportionate interests and by the same type of tenancy in which the title to the Lot is held. An Owner shall be entitled to that number of membership votes as the percentage shown in Exhibit "C". Each membership shall be appurtenant to the Lot upon which it is based and shall be transferred automatically by conveyance of that Lot. No person or entity other than an Owner may be a member of the Association. A membership in the Association may not be transferred except in connection with the transfer of a Lot; provided, however, that the rights of membership may be assigned to a mortgagee as further security for a loan secured by a lien on a Lot.

4.2 Voting Rights. The Owner shall vote for each Lot owned. Where a Lot is owned by more than one Owner, such Owners shall, by written instrument, designate one of such Owners to be the sole voting member. In the absence of such designation, the Board may designate one of the Owners as the sole voting member.

4.3 Reserved Voting Rights of Declarant. The exclusive right to vote for the election of members of the Board shall be vested in Declarant until the first of the following shall occur:

- A. One hundred twenty (120) days after transfer of title to seventy-five percent (75%) of the Lots; or
- B. Five (5) years from the date of recording of these CCRs; or
- C. Declarant records a notice in writing waiving these reserved rights.

4.4 Board of Directors. The affairs of the Association shall be managed by the Board, which may by resolution delegate any portion of its authority to an Executive Committee, or to a Director or Managing Agent for the Association. There shall be not less than one (1) nor more than three (3) members of the

00034

Board, the specific number to be set out from time to time in the Bylaws. All members of the Board shall be Owners. Regardless of the number of members of the Board, the terms of one member of the Board shall expire annually.

4.5 Articles and Bylaws. The purposes and powers of the Association and rights and obligations with respect to the Owners shall be set forth in the Articles and Bylaws of the Association.

V.

CERTAIN RIGHTS AND OBLIGATIONS  
OF THE ASSOCIATION

5.1 Common Area Maintenance. The Association shall provide for the care, operation, management, maintenance, and repair of the Common Area. Without limiting the generality of the foregoing, the obligation of the Association shall include maintenance of the landscaping and improvements, as well as of the Gabions.

5.2 Assessment Collection. The Association shall collect periodic assessments, equitably prorated, from the Owners, and delinquent assessments by suit or otherwise.

5.3 Application of Funds From the Funds Collected. The Association shall provide for maintenance, construction, management, insurance, care of Association property, the Gabions, and such other expenses as are allowed or required by the CCRs.

5.4 Association Property. The Association may lease, acquire, and sell real or personal property pursuant to its obligations.

5.5 Enforcement. The Association may enjoin or seek damages from or assess fines against the Owners for violation of these CCRs, the Articles, Bylaws, or the Rules. The Association may suspend any Owner's voting rights during any period or periods during which such Owner fails to comply with the Rules or with any other obligation of such Owner required by these CCRs.

5.6 Performance of Services. The Association may employ workmen and others and contract for services to be performed. In furtherance of these duties, the Association may purchase supplies and equipment and enter into contracts for furnishing of same.

5.7 Protection of Property. The Association shall protect and defend Association property from loss and damage by suit or otherwise.

00005

5.8 Professional Services. The Association may employ attorneys and accountants in connection with legal and accounting matters of the Association.

5.9 Rules. The Association shall adopt Rules for regulation and operation of the Property and its Common Area to maintain the high quality of the Property for the benefit of all of the Owners. Such Rules and Regulations shall be for the purposes of promoting safety and regulating the use of the Common Area and facilities in an equitable manner.

5.10 Implied Rights. The Association may exercise any other right or privilege given to it expressly by these CCRs or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein, or reasonably necessary to effectuate any right or privilege so provided.

## VI.

### ASSESSMENTS

6.1 Agreement to Pay Assessments. The Association, through the Board, shall make regular assessments for the purposes provided in these CCRs and special assessments for capital improvements or for such other matters provided for in these CCRs. By acceptance of a deed, each Owner agrees to pay the assessment levied by the Association, together with interest, costs of collection, and attorneys' fees in the event of non-payment or delinquent payment. Payment of assessments shall commence upon the date of closing of the first Lot sold by Declarant. Assessments shall be prorated if the date of closing is on a date other than the due date of an assessment.

6.2 Basis of Assessments. The total annual assessment against all Lots shall be based upon advance estimates of cash requirements by the Association to provide for the payment of all estimated expenses arising out of or connected with performance of the Association's duties and obligations under these CCRs, including without limitation the following:

- A. Taxes and special assessments for the Common Area;
- B. Expenses incident to common Cost Center;
- C. Wages for Association employees;
- D. Legal and accounting fees;
- E. Any deficit remaining from a previous period;
- F. The creation of a reasonable contingency reserve and/or sinking fund; and

- G. Any other expenses and liabilities which may be incurred by the Association for the benefit of Owners as authorized by these CCRs.

After having reviewed the foregoing, the total annual assessment shall be determined by the Board as the amount of revenue required to balance the Association budget. Approval of the Common Assessment shall not require approval by the Owners.

6.3 Common Assessment. Each Owner shall be obligated to pay and shall pay the Common Assessment to the Association in each calendar year based on that Owner's prorata percentage share of the approved budget for the Common Cost Center as shown on Exhibit "C". The amount of the Common Assessment for any calendar year shall be computed by determining the percentage attributable to each Owner's Lot for such calendar year and multiplying such percentage times the total amount to be raised by Common Assessments for that fiscal period. The percentage shall be the number of votes to which the Owner is entitled on the record date, and 100 shall be the total number of votes to which all Owners of Property are entitled on the record date. Subject to the foregoing provisions, the Board of the Association shall have the power and authority to determine all matters in connection with Common Assessments, including power and authority to determine where, when, and how Common Assessments should be paid, and each Owner shall be required to comply with any such determination.

6.4 Special Assessment. Each Owner shall be obligated to pay and shall pay a Special Assessment to the Association in each calendar year based upon the same fraction of the approved budget as for the Common Cost Center. The amount of the Special Assessment shall be determined by the Board for the purpose of defraying the cost of any construction or reconstruction, unexpected structural repairs and/or replacement or capital improvements, including the necessary fixtures and personal property related thereto. If any Special Assessment exceeds \$750.00, the Owners must approve such assessment at a meeting duly called for such purpose, or at the annual meeting. Two-thirds (2/3) assent of all the Owners voting in person or by proxy at the meeting shall be required for approval.

6.5 Initial Capital Contribution. The Association shall levy and collect from each Owner at the closing when the Owner acquires a Lot the amount determined by the Board as the Owner's capital contribution. Such sum shall be used by the Association for working capital, for application against the delinquent account of the Owner and/or for emergency needs. The initial capital contribution shall be transferred on the books and records of the Association upon the sale or transfer of the Owner's Lot, less any amount then due by the Owner to the Association, and the Owner and the purchaser shall transfer the amount by a settlement sheet adjustment at their closing. Deficiency amounts in any Owner's account shall be promptly

restored. The initial capital contribution shall not relieve an Owner from paying assessments when due.

6.6 Lien for Nonpayment of Assessments. All sums assessed to any Lot pursuant to these CCRs, together with interest thereon at a rate equal to the greater of eighteen percent (18%) per annum or ten percent (10%) in excess of the rate per annum charged by Citibank of New York or its successor at the time of such assessment, but in no event in excess of such amount as is legally allowable, and shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for:

- A. Valid tax and special assessment liens on the Lot in favor of any governmental assessing authority; and
- B. A lien for all sums unpaid on a first mortgage or on any mortgage to Declarant, duly recorded in the Eagle County, Colorado, real estate records, including all unpaid obligatory advances to be made pursuant to such mortgage and all amounts advanced pursuant to such mortgage and secured by the lien thereof in accordance with the terms of such instrument. All other lienors acquiring liens on any Lot after these CCRs shall have been recorded in said records shall be conclusively deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such lien.

To evidence a lien for sums assessed pursuant to these CCRs, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, and the legal description of the Lot. Such notice shall be signed by an officer of the Association and may be recorded in the real estate records in the Office of the County Clerk and Recorder of Eagle County, Colorado. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Colorado. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses of filing the notice of lien, and all reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and any such unpaid assessments shall be secured by the lien. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the Lot as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the Eagle County, Colorado real estate records upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

6.7 Personal Obligation of Owner. The amount of any Common or Special Assessment against any Lot shall be the personal obligation of the Lot Owner to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosure or waiving the lien securing the obligation. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of the Common Area or by abandonment of his Lot.

6.8 Statement of Account. Upon payment of a reasonable fee not to exceed \$25.00 and upon written request of any Owner or any mortgagee, prospective mortgagee, or prospective purchaser of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Lot; the amount of the current yearly assessment and the date that such assessment becomes or became due; credit for advance payments or prepaid items, including but not limited to an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the 20-day period provided herein and, in addition thereafter, an additional written request is made by such purchaser and is not complied with within ten (10) days and the purchaser subsequently acquires the Lot.

## VII.

### INSURANCE

7.1 Types of Insurance. The Association shall be required and empowered to obtain and maintain the following insurance:

- A. Liability and property insurance coverages upon the Common Area and all property owned or leased by the Association.
- B. Fidelity bonds to protect against dishonest acts on the part of Association officers, directors, trustees, employees, and all others who handle or are responsible for handling Association funds. Such bonds shall:



1. Name the Association as obligee;
2. Be written in an amount equal to at least the maximum funds that will be in the custody of the Association at any one time, plus the sum of three (3) months' assessments on all Lots, plus the Association's reserve funds;
3. Contain waivers of any defense based upon the exclusion of persons serving without compensation from any definition of "employee" or similar expression; and
4. Provide that no modification in any substantial manner or cancellation shall be had without thirty (30) days' prior written notice to the holders of the first deeds of trust on the properties.

C. Such other insurance as the Board may deem desirable for the benefit of the Owners.

7.2 Waiver of Subrogation. The Association and each Owner hereby waive and release any and all claims which they may have against any Owner, the Association, officers, members of its Board, its employees and agents, the Declarant and any manager, and its respective employees or agents for damage to the properties or to any personal property located on the properties caused by any casualty, to the extent that such damage is covered by fire or other form of casualty insurance. All policies secured by the Association under this Article shall contain waivers of the insurer's rights to subrogation as to any claim against the Association, its Board of Directors, agents, employees, and all other Owners, and provide further that the insurer shall not be entitled to contribution. Mortgagee endorsements shall be made when the Owner's interest is subject to a mortgage or deed of trust.

7.3 Owner's Responsibility. Declarant hereby advises all prospective Owners that a portion of the Property lies within a flood plain and thus may occasionally be subject to flooding and further advises any Owner to obtain flood insurance protecting against such hazards. Insurance coverage, including flood insurance, on any improvements constructed on a Lot, any fences constructed by an Owner pursuant hereto, and on the furnishings in the improvements on the Lot, and insurance coverage against loss from theft on all personal property, and casualty and public liability insurance coverage of the Owners, not acting by the Association, with respect to the Common Area, shall be the responsibility of the respective Owners.

VIII.

CONDEMNATION

8.1 Condemnation of Common Area. In the event of a proceeding in condemnation or partial condemnation of any Common Area by any governmental authority authorized so to do, then the proceeds from such condemnation attributable to the Common Area shall be distributed unto the Owners based upon the fractional share of each Lot for assessment purposes as set out in Exhibit "C".

8.2 Lienholder. When a condemnation occurs on a Lot which is subject to encumbrance, the proceeds due the Owner by reason of such condemnation shall be paid to the holder of the encumbrance. The holder of the first mortgage shall be entitled to priority over all other parties with respect to any distribution of condemnation proceeds. Any excess amount not required to fully satisfy the mortgage shall be paid to the Owner.

IX.

COMPULSORY ARBITRATION

All controversies, claims, and matters of difference, including all questions as to whether the right to arbitrate any question exists, excepting those matters for which these CCRs specifically provide another method of settlement or enforcement, arising between or among the Owners, the Association, the Board, the manager, and any agent or committee of the Association or Board, shall be settled by arbitration in Basalt, Colorado, according to the rules and practices of the American Arbitration Association from time to time in force, except that, if such rules and practices shall conflict with the Colorado Rules of Civil Procedure or any other provisions of Colorado law then in force, such Colorado rules and provisions shall govern. This submission and agreement to arbitrate shall be specifically enforceable. Arbitration may proceed in the absence of either party if proper notice of the proceedings has been given to such party. The parties agree to abide by all awards rendered in such proceedings. Such awards shall be final and binding on all parties to the extent and in the manner provided by the Colorado Rules of Civil Procedure. The costs of arbitration, including reasonable attorneys' fees, shall be borne by the losing party thereto unless the arbitrators specify otherwise. All awards of the arbitrators may be filed with the Clerk of the District Court of Eagle County, Colorado, as a basis for declaratory or other judgment and for the issuance of execution, at the election of the party making such filing, with the Clerk of one or more other courts, state or federal, having jurisdiction over the party against whom such an award is rendered or its property. No party shall be considered in default hereunder during the pendency of arbitration proceedings relating to such default.

10701

X.

REVOCATION OR AMENDMENT

These CCRs shall not be revoked nor shall any provisions herein be amended unless the Owners representing an aggregate voting interest of eighty percent (80%) in the Association approve such revocation or amendment; provided, however, that no amendment to these Covenants shall be effective until approved in writing by the Board of Trustees of the Town of Basalt. Such approval by the Town of Basalt may be withheld in the event such amendment modifies the terms and conditions of the approval by the Town of the Final Subdivision Plat and Final P.U.D. Development Plan for the Ute Center Subdivision ("approvals"), including without limitation terms and conditions of the approvals relating to parking, maintenance of Gabions, flood plain issues, building permit procedures, building envelopes, setbacks, architectural control guidelines, etc. In addition, the Declarant hereby acknowledges and agrees that the Town of Basalt is a third-party beneficiary of the terms and conditions of these Covenants as they relate to such issues and the terms and conditions of the development approvals by the Town of Basalt for the Ute Center Subdivision. Declarant further agrees that the Town of Basalt may, but is not obligated to, specifically enforce such terms and conditions contained in these Covenants, Conditions, and Restrictions.

XI.

MORTGAGEE'S RIGHTS

Notwithstanding anything contained in these CCRs to the contrary, the prior written approval of all holders of first deeds of trust on a Lot will be required for any of the following:

- A. An amendment to these CCRs which changes the ratios of assessments against Owners or amends any provision which specifically grants rights to mortgagees hereunder;
- B. The alienation, release, transfer, hypothecation, or other encumbrance of the Common Area after such Common Area has been conveyed to the Association subject to Declarant's rights herein; except that the consent of mortgagees shall not be required for action by the Association to:
  1. Grant easements for utilities and similar or related purposes, or
  2. To lease or grant licenses.

00102

- C. Removal of any or all of the Property from the provisions of these CCRs; and
- D. The use of hazard insurance proceeds for any other purpose other than for the repair, replacement, or reconstruction of any damaged improvements.

XII.

GENERAL PROVISIONS

12.1 Compliance with Association Resolutions. Each Owner shall comply with the provisions of these CCRs, the Articles of Incorporation, and the Bylaws of the Association, and the decisions and resolutions of the Association as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief, or both, maintainable by the Association on behalf of the Owners, or in a proper case, by an aggrieved Owner. Declarant shall have the right to obtain injunctive relief to remedy such violation.

12.2 Registration of Mailing Address. Each Owner shall register his mailing address with the Association, and all notices or demands intended to be served upon any Owner shall be in writing and shall be served personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Bylaws of the Association. All notices and demands to be served on mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the mortgagee at such address as the mortgagee may have furnished to the Association in writing. Unless and until an Owner registers his mailing address with the Association pursuant hereto, all notices and demands intended to be served upon such Owner may be given by posting the same upon his Lot. Unless the mortgagee furnishes the Association such address, the mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this section shall be deemed given when deposited in the United States mail, postage prepaid, addressed as specified in this section.

12.3 Owner's Obligations Continue. All obligations of the Owner under and by virtue of the provisions contained in these CCRs shall continue, notwithstanding that the Owner may have leased or rented said interest as provided herein, but the Owner of a Lot shall have no obligation for expenses or other obligations accruing after the Owner conveys such Lot.

12.4 Number and Gender. Whenever used herein, unless the context shall otherwise require, the singular number shall

00103



EXHIBITS  
Covenants, Conditions, and Restrictions

<u>Exhibit No.</u>	<u>Page</u>	<u>Description</u>
A	1	Legal Description
B	2	Architectural Guidelines
C	7	Percentage of Ownership Per Lot for Owners' Association Voting Purposes

NI\005.08020

00205

EXHIBIT A TO CONDITIONS, COVENANTS AND  
RESTRICTIONS OF UTE CENTER SUBDIVISION

Lots A through H, inclusive, Ute Center Subdivision,  
according to the recorded plat therefor recorded in the Office  
of the Clerk and Recorder of Eagle County as Reception No.  
434185.

00106

UTE CENTER SUBDIVISION LOTS A-H  
ARCHITECTURAL GUIDELINES  
JUNE 20, 1990

ARCHITECTURAL INTENT

The architectural intent of Ute Center is to promote the quality environment of existing Basalt, and to continue its historical character by visually blending the old with the new. Our goals are as follows:

- To continue those qualities in the environment which will bring value to the Community.
- To preserve the character and integrity of the existing Town of Basalt.
- To expand the present town core and continue its attractiveness as a great place to live, work and visit.
- To serve as a model for future construction to be built within the downtown area.

BUILDING DESIGN/ARCHITECTURE

The overall perception of Ute Center, and its visual compatibility with the existing downtown is crucial and the prime concern of our Project. Buildings such as the Post Office, Midland Bar, Alpine Bank or Frying Pan Restaurant will be used as examples of the Architecture which will be incorporated in Ute Center.

The high visual exposure of the project will require all building elevations to be treated in such a way that any elevation does not appear to be the "rear" or "backside".

SCALE

At a distance, Ute Center will be first viewed from Basalt Avenue, Midland Avenue or the Midland Avenue Extension. At this point the roof's lines will become the dominant element of perception. Roofs shall be of simple understated forms with an overall consistency of materials and color. Roofs shall be simple heights, gable or flat, in the same character as the Post Office Building. Variety will be in response to building use, and pedestrian circulation.

Materials and colors shall be relatively subdued with non-reflective surfaces.

Residential areas should blend the structures with the landscape, respecting the natural land forms and existing vegetation.

MASS

Generally the lower level of buildings near the pedestrian areas should be expressive of mass. The massive portions of buildings shall have an expression of depth and substance not mere surface coverings. Windows and doors shall have similar size and proportions as used in present buildings built at the turn of the century.

11111



### DETAILS

Elements such as window and door openings, balconies, trim, graphics, signs, paving patterns, textures, and colors provide an opportunity for maximum interest and sense of an expanded downtown. Details and trim should avoid refined, highly technical finishes, and where possible, represent handcrafted quality, especially where they have high exposure to pedestrians.

### COLOR

The use of color is very important to the visual richness of the development. While major wall surfaces should be a neutral backdrop of earth tones, smaller scale elements such as doors, window trim, signs, soffits, and recessed wall areas should introduce a strong palette of color.

### SERVICE AREAS

Ute Center shall have service and trash removal areas which shall be fenced, walled, or bermed from public view, and provides access that does not conflict with pedestrian circulation. Fencing or walls shall be compatible with the materials and forms of the building.

### STORE FRONTS

The materials used on a shop's exterior, must be consistent, or compatible with the exterior materials of the associated building. Window openings should be in proportion with the scale of the building with a strong harmony between store front openings and overall building architecture. All doors will be recessed so that they do not project beyond the face of store front when in an open position.

### EXTERIOR MATERIALS

Only the following materials shall be used for exterior walls:

- Wood siding, natural wood (western cedar or redwood) ornamental "Beadboard" for soffits and store front accents.
- Plaster, (stucco or dryvit) in warm earth toned colors.
- Brick, in traditional dimensions, and laid in traditional bonds. Colors shall be natural, and common to the existing environment.
- Stone, to be uniform in shape and used for architectural accents.
- Exposed concrete, to be used for foundations and retaining walls only. Where a significant amount is exposed, concrete shall be textured or sandblasted.
- Canvas awnings may be used to accent individual entrances or shops. The color and style of awnings shall be identical when installed on the same building.
- Materials such as Basic Gray Concrete Block, Metal Siding, Plywood Siding, will not be allowed.

00208

**MECHANICAL EQUIPMENT**

Efforts shall be made to conceal all roof top mechanical equipment where it may be visible from pedestrian areas or surrounding buildings. Mechanical equipment shall be incorporated within the building wherever possible. This includes metering devices and transformers.

**EXTERIOR LIGHTING**

Exterior lighting should provide a subdued ambient light level while accenting landscaping and building features. Exterior lighting shall not be installed where its direct source is visible from neighboring properties, or where it produces excessive glare to pedestrian or vehicular traffic. The existing downtown lighting scheme shall be continued within this development.

**SIGNAGE**

All project signage shall be compatible with the Town of Basalt Sign Code as contained in Article VII, Chapter 70.

RG/pnp  
89139-Intent

00209

EXHIBIT "C"

Covenants, Conditions, and Restrictions

Percentage of Ownership Per Lot for  
Owners' Association Voting Purposes

Ute Center  
Basalt, Colorado

Lot Percentages  
Total Area = 3.303 Acres

Lot A	=	0.581 Acres	17.6%
Lot B	=	0.625 Acres	18.9%
Lot C	=	0.232 Acres	7.0%
Lot D	=	0.228 Acres	6.9%
Lot E	=	0.265 Acres	8.0%
Lot F	=	0.263 Acres	8.0%
Lot G	=	0.555 Acres	16.8%
Lot H	=	0.554 Acres	<u>16.8%</u>
			100.0%

00110



Resource Engineering, Inc.  
909 Colorado Avenue  
Glenwood Springs, CO 81601  
(970)-945-8777 Voice  
(970)-945-1137 Facsimile

# Memorandum

**To:** BWCD BOARD OF DIRECTORS  
**From:** ERIC MANGEOT *EM*  
**CC:** CHRIS GEIGER  
**Date:** JULY 27, 2009  
**File:** APPLICATION  
**Re:** UTE CENTER OWNER'S ASSOCIATION

**Applicant Name:** Ute Center Owner's Association

**Type of Use:** Domestic  Commercial   
Industrial  Agricultural

**Amount:** 1.3 AF 0.067 CFS 30 gpm

**Location:** Area A  Area B  Inclusion   
County: EAGLE Contiguous:   
BWCD Division: 7

**Mid Valley Metro District Notice Required?:** Yes  No

**Blue Creek Water Rights Applied?** Yes  No

**Comments:** This application seeks a water allotment contract to offset depletions from 25,621 square feet (0.588 acres) of lawn and landscape irrigation for the Ute Center Subdivision. The Applicant has responsibility for all maintenance and all irrigation of common areas. The subdivision is immediately adjacent to the Roaring Fork River and the bridge in Basalt (behind the bakery).

Water will be diverted from two infiltration gallery (barrels) type wells. The barrels are less than 6 feet deep. The north well is located in Section 7, T8S, R86W, in the 6<sup>th</sup> P.M. at a point 1,659 feet from the East section line and 1,124 feet from the South section line. The south well is located in Section 7, T8S, R86W, in the 6<sup>th</sup> P.M. at a point 1,656 feet from the East section line and 1,038 feet from the South section line. The wells will need "-F" well permits from the

Mr. Chris Geiger  
BWCD Application – Ute Center Owner's Association  
July 27, 2009  
Page 2 of 2

Division of Water Resources and the Applicant will need to provide a well construction variances.

Total depletions are 1.3 AF as calculated by Resource. Based on the property location, it is within Division 7.

Water User :	Ute Center Owner's Association
Analysis Date :	July 27, 2009
District Area:	A
Source Series:	4
Maximum Demand:	30 0.067 (GPM) (CFS)

**BASALT WATER CONSERVANCY DISTRICT  
WATER REQUIREMENTS**  
(acre feet)

Month	Total Demand				Consumptive Use						(12)* TOTAL	(13)* Delayed Depletions	(14) Source of Aug/Replace	
	(1) Domestic In-house	(2) Commercial or Other	(3) Lawn Irrigation	(4) Crop Irrigation	(5) Livestock	(6)* TOTAL	(7) Domestic In-house	(8) Commercial or Other	(9) Lawn Irrigation	(10) Crop Irrigation				(11) Livestock
January	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	GNM
February	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	GNM
March	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	GNM
April	0.000	0.000	0.041	0.000	0.000	0.046	0.000	0.033	0.000	0.000	0.000	0.036	0.036	GNM
May	0.000	0.000	0.276	0.000	0.000	0.304	0.000	0.221	0.000	0.000	0.000	0.243	0.243	GNM
June	0.000	0.000	0.351	0.000	0.000	0.386	0.000	0.281	0.000	0.000	0.000	0.309	0.309	GNM
July	0.000	0.000	0.332	0.000	0.000	0.365	0.000	0.266	0.000	0.000	0.000	0.292	0.292	GNM
August	0.000	0.000	0.200	0.000	0.000	0.220	0.000	0.160	0.000	0.000	0.000	0.176	0.176	GNM
September	0.000	0.000	0.183	0.000	0.000	0.201	0.000	0.146	0.000	0.000	0.000	0.161	0.161	GNM
October	0.000	0.000	0.056	0.000	0.000	0.062	0.000	0.045	0.000	0.000	0.000	0.049	0.049	GNM
November	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	GNM
December	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	GNM
<b>TOTALS -&gt;</b>	0.000	0.000	1.439	0.000	0.000	1.583	0.000	1.151	0.000	0.000	0.000	1.266	1.266	

**Note:**  
Wells (Infiltration Galleries) are shallow <6' Deep.  
Glover Analysis indicates no delayed depletions.

		Assumptions			
(1)	NUMBER OF RESIDENCES	0	(5)	# of Livestock @ 11 gals/day	0
	# persons/residence	3.5	(7)	% CU for Domestic/Commercial	15
	# gallons/person/day	100	(9)	% Lawn Irrig. Efficiency	80
(2)	Commercial/Other Demand (af)	0.000	(10)	Consumption of Irrig. (af/ac)	1.975
(3)	Sq. Ft. of Lawn Irrigated	25621	(9-10)	% Crop Irrig. Efficiency	80
	Lawn Application Rate (af/ac)	2.469		Consumption of Irrig. (af/ac)	0.000
(4)	Acres of Crop Irrigated	0.00		Elevation (feet)	6600
	Crop Application Rate (af/ac)	0.000			

\* (6) (12) (13) Total Includes 5% Transit Loss From Ruedi;  
10% for Green Mountain



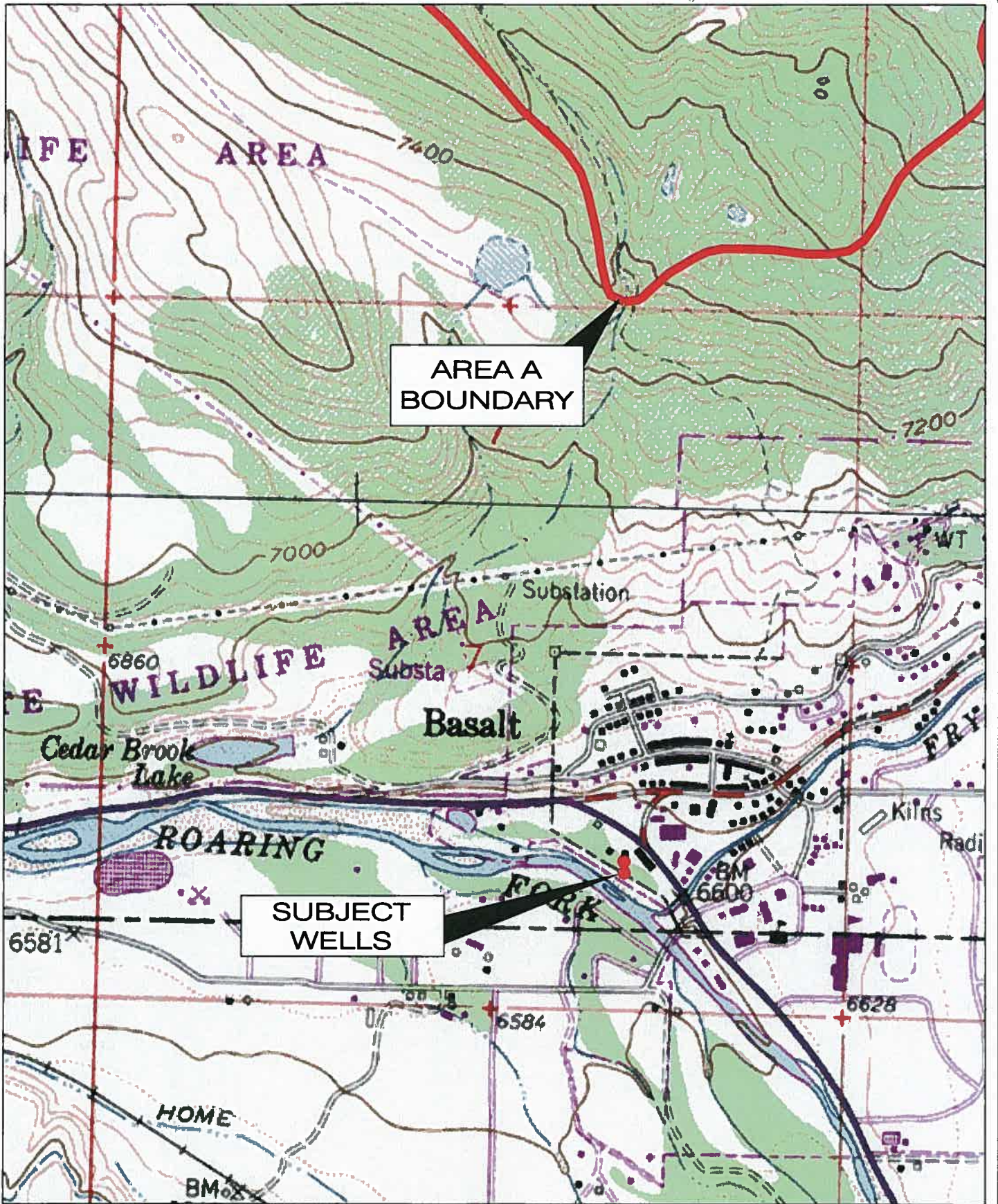
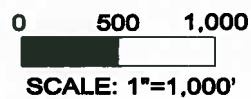


Figure 1: Ute Center Owner's Association Location Map

Basalt Water Conservancy District

File: 033-7.2  
Date: 07/27/09



**RESOURCE ENGINEERING, INC.**  
909 Colorado Avenue  
Glenwood Springs, CO 81801  
(970) 945-8777 Voice 945-1137 Facsimile

## EXHIBIT B

### Legal Descriptions of Wells:

The north well is located in Section 7, Township 8 South, Range 86 West, in the 6<sup>th</sup> P.M. at a point 1659 feet from the East line and 1124 feet from the South line of Section 7.

The south well is located in Section 7, Township 8 South, Range 86 West, in the 6<sup>th</sup> P.M. at a point 1656 feet from the East line and 1038 feet from the South line of Section 7.