

**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 6, 2004

AGENDA TITLE:

Items pertaining to the sale of the Mapleton Mobile Home Park to Thistle Community Housing:

- 1) Consideration of a motion authorizing the City Manager, or his designee, to convey Lot 1 and Lot 2 of the Mapleton Mobile Home Park Subdivision, located at 2635 Mapleton Avenue, to Thistle Community Housing;
- 2) Consideration of a motion authorizing the City Manager to grant a 25 foot wide sewer line easement to Mapleton LLC over and across Outlot A of the Mapleton Mobile Home Park for the maintenance and repair of a private sewer line serving the Mapleton Mobile Home Park Subdivision;
- 3) Consideration of a motion authorizing the City Manager to grant a 25 foot wide water line easement to Mapleton LLC over and across Outlot A of the Mapleton Mobile Home Park for the maintenance and repair of a private water line serving the Mapleton Mobile Home Park Subdivision;
- 4) Consideration of a motion authorizing the City Manager to grant a bridge crossing license to and enter into a maintenance agreement with Mapleton LLC for the purpose of maintaining the road surface of the vehicular bridge connecting Lot 1 and Lot 2 of the Mapleton Mobile Home Park Subdivision; and
- 5) Consideration of a motion affirming that there is no plan at this time to acquire a public right-of-way through the Mapleton Mobile Home Park.

PRESENTERS:

Housing & Human Services:
John Pollak, Co-Director, Housing & Human Services
Cindy Pieropan, Housing Planner
Jeff Yegian, Homeownership Programs Manager

EXECUTIVE SUMMARY:

The various motions included with this item are designed to enable the City of Boulder to convey the Mapleton Mobile Home Park (MMHP) in a sale to Thistle Community Housing in accordance with the terms agreed between all parties over the past four years.

The MMHP is an existing 135 space mobile home park, established in 1961, and is located between Valmont and Mapleton with Folsom on the west property line. The park was purchased by the City of Boulder in 1997 in order to facilitate the planned flood

improvements to Goose Creek and to preserve the property as an affordable mobile home park. The City has been working with the Mapleton Home Association (MHA) along with Thistle Community Housing to prepare for the sale of the MMHP to Thistle, where it will become part of Thistle's Community Land Trust. Thistle has formed a limited liability company, Mapleton LLC, exclusively for the purpose of owning and managing the MMHP.

A significant percentage of the park's residents are very low income residents. The park's central location combined with nearby transit and bike routes make it an important and successful affordable housing location.

The agreed contract and contract amendments for the sale of the park may be found in Attachment B. Further background information regarding the MMHP project may be found in Attachment A. A summary of the documents that comprise this transaction may be found in Attachment J with a copy set of these documents on file in the City Manager's office.

FISCAL IMPACTS:

Budgetary: No additional funding is required to complete these items. Completion of the sale of the MMHP to Thistle Community Housing will allow the City of Boulder to recover approximately \$2M in funds that have been expended on the project. To date, City Council has approved \$825,000 in housing subsidy funds for this project. Following the sale, the City will receive approximately \$12,000 per year in property taxes.

Staff Time: This work is included in the workplan of the HHS Department.

OTHER IMPACTS:

Community: Completion of these items will help to preserve the MMHP as a permanently affordable housing option for at least 120 very low and low income households in the community.

PUBLIC FEEDBACK:

The City, the current residents of the MMHP and Thistle Community Housing as the intended future owner all wish to preserve the MMHP as a mobile home park that remains affordable to moderate, low and very low income residents.

STAFF RECOMMENDATION:

Staff recommends and requests that City Council approve a motion authorizing the City Manager to convey the Mapleton Mobile Home Park to Thistle Community Housing in accordance with the documents found in Attachment B and Attachment C. Staff also recommends that City Council approve a motion authorizing the City Manager to grant the sewer line, water line and bridge road surface easements found in Attachments F, G, and H, respectively, as well as approve a motion declaring that this City Council has no plan at this time to acquire a public right-of-way through the MMHP.

ANALYSIS:

Sale of the MMHP

The City of Boulder purchased the approximately 15.75 acre MMHP in 1997 for \$3,500,000. This purchase enabled the City to complete the Goose Creek flood control channel improvements through the park as well as preserve the MMHP as a permanently affordable housing option in the community. At the time that the City purchased the park, the City made a commitment to the residents to sell the park, after the completion of the Goose Creek work, either to an organization of the residents or to a non-profit organization that would be required to include a significant degree of resident involvement in the management of the park.

Now that the Goose Creek flood control channel has been completed and the Letter of Map Revision issued which removes all portions of the MMHP from the high hazard, conveyance and 100-year flood zones, it is time to fulfill the final part of the plan and sell the MMHP to Thistle Community Housing.

Construction of the Goose Creek channel resulted in a net loss of four mobile home spaces in the park. The City will also retain ownership of the Goose Creek channel, resulting in a net reduction of approximately 1.2 acres to the park. The agreed sale price of the MMHP to Thistle Community Housing is \$2,900,000. The difference between the price the City paid and the agreed sale price to Thistle reflects the smaller size of the MMHP, the commitment to maintain a minimum total of 120 spaces as permanently affordable to very low and low income households, and that portion of the principal paid on the City's current note by park rents over the past seven years.

As noted above, City staff, residents of the MMHP and Thistle Community Housing staff have worked together over the past four years to prepare for this transition. The residents, through their Mapleton Home Association (MHA), will have a direct role in the ongoing management of the MMHP. The park itself will become part of Thistle's Community Land Trust program which will ensure the park's continued affordability to low income households. Sale of the MMHP to a non-profit is consistent with the Boulder Valley Comprehensive Plan policy regarding mobile home parks:

Policy 7.13 Preservation and Development of Manufactured Housing.

Recognizing the importance of manufactured housing as an option for many households, the city and county shall encourage the preservation of existing mobile home parks and the development of new manufactured home parks, including increasing opportunities for resident-owned parks.

For additional information regarding the MMHP project, please refer to Attachment A.

Easements

The MMHP, as currently owned by the City, consists of three parcels, Lot 1, Lot 2 and Outlot A. Lots 1 and 2 contain the residential property that comprises the mobile home park. Outlot A is the property that encompasses the Goose Creek flood control channel improvements and is located between Lot 1 and Lot 2 (Please refer to Attachment D.)

The sale of the MMHP to Thistle Community Housing will consist of Lots 1 and 2. The City will retain ownership of Outlot A. The utilities in the MMHP are private. Since Outlot A lies between Lot 1 and Lot 2, there are a water line and a sewer line that run between Lot 1 and Lot 2 through Outlot A. The easements found in Attachment F and G allow the owner of Lot 1 and Lot 2 access to Outlot A in order to maintain and repair the private utility lines located there.

Additionally, there is a vehicular bridge over Outlot A which connects Lot 1 and Lot 2. The bridge structure will continue to be owned by the City, however the asphalt surface of the bridge will be maintained by the owner of Lot 1 and 2. The easement and license agreement found in Attachment H allows the owner of Lot 1 and Lot 2 to use and maintain the travel surface of the bridge structure.

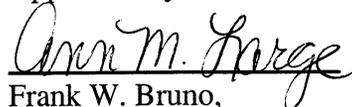
Public Right-of-Way

Residents of the MMHP are concerned that the City wants to acquire land for a public right-of-way (ROW) through the park. They cite the history of the acquisition of additional ROW for Folsom Avenue sometime in the 1970's as the basis for this concern. As part of the subdivision, a public access easement was dedicated through the park in accordance with the City Council adopted North 28th Street Transportation Network Plan. The North 28th Street Transportation Network Plan does not call for a public ROW through the park. Even though a current City Council cannot bind the actions of a future City Council, the residents of the MMHP would appreciate a public statement on the part of this City Council confirming that there is no plan at this time or consideration of a plan to acquire land for a public ROW through the MMHP.

PROCESS:

In addition to the staff names listed above, there have been several staff and community members over the years who, through their dedication to affordable housing, commitment to a safe and livable environment and desire to preserve an existing mobile home park, contributed significantly to the success of this project. These people include the following past and present staff members: Ann Goodhart from the Real Estate & Open Space Department; Dave Rhodes, Ned Williams and Douglas Sullivan from the Public Works Department; Maureen Amundson, Alan Boles, Joseph deRaismes, and Jim Martin from the City Attorney's Office; and Janet Fulton, Linda Hill-Blakley, and Jann Oldham from the Housing & Human Services Department; the following Mapleton Mobile Home Park community members: Kathryn Alexander, Deb Feustal, Ben Jensen, Paul Keaton, Debbie Kranzler, Russ & Julie Morris, Mark Reeder and Alex Wilson; our property managers Tom Hast and Loretta Milcarek; and Thistle Community Housing staff members: Etta Habegger, Jim Harrington, Larissa Labrant, Roger Lewis and Aaron Miripol.

Approved By:



Frank W. Bruno,
City Manager

ATTACHMENTS:

- A. Additional Information Regarding the Mapleton Mobile Home Park Project
- B. Contract and Contract Amendments for the Sale of the Mapleton Mobile Home Park
- C. Affordability Memorandum of Understanding
- D. Final Plat of the Mapleton Mobile Home Park Subdivision
- E. Easement Context Map
- F. Sewer Crossing Maintenance Easement & Agreement
- G. Water Crossing Maintenance Easement & Agreement
- H. Bridge Crossing License & Maintenance Agreement
- I. Sewer Warranty and Maintenance Agreement
- J. Summary of Documents for the Mapleton Mobile Home Park Sale

ATTACHMENT A

Additional Information Regarding the Mapleton Mobile Home Park Project

Background

The Mapleton Mobile Home Park (MMHP) was purchased by the City of Boulder in 1997 for \$3,500,000. This purchase was guided by two principal goals: 1) Preserve the park as an affordable housing option in the community; and 2) Facilitate completion of the Goose Creek flood control channel section contained in the park. This purchase was made with a \$500,000 down payment and financed with a \$3,000,000, 10 year promissory note at 6% interest from the seller. The Public Works Department, as part of the planned work for the Goose Creek flood control project, agreed to finance the funds necessary to make this property acquisition possible. Approximately \$1.8M has been loaned to the project by the Public Works Department to date. \$600,000 of the City's line of credit with the Federal National Mortgage Association (FNMA) was used to begin repayment to the Public Works Department.

The Goose Creek flood control project was substantially completed in 2003. Completion of this project removed those portions of the MMHP, approximately 2/3 of the total site, from the high hazard, conveyance and 100-year flood zones.

City Council, through resolutions adopted in 2001 and 2003, affirmed the City intentions to sell the MMHP following completion of the flood control channel to either a residents' organization or a non-profit organization that would ensure significant resident control over the management of the park. Those resolutions also affirmed the goal of making the MMHP a permanently affordable housing community. This project has been an opportunity to create a truly resident controlled mobile home park community.

The park itself is an older park, with water and sewer utility and service lines in need of replacement. Substantial work has been done by all parties to determine the extent of the needed infrastructure work and how to finance and phase the work. As part of the Goose Creek flood control channel work, new water and sewer lines were installed in the Goose Creek flood control channel. Thistle Community Housing has expressed some concern over the construction of the sewer line and as a result, the City has agreed to maintain and provide a warranty for the City constructed sewer lines for the next five years.

The majority of the homes in the park are more than 25 years old. All parties have worked on site re-development standards in order to provide a plan that residents can use when deciding to upgrade their homes. These re-development standards were approved through the site review process and reviewed by the City Council as part of a previous Council item extending the length of the site review approval to last as long as the MMHP remains a mobile home park.

Thistle Community Housing, a Boulder County non-profit affordable housing organization, has agreed to purchase the MMHP. Thistle has formed a limited liability company, the Mapleton LLC, solely for the purpose of owning and managing the park. Thistle has been working with the residents of the MMHP to build their organizational and property management abilities. Thistle will then make the MMHP part of its Community

Land Trust program, and lease the property back to the Mapleton Home Association in order to allow the residents to participate in the management of their park.

Thistle Community Housing, founded in 1989, creates and protects permanently affordable rental and home ownership opportunities for working families, including single parents, the elderly, people with disabilities and professionals. Thistle has received a range of excellence awards in operation and design, including awards from United States Housing and Urban Development, Colorado Office of Energy Conservation, Colorado Cross Disabilities Coalition (for accessibility), and E-star and EXCEL Awards (for green building). These commendations reflect Thistle’s long-term commitment to meeting the affordable housing needs of a wide range of community members.

The Mapleton Home Association (MHA), the official, non-profit organization of the MMHP’s residents, was formed in 1996. The MHA’s long term goal is to preserve low and moderate income housing at the MMHP as well as to ensure that residents of the MMHP have a continuing role in the management of the park.

The agreed financial structure is designed to allow Thistle to proceed with the planned utility infrastructure improvements for the park within the next four years.

Thistle and the MHA developed a management plan that provides for and ensures resident involvement in the ongoing management of the park. This plan has been reviewed by both staff and interested members of the Affordable Housing Council Subcommittee.

Agreed Terms

The amended contract price for the MMHP is \$2,960,000. Proceeds from this sale will be used to pay off the note to the original seller, approximately \$1.1M, reimburse the Public Works Department, approximately \$1.2M, and repay the FNMA line of credit, approximately \$600,000.

The City, through its annual housing fund request and approval process, has awarded this project grants of \$695,000 to help Thistle with the purchase price and predevelopment and operating expenses. An additional \$130,000 for infrastructure work was provided while the Goose Creek channel work was in progress, in order to avoid having to dig up certain sections of the Goose Creek work again when the park utilities are replaced.

The park itself will maintain a minimum of 120 spaces, as permanently affordable to very low and low income households. Specifically, the requirements of the permanent affordability covenant are as follows:

Minimum # of Spaces	% of Area Median Income
10	60% AMI
15	50% AMI
30	40% AMI
65	30% AMI
120	n/a

However, recently Thistle has expressed some concern about their ability to maintain this affordability commitment in the short term and has requested some flexibility in these terms for the next five years as well as a desire for an additional \$60,000 in funding (or \$60,000 reduction in the sale price) to initially serve five more households at 30% AMI.

Thus, the final sale price shall be \$2,900,000 and the initial affordability picture for the park will be as follows:

Number of Spaces	% of Area Median Income
At least 10	60% AMI
At least 14	50% AMI
At least 28	40% AMI
70	30% AMI
120	n/a

Additionally, some of the park residents have expressed concerns about selling their homes under the agreed affordability structure requested some flexibility to handle hardship cases that may arise. So for the first five years, with Thistle’s determination that a hardship exists, up to eight households can sell to the next highest income tier. That buyer does so under the condition that they must sell to the original income category when they wish to sell the home.

The terms and conditions for these arrangements may be found in Attachment I, Affordability Memorandum of Understanding.

ATTACHMENT B

CONTRACT TO BUY AND SELL REAL ESTATE

(Mapleton Mobile Home Park Property)

THIS CONTRACT TO BUY AND SELL REAL ESTATE (the “**Agreement**”) is entered into this ___ day of October, 2003, by and between the **CITY OF BOULDER**, a Colorado municipal corporation, the address of which is P.O. Box 791, Boulder, CO 80302 Attention: Mr. Jeff Yegian and Mr. John Pollak (facsimile number: 303-441-4368) (the “**Seller**”) and **THISTLE COMMUNITY HOUSING**, a Colorado non-profit corporation, with offices at 1845 Folsom St. Boulder, CO 80302 Attention: Mr. Aaron Miripol and Mr. Jim Harrington, or its assigns (facsimile number: 303-443-0098) (the “**Purchaser**”). The following exhibits are attached hereto and made a part of this Agreement:

- Exhibit A - Description of Property
- Exhibit B - Land
- Exhibit C - Schedule of Deadlines
- Exhibit D - Affidavit of Non-foreign Status

RECITALS:

- A. Seller (also referred to as the “**City**”), is the owner of 14.5 acres of land, more or less, known as the Mapleton Mobile Home Park property, located at 2635 Mapleton Avenue, Boulder, CO 80304, Boulder County, CO, which is described on the attached **Exhibit A**, and shown on the attached **Exhibit B** (the “**Land**”). The final description of the Land will be based upon the Survey described in paragraph 4.3, herein, which shall be agreed upon by the parties during the Inspection Period, described herein.
- B. The Property is a mobile home park which is occupied by tenant homeowners who own mobile homes, and those tenants who rent mobile homes from the City (collectively the “**Tenants**”). The mobile homes are each located on individual rental lots (the “**Lots**”), subject to individual month-to-month leases (the “**Lot Leases**”). The Property was acquired by the City so that certain floodway improvements could be completed on Goose Creek, which bisects the Property, and to maintain affordable housing. As provided herein, the City agrees to sell all mobile homes owned by it to the current occupants, or qualified buyers, prior to Closing, or as soon thereafter as practicable.
- C. The Purchaser is an I.R.C. Section 501(c)(3) Colorado non-profit corporation the mission of which is to promote and ensure affordable housing alternatives in the Boulder area. The parties intend to work cooperatively to complete the sale in a timely and cost-effective manner which will enable the Purchaser and the City to meet their collective goal of ensuring affordable housing opportunities on the Property.

- D. The City wishes to sell the Property to the Purchaser for the purpose of maintaining it as a permanently affordable housing alternative in which the residents have significant input to Park management policies and practices. The City intends to make this goal possible by providing funding and a favorable sales price.
- E. The Purchaser wishes to acquire the Property for the purpose of maintaining the Property as a mobile home park and a permanently affordable housing alternative in the City of Boulder. The Purchaser intends to encumber the Property with a land lease (the “**Land Lease**”) that maintains affordability of housing, and to lease the Property as a whole to a homeowners association or other entity representing the Tenants as a whole, which will in turn lease individual lots to Tenants, subject to affordability restrictions in the Land Lease. The parties acknowledge that in order for City financing to be provided for the Purchase, 80% (unless otherwise agreed) of the Tenants must agree in writing in advance of Closing to encumber their Lots and Lot Leases with the affordability covenants contained in the Land Lease.
- F. The parties acknowledge that the Property is serviced by water and sewer lines which are aging and may need improvements and repairs any place along those lines as new taps are attached to the lines (the “**Utility Repairs**”). The parties intend to work together to ensure that Purchaser will have sufficient funding to complete the Utility Repairs in the event of a Closing.
- G. The parties are currently pursuing City approvals of the Purchaser’s plans for the future location of manufactured housing.

AGREEMENT:

The parties agree as follows:

- 1. **PROPERTY.** Seller agrees to sell and Purchaser agrees to buy, on the terms and conditions set forth in this Agreement, the Land, which will be rezoned MH-E by the date of Closing, and other items described in paragraph 1.2 (collectively the “**Property**”), but excluding the “**Excluded Property**” described in paragraph 1.1 below:
 - 1.1. **Excluded Property.** The Property to be conveyed includes the land underlying the bridge over Goose Creek (referred to as the “**27th Street Bridge**”), but specifically excludes the bridge structure itself, and any structures or improvements of any kind to Goose Creek, the Goose Creek floodplain and drainage way, any power and transmission lines and poles, all appurtenant and associated structures, improvements, bikepaths, sidewalks and revegetation (collectively the “**Goose Creek Improvements**”), and any and all mobile homes and tenant owned improvements on the Property (the “**Mobile Homes**”) whether owned by the City, or other parties (collectively the “**Excluded Property**”). Seller retains all responsibilities for owning, operating, maintaining, replacing and

ensuring the safety of the Goose Creek Improvements (except that Purchaser shall maintain the surface of the 27th Street Bridge and the surface and landscaping improvements of the pedestrian walkway pursuant to a maintenance agreement the terms of which shall be agreed upon by the parties prior to the end of the Inspection Period described herein), and Purchaser shall have no responsibility whatsoever for these matters as a purchaser of the Property, before or after Closing.

1.2. The Property. The Property excludes the Excluded Property, but includes, the Land, and the following, without limitation, (a) any and all buildings, including the washhouse and maintenance shed, improvements, vegetation, personalty and fixtures owned by the Seller situated thereon, but excluding any mobile homes owned by the City, or any other party; (b) any and all surface or subsurface sand, gravel, oil, gas, mineral, or mineral rights owned by the City; (c) any and all appurtenant or associated water rights including all shares or certificates of any type in ditch or water delivery companies or associations that have not otherwise been dedicated to City use or utilized for water tap credits, owned by the City (collectively the “**Water Rights**”); (d) any and all water taps, approvals, permits, agreements relating to the Property, and its status under applicable land use regulations; and (e) all other surface and subsurface rights, any and all other permits, hereditaments, easements, recorded rights of access, historic rights of access, warranties, incidents and appurtenances belonging thereto (collectively, with the “Land”, referred to as the “**Property**”).

2. **PURCHASE PRICE**. The purchase price for the Property shall be Three Million Sixty-six Thousand and no/100s Dollars (\$3,066,000.00) (the “**Purchase Price**”) and shall be paid by Purchaser to Seller as follows:

2.1. City Grant. The City has awarded a grant of Six Hundred Twenty-five Thousand and no/100s Dollars (\$625,000.00) (the “**City Grant**”) to the Purchaser for use on this project, some or all of which will be paid to Purchaser as a grant not requiring repayment outside of and prior to Closing. (As an example, approximately \$50,000 will be paid to Purchaser as a grant to be used for design work, not requiring repayment, and that amount will not be applied to the Purchase Price). At Closing Seller shall pay or credit the balance of the City Grant funds to the Purchaser, which amount shall be applied to the Purchase Price.

2.2. City Loan. At Closing Seller shall loan Purchaser the sum of not less than Six Hundred Thousand and no/100s Dollars (\$600,000.00) (the “**City Loan**”), which City Loan shall be applied to the Purchase Price. Repayment of the City Loan shall be evidenced by a promissory note from the Purchaser to the Seller executed at Closing (the “**Note**”), repayment of which shall be secured by a subordinate Deed of Trust encumbering the Property (the “**Deed of Trust**”). The principal amount of the Note shall bear interest at the LIBOR rate plus 2.75 percent adjusted quarterly and amortized over a period of 30 years, all principal and outstanding interest

shall be due on or before May 31, 2008 , and the Note shall provide for annual payments of interest only. The final form and terms of the Note and Deed of Trust shall be agreed upon by the parties during the Inspection Period described herein.

- 2.3. City Credit. The City shall give the Purchaser a credit at Closing equal to the difference, if any, between \$3,066,000 and the total principal and interest “owed on the Park” as of Closing (the “**City Credit**”). The amount “owed on the Park” means the principal and interest owing under the Deed of Trust recorded on March 10, 1997 on Film 2150 as Reception No. 01682430 of the record of the Boulder County Clerk and Recorder, plus the principal and interest owing to Public Works (as defined by an interdepartmental agreement), plus the principal and interest due on any additional debt the City may incur in order to reduce interest costs on the prior two debts. If the sum of the debts is greater than \$3,066,000 there will be no City Credit.
- 2.4. Closing funds. At closing, the balance of the Purchase Price, less the amount of the balance of the City Grant, the City Loan, the City Credit and the State Grant shall be paid by Purchaser, in cash, certified funds, or by wire transfer of federal or other immediately available funds.
- 2.5. Costs of Purchaser. The City will support the Purchaser’s efforts to raise funds from non-City sources to cover Purchaser’s costs of investigating the Property for purchase and preparing for Closing, incurred both before and after entering into this Agreement.
3. **CLOSING DATE**. The closing of the transaction contemplated hereunder (the “**Closing**”) shall be held at the office of the Title Company on the later of the following: (a) On or before January 17, 2004, or (b) fifteen (15) days after the Existing Conditions/LOMR Approvals described in paragraph 6.4, and Site Approvals, described in paragraph 6.5 have been obtained by Seller and approved by Purchaser in writing or such conditions have been waived by Purchaser in writing, but in no event shall Closing be later than March 31, 2004, provided that Purchaser may extend the Closing until not later than June 30, 2004, for the Seller to obtain such approvals for review and approval by Purchaser (the “**Closing Date**”). Notwithstanding any other provision in the Agreement to the contrary, if financing for the purchase has been approved, as determined by Purchaser in its sole discretion, but not yet funded, the Closing shall be automatically extended for up to an additional thirty (30) calendar days upon notice from the Purchaser. Possession shall be delivered to Purchaser as of the date of Closing.
4. **SATISFACTORY INSPECTION AND REVIEW**. The Seller and Purchaser expressly covenant and agree that Purchaser’s satisfaction upon the review and inspection provided for herein is a specific condition precedent to the obligation of Purchaser to purchase the Property. Purchaser shall have a period in which to review the documents and to make the inspections described herein. The period of inspection (the “**Inspection Period**”), unless extended as provided herein, shall

terminate on the earlier of: (i) Receipt by Seller of notice from Purchaser that the Property is suitable for purchase; or (ii) fifteen (15) days prior to Closing.

4.1. Seller Documents. Not later than December 15, 2003, Seller shall provide at Seller's expense, to Purchaser: (a) a title commitment issued by the Title Company, together with legible copies of the deed or deeds by which the Seller holds title to the Property, legible copies of any instruments listed in the legal description for the Property, and legible copies of all exceptions to title, pursuant to which the Title Company shall issue to Purchaser a standard coverage owner's policy of title insurance, including "gap" and mechanic's lien coverage and excluding standard exceptions 1-3 related to surveys and parties in possession, insuring title and access to the Property as of the date of Closing in the amount of the Purchase Price; (b) a Certificate of Taxes Due or other documentation evidencing that all taxes owing on the Property have been paid in full; (c) a copy of the current and previous year's Notice of Assessment, or other satisfactory evidence of the current and previous year's assessed value and assessment category for the Property; (d) to the extent in Seller's possession, copies of any surveys or maps of the Land, plans relating to the building improvements, and studies and reports regarding the soils or water on or under the Land. The items described in this paragraph 4.1 and in paragraph 4.2 are collectively referred to as the "**Seller Documents**".

4.2. Additional Property Information. The parties agree that upon acceptance of this contract the City will authorize the Purchaser to have complete access to all files (including copying of any files requested by Purchaser) maintained by its management company, which is Hast & Co., "**Hast**" in order that Purchaser may inspect the following "**Additional Property Information**" for each tenant and for the Property. The parties agree that the City and Hast shall make a good faith effort to keep the files updated during the Inspection Period and to make them complete and accurate as of Closing.

4.2.1. The occupied and vacant lots shall be reflected in a rent roll furnished by the Seller as of September, 2003, and shall be updated every month until closing. The City and Hast shall make a good faith effort to ensure that all tenants listed on the rent roll have verifiable and executed month-to-month lot leases on the current approved lease form for the Property.

4.2.2. Tenant's name and address.

4.2.3. Current Rent.

4.2.4. Current Deposit.

4.2.5. Date the tenant took occupancy, if known by the City.

4.2.6. Date of expiration of lease, if not a month to month lease.

4.2.7. List of vacant lots.

4.2.8. Any correspondence between Seller and Tenant related to the lease.

- 4.2.9. Operating statements and records and all capital expenditures for the Property for the calendar years 2001, 2002, and 2003 to-date.
 - 4.2.10. A copy of the lease, with all amendments and extensions (already provided to Thistle).
 - 4.2.11. Rent rolls, current rents and receivables.
 - 4.2.12. Inventory of personal property to be conveyed by City.
 - 4.2.13. A copy of the Laundry Lease for the Property.
 - 4.2.14. Written summary of any verbal agreements or arrangements between Seller and Tenant.
 - 4.2.15. Any and all contracts, leases, employment agreements, warranties, permits and licenses related to or affecting the Property.
 - 4.2.16. Accounts Receivable list.
 - 4.2.17. A written summary of any of the information in this paragraph that is not available.
 - 4.2.18. A list of any mobile homes that are owned by entities or are not occupied by the owner of the mobile home.
- 4.3. Survey of Property. The parties shall agree upon the boundaries of the Property, and the Seller shall complete an ALTA survey of the Property utilizing the agreed upon boundaries at its expense on or before October 31, 2003 and deliver a copy to the Purchaser and the Title Company by that date (the “Survey”), in a form acceptable to the Purchaser and to the Title Company to permit it to delete all standard survey exceptions to the title policy. The Seller shall meet with the Purchaser to agree upon the boundaries to be utilized for the survey, within ten (10) days of the Effective Date of this Agreement, and shall provide periodic updates on the preparation of the Survey, as requested by the Purchaser. The parties agree that all Goose Creek Improvements, and the Safety Improvements described herein, shall not be included in the Property conveyed to Purchaser. The Survey shall be certified to the Seller, the Purchaser and the Title Company. The Survey shall monument the corners of the Property, locate all exceptions to title listed in the title commitment, and show all flood zone designations, land area, exterior dimensions of permanent buildings, substantial visible improvements, parking areas, access to public ways, such as curb cuts and driveways, location of utilities, names of adjoining landowners, fences and fence lines, all roads, sidewalks, bikeways, and rights of way, all streambeds, storm drains and bridges.
- 4.4. Inspection; Right of Entry. Purchaser shall have the right to enter upon the Property at reasonable times for surveying, mapping, physical and environmental inspection, conducting an appraisal and other reasonable purposes related to the transaction contemplated hereunder. Purchaser hereby indemnifies and holds harmless Seller from and against any and all claims, liens, damages, losses, and causes of action which may be asserted by Purchaser or Purchaser’s employees, agents, or any third party who enters upon the Property or conducts tests related to the Property at the request of or on behalf of Purchaser or its agents, provided that such

indemnification and hold harmless shall not apply to claims arising from the conduct of Seller.

- 4.5. Schedule for Completion of Inspection Items. A schedule for completion of inspection items is attached as **Exhibit C**.
- 4.6. Safety; Goose Creek Improvements, Boulder and White Rock Ditch. The parties acknowledge that the Property is bisected by Goose Creek and that the Boulder and White Rock Ditch crosses the Property. Prior to Closing Seller shall construct, or cause to be constructed, 6-foot security or other appropriate fencing, barriers, signage, warnings, and other safety improvements off the Property, to segregate the Property from the portion of the Boulder and White Rock Ditch which crosses Goose Creek, and from any dangerous Goose Creek improvements and protect tenants, guests, and all persons on the Property from the dangers of these areas (collectively the “**Safety Improvements**”). Thereafter Seller shall be responsible for and shall maintain, repair and replace all such safety improvements, at its expense, as it determines necessary, and in a timely manner, so as to ensure the safety of the Property at all times. Under no circumstances shall Purchaser have any responsibility or liability for any Safety Improvements at any time, prior to or after Closing. Notwithstanding its obligations under this paragraph, the City does not waive or intend to waive the limitations on liability which are provided to the City under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S.
- 4.7. Sale of City Owned Mobile Homes. The City agrees to sell all mobile homes owned by it to the current occupants, or qualified tenants, prior to Closing, or as soon thereafter as practicable. Prior to making any such sale of its mobile homes the City agrees to give current occupants reasonable notice of any such sale, and an opportunity to purchase the mobile home they occupy upon mutually acceptable terms. All such sales shall be made subject to encumbrance of the affected Lot under the terms of the Land Lease, and its affordability covenants.
- 4.8. Collection of Past Due Rent. The City shall assign any past due rents to Thistle at Closing, and waive any right to collect such past due amounts from the Tenant or from Thistle. Thistle may, in its discretion, attempt collection of any past due rent from any Tenants owing rent as of the date of Closing, and any amounts so collected shall be the sole property of Thistle, and shall require no accounting to the City.
- 4.9. Removal of Tree Stumps in Park. If requested by Thistle in writing, prior to Closing the City shall remove the tree stumps in the park on the Property, and reclaim and revegetate the disturbed area to its natural contour using appropriate vegetation for the area. The cost for such work would be charged to Thistle at Closing.

- 4.10. Number of Rentable Lots. Prior to Closing Purchaser shall be satisfied in its sole discretion that at least 130 of the Lots are rentable and are paying rent as of Closing.
- 4.11. Issues Related to Depth of Sewer Lines. Prior to the end of the Inspection Period the parties shall agree upon corrective action that may be necessary to address problems that could occur if the sewer lines are not buried at a sufficient depth, and any compensation to Purchaser as a result of such condition. The parties acknowledge that the Purchaser has been advised that it may be necessary and preferable to install a lift station to address this potential problem.

5. **ELECTION AT THE END OF THE INSPECTION PERIOD.** During the Inspection Period and prior to Closing, Purchaser may review all documents or information described herein or pertaining to the Property, and make the above-described physical and environmental inspections, applications, reviews, studies, appraisals, evaluations or surveys, review leases and lease records, security deposit records, building maintenance records, accounts receivable and payable for the Property and all records of Seller pertaining to the Property, required to satisfy itself as to the acceptability and suitability of the Property for purchase. Should, for any or no reason and in its sole discretion, Purchaser not be satisfied that the Property is acceptable or suitable, Purchaser shall notify Seller in writing on or before the expiration of the Inspection Period of its dissatisfaction, at which time this Agreement shall be considered null and void and of no further force and effect; provided, however, if the objections of Purchaser are to title or other defects which Seller can reasonably cure within a twenty (20) day period following the receipt of notice from Purchaser, Seller shall have such period to cure such defects to the reasonable satisfaction of Purchaser. Purchaser shall, at any time, have the right to waive the conditions precedent to its performance under this Agreement before the end of the Inspection Period and if Purchaser elects to waive the conditions precedent to its performance and to terminate the Inspection Period, this Agreement will remain in full force. Failure of Purchaser to notify Seller of its dissatisfaction prior to the expiration of the Inspection Period shall be deemed a waiver of this condition precedent and acceptance of the Property as suitable for purchase, as required above.

6. **CLOSING DOCUMENTS.** At Closing, Seller shall execute and deliver to Purchaser or its assigns the items listed in paragraphs 6.2 through 6.13, (the “**Closing Documents**”), the form of which shall be agreed upon by the parties prior to the end of the Inspection Period.

- 6.1. Housing Affordability Covenant. At Closing the Purchaser shall execute and deliver to the City a Housing Affordability Covenant (the “**Covenant**”) in the form agreed upon by the parties, which Covenant shall be recorded at Closing in the order agreed upon by the parties.

- 6.2. Deed. A good and sufficient special warranty deed in a form acceptable to Purchaser, conveying good marketable and insurable title to the Property, including access to the Property, free and clear of all liens, encumbrances and other exceptions, except such easements, restrictions and other exceptions as are of record and are approved by Purchaser during the Inspection Period.
- 6.3. Bill of Sale. A good and sufficient bill of sale in a form acceptable to Purchaser, conveying good title to the items of personal property and fixtures being conveyed with the Property, free and clear of all liens and encumbrances.
- 6.4. Existing Location of Lots and Structures. The parties acknowledge that: (a) The exterior (perimeter) boundaries of the Property will be determined by the Boundary Survey and that the spacing between and maximum size of homes on the Property shall be established by the Site Development Plan approval process or equivalent approvals, as described herein; and (b) The majority of the homes and accessory structures within Mapleton Mobile Home Park are substandard and do not meet the current zoning and building codes. Prior to Closing, Seller shall deliver to Purchaser (1) An Approval of the Letter of Map Revisions (“**LOMR**”) from the Federal Emergency Management Agency (“FEMA”) removing the Property from the high hazard and 100-year floodplain designations; and (2) Seller assurances and City Planning Department approvals, in a form acceptable to Purchaser in its discretion, indicating that each such home may continue to be occupied and utilized in its current manner, configuration and location as a non-conforming structure within the designated MH-E zone category (together the “**Existing Conditions/LOMR Approvals**”).
- 6.5. Approval of Mapleton Mobile Home Park Site Development Plan and Development Standards. City of Boulder approval of: a) **Site Development Plan** or equivalent approvals, (delineating minimum perimeter and interior setbacks and building separations, maximum expansion of homes (by expansion or replacement) within specified building envelopes, allowance for foundations under future replacement mobile homes, maximum envelopes for covered and uncovered patios and storage buildings, location of dumpsters/recycling enclosures, on-street parking spaces, area devoted to community facilities and common open space); and b) **Development Standards** for individual lots, community facilities and common open space (including the quantification of information contained in the Site Development Plan) (together the “**Site Approvals**”). Prior to Closing Seller shall deliver to Purchaser Seller assurances and City approvals, in a form acceptable to Purchaser in its discretion indicating that the Mapleton Mobile Home Park Site Development Plan and Development Standards are acceptable and approved by the City, and that those approvals may be relied upon for all purposes by the Purchaser.

- 6.6. Approval of Manufactured Housing. City of Boulder approval for the placement of manufactured housing on the Property to be tied down on pads located on the Lot (the “**Manufactured Housing Approval**”). Prior to Closing Seller shall deliver to Purchaser Seller assurances and City approvals, in a form acceptable to Purchaser in its discretion indicating that the Manufactured Housing Approval has been granted by the City, and that such approval may be relied upon for all purposes by the Purchaser.
- 6.7. Powerline Easement Encroachment. The parties acknowledge that the Xcel Energy power line easement granted by the City encroaches onto one (1) mobile home or Lot on the Property. The Seller shall resolve the matter of the encroachment with Xcel Energy prior to Closing with a solution acceptable to the Purchaser in its discretion which solution may include re-describing and re-recording the easement so that the easement does not encroach onto the Lots or mobile homes.
- 6.8. Responsibility for Goose Creek Improvements, Boulder and White Rock Ditch, and Safety. The parties acknowledge that the Property is bisected by Goose Creek and that the Boulder and White Rock Ditch traverses the Property. Prior to Closing Seller shall provide assurances, in a form acceptable to Purchaser, that Seller shall remain responsible for the Safety Improvements described above, and that Purchaser shall have no liability or responsibility for such Safety Improvements, and that Seller will be responsible for any loss, damage or claim relating to the Safety Improvements, their maintenance and efficacy. Notwithstanding its obligations under this paragraph, the City does not waive or intend to waive the limitations on liability which are provided to the City under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S.
- 6.9. Assignment of Leases, General Assignment, Certified Rent Roll. An Assignment of Leases, General Assignment, and Rent Roll certified to be accurate by the City, and Accounts Receivable list (see paragraph 4.2., above).
- 6.10. Estoppel Letter. Seller or Seller’s Manager shall make a good faith effort to obtain (if Purchaser requires) prior to Closing a statement from any Tenant with a past due balance, in writing, certifying that such Tenant’s lease is unmodified and in full force and effect, and the dates to which rental and other charges are paid in advance, if any, and acknowledging that there are not any uncured defaults on the part of the landlord.
- 6.11. Notice to Tenants. On or prior to Closing Seller shall notify all Tenants of the sale and that all security deposits made by each of them have been transferred to the Purchaser, and giving the name and address of the Purchaser’s agent. At closing Seller shall furnish evidence of such notices, render a complete accounting for all deposits and prepaid rents and transfer all security deposits and prepaid rents to Purchaser.

- 6.12. Originals of Documents. Originals of all contracts, leases, agreements, permits, licenses, and warranties affecting or pertaining to the Property in the possession of the City or Hast.
- 6.13. Additional Conveyance Documents. Such additional documents as are determined necessary by Purchaser, in its reasonable discretion, to complete the transaction.

7. **CONDITION OF THE PROPERTY, REPRESENTATIONS.** As of the date of this Agreement and the date of Closing, Seller warrants and represents the following:

- 7.1. Seller is the record owner of the Property, including specifically, without limitation, the sand, gravel and minerals, to be conveyed hereunder. Upon the Closing Date, Purchaser will have good and marketable title to the Property, including insurable access to all portions of the Property.
- 7.2. There are no actions, suits, proceedings or investigations pending or, to Seller's knowledge threatened, against or affecting the Property, or arising out of Seller's conduct on the Property or which would affect the ability of the Seller to fulfill its obligations under this Agreement. Seller shall provide copies of any notices, actions, suits, proceedings, investigations of any type affecting the Property, including, without limitation, any notices affecting the taxation, assessment, assessment classification, zoning, or permitted uses of the Property received at any time prior to or after closing.
- 7.3. To the best of Seller's knowledge, Seller is in compliance with the laws, orders, and regulations of each governmental department, commission, board, or agency having jurisdiction over the Property in those cases where noncompliance would have a material adverse effect on the Property.
- 7.4. Other than this Agreement, Seller is not party to, subject to, or bound by any agreement, contract or lease of any kind relating to the Property, except the Lot Leases, and other matters disclosed in the Seller Documents. Other than as described in the Lot Leases and Seller Documents, there are no rights of possession to the Property or options or rights of first refusal in third parties or their assignees, nor rights of access across the Property by third parties.
- 7.5. To the best of Seller's knowledge, the Property is not in violation of any federal, state or local law, ordinance or regulation relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions. Neither Seller, nor to the best of Seller's knowledge any third party, has used, generated, manufactured, refined, produced, processed, stored or disposed of on, or under the Property or transported to or from the Property any Hazardous Materials nor does Seller intend to use the Property prior to closing date for the purpose of generating manufacturing, refining, producing, storing, handling, transferring, processing or transporting Hazardous Materials. For the

purposes hereof, "Hazardous Materials" shall mean any flammable explosives, radioactive materials, asbestos, petroleum, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous material" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of governmental authority regulating, relating to or imposing liability or standard of conduct concerning any hazardous, toxic or dangerous substance or material, as now or at any time hereafter in effect, and in the regulations adopted, published and/or promulgated pursuant to said laws. To the best of Seller's knowledge there are no underground storage tanks situated on the Property nor to the best of Seller's knowledge have such tanks been previously situated thereon.

- 7.6. No representation, warranty, or statement made herein by Seller contains any untrue statement of any material fact or omits to state any material fact necessary in order to make such representation, warranty, or statement not misleading.
 - 7.7. Seller is duly authorized and has taken all necessary actions to execute and perform this Agreement and this Agreement is enforceable against Seller in accordance with its terms.
 - 7.8. All information, lists and materials given to Purchaser before and during the Inspection Period, and prior to Closing will be true and complete to the best of Seller's knowledge. All materials furnished before and during the Inspection Period shall present a full, fair and complete picture of the rental activity on the Property as now conducted, not knowingly misstating or omitting any material matters. The Seller and its Management Company, if any, shall fully cooperate in promptly providing all information concerning the Property and the leasing of the Property, as is reasonably requested by Purchaser.
8. **ORDINARY COURSE OF BUSINESS.** During the pendency of this Agreement, Seller may conduct its ordinary business and property management operations and may enter into such leases and agreements as are proper for the ordinary course of business, provided that Seller shall promptly provide to Purchaser all such leases, contracts and agreements, and shall promptly notify Purchaser in writing of any substantial repairs or maintenance to or change in condition of the Property.

9. **CONDITION OF PROPERTY, LIABILITY.** Seller has made certain representations and warranties concerning the Property and its condition. During the Inspection Period the Purchaser has the right to inspect the condition of the Property. However, without regard to any inspections made by the Purchaser, nothing in this contract shall relieve either party of liability for misrepresentation, breach of warranty or failure to reasonably inspect the condition of the Property.
10. **TAXES.** Seller shall pay at Closing any sales, excise, conveyance or transfer tax, assessment or fee of any type for any period prior to Closing. Seller shall pay all general and special taxes, assessments, fees and charges of any type (including without limitation, any for water, sewer, irrigation and special districts), for the Property for the current year and all years prior to Closing. At Closing real property taxes and assessments and other taxes and assessments for the year of Closing shall be prorated as of the date of Closing based on the most recent ascertainable tax bill or the current assessment of the Property.
11. **PRESERVATION OF PROPERTY; RISK OF LOSS.** Tree cutting and stump removal is permitted on the Property prior to Closing, as described herein. Otherwise, Seller agrees that the Property shall generally remain as it now is until Closing, unless otherwise approved by Purchaser in writing in advance, that no vegetation or improvements or any other part of the Property shall be sold or removed from the Property without prior written notice to Purchaser, and that it shall neither use nor consent to any use of the Property for any purpose or in any manner which would adversely affect Purchaser's intended use of the Property as an affordable housing area or similar use. In the event that Seller shall use or consent to such use of the Property, Purchaser may, without liability, refuse to accept the conveyance of title.
12. **COSTS AND FEES.** Closing fees and the Property transfer tax(es) shall be paid by Seller. The premium for the title insurance policy described above shall be paid by Seller. Per page recording costs and documentary fees, if any, shall be paid by Seller. The parties agree that the Seller shall continue to manage the Property according to current practices, including paying all bills in a timely fashion, and that Purchaser will assume any prepaid or unpaid bills upon Closing along with the balances in all of Seller's Property accounts.
13. **DEFAULT, REMEDIES and DAMAGES.**

The Seller and Purchaser agree that although both parties are making a good faith effort to complete this transaction, either party may determine that neither its, nor the public's, best interests are served by completing this sale. In that event, or in the event of a default, the parties agree not to pursue any remedies or damages whether financial or other.
14. **NOTICES.** All notices required or permitted hereunder will be deemed to have been delivered upon sending of such notice. All notices required or permitted hereunder shall be given by hand delivery, or sent by telecopier, or sent by Federal Express or other courier for delivery at the soonest possible time offered by such

courier, directed as follows, or to such other address as either party may designate by giving notice to the other party, as provided herein:

If to Seller:

CITY OF BOULDER

P.O. Box 791, Boulder, CO 80302

Attention: Mr. Jeff Yegian and Mr. John Pollak
(facsimile number: 303-441-4368)

If to Purchaser:

THISTLE COMMUNITY HOUSING

1845 Folsom St. Boulder, CO 80302

Attention: Mr. Aaron Miripol and Mr. Jim Harrington
(facsimile number: 303-443-0098)

15. **MISCELLANEOUS.**

- 15.1. Broker's Commission. Seller and Purchaser each represent to the other that they have not contracted with any broker or finder with regard to this transaction. Each party agrees to indemnify, defend and hold harmless the other from and against any and all liability, claims, demands, damages and costs of any kind arising out of or in connection with any broker's or finder's fee, commission or charges claimed to be due any person in connection with such person's conduct respecting this transaction except as set forth herein.
- 15.2. Certificate. At or prior to Closing, Seller shall furnish to Purchaser a duly executed Certificate of Non-Foreign Status in the form attached to this Agreement as **Exhibit "D"**. Seller hereby declares and represents to Purchaser that it is not a "foreign person" for purposes of withholding of federal tax as described in such Certificate.
- 15.3. Assigns. Purchaser may assign this contract in whole or in part, and its rights as Purchaser hereunder including those to the Deposit by written assignment to a Colorado limited liability company, which has been created by Purchaser for the purposes of acquiring the Property pursuant to this Agreement (the "**Assignee**"), wherein the Assignee assumes the obligations of Purchaser hereunder.
- 15.4. Binding Effect. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties' heirs, executors, administrators, successors and assigns.
- 15.5. Exhibits. The exhibits hereto constitute an integral part of this Agreement and are hereby incorporated herein.
- 15.6. Counterparts; Facsimile Signatures. This Agreement may be executed in counterparts, all of which shall constitute one agreement which shall be binding on all of the parties, notwithstanding that all of the parties are not signatories to the original or the same counterpart. Signatures may be

evidenced by facsimile transmission and at the request of any party documents with original signatures shall be provided to the other party.

- 15.7. Severability. If any provision of this Agreement shall be held invalid, the other provisions hereof shall not be affected thereby and shall remain in full force and effect.
- 15.8. Entire Agreement. This Agreement represents the entire agreement of the parties and may not be amended except by a writing signed by each party thereto.
- 15.9. Authority. Each party to this Agreement warrants to the other that the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents.
- 15.10. Merger. The obligations, covenants, representations, warranties and remedies set forth in this Agreement shall not merge with transfer of title but shall survive the Closing.
- 15.11. Further Actions. Each party shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to convey the Property to Purchaser and to vest in each party all rights, interests and benefits intended to be conferred by this Agreement. The parties acknowledge that if issuance of the title insurance and the closing are handled by different title companies, final closing of escrow may not be completed until several business days after the scheduled closing.
- 15.12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.
- 15.13. Offer. When signed and delivered to the Seller by Purchaser, this Agreement will constitute an offer to the Seller that can be accepted only by the Seller signing and delivering to Purchaser an executed original of this Agreement on or before (but not after) October ___, 2003. Purchaser may withdraw such offer in writing at any time prior to its acceptance.
- 15.14. Labor and Material; Existing Leases. Seller shall deliver to Purchaser at Closing an affidavit, on a form acceptable to the Title Company and to Purchaser's lender, if applicable, signed by Seller that no labor or materials have been furnished to the Property within the statutory period for the filing of mechanics' or materialmen's liens against the Property, or if labor or materials have been furnished during the statutory period, Seller shall deliver to the Title Company and to Purchaser an affidavit signed by Seller and the person or persons furnishing the labor or materials that the costs thereof have been paid. Seller shall also provide an affidavit to the title company affirming that there are no leases or tenancies for the Property, except as disclosed to Purchaser in writing.
- 15.15. 1099 Reporting. The Title Company is designated as the party responsible for filing a Form 1099 with the Internal Revenue Service promptly after Closing, to the extent required by the Internal Revenue Code and Treasury Regulations.
16. **SATURDAYS, SUNDAYS, HOLIDAYS**. If the final date of any time period of

limitation set out in any provision of this Agreement falls on a Saturday, Sunday or a legal holiday under the laws of the State of Colorado, then the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

17. **EFFECTIVE DATE.** The Effective Date of this Agreement shall be the last date signed by either party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLER

CITY OF BOULDER, a Colorado municipal corporation

By: _____
Frank W. Bruno, City Manager

Date: _____

Attest:

By: _____
City Clerk on behalf of the
Director of Finance and Record

Date: _____

Approved as to form:

City Attorney

PURCHASER

THISTLE COMMUNITY HOUSING,
a Colorado non-profit corporation

By: _____

Date: _____

Its: _____

COUNTY OF BOULDER)
) ss:
STATE OF COLORADO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, as _____, of Thistle Community Housing a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires: _____.

(SEAL)

Notary Public

EXHIBIT "A"

DESCRIPTION OF PROPERTY

Lot 1 and Lot 2 of the Mapleton Mobile Home Park Subdivision

EXHIBIT "C"
Schedule of Inspection Items

The following is a list of dates or deadlines in the Contract:

	Reference	Event	Date or Deadline
1.	Par. 18	Effective Date of Agreement	October _____, 2003
2.	Par. 5	End of Inspection Period	15 days prior to Closing
3.	Par. 5a	Title Deadline	December 15, 2003
4.	Par. 5.3	Deadline to discuss survey	10 days after Effective Date
5.	Par. 5.3	Survey Deadline	October 31, 2003
6.	Par. 11	Closing Date	January 17, 2004 (may be extended to June 30, 2004)

AMENDMENT TO CONTRACT TO BUY AND SELL REAL ESTATE

(Mapleton Mobile Home Park Property)

THIS AMENDMENT TO CONTRACT TO BUY AND SELL REAL ESTATE (the “**Amendment**”) is entered into effective this 12th day of July, 2004, between the **CITY OF BOULDER**, a Colorado municipal corporation, the address of which is P.O. Box 791, Boulder, CO 80302 Attention: Mr. Jeff Yegian and Mr. John Pollak (facsimile number: 303-441-4368) (the “**Seller**”) and **THISTLE COMMUNITY HOUSING**, a Colorado non-profit corporation, with offices at 1845 Folsom St. Boulder, CO 80302 Attention: Mr. Aaron Miripol and Mr. Jim Harrington, or its assigns (facsimile number: 303-443-0098) (the “**Purchaser**”).

RECITALS:

- A. The parties entered into a Contract to Buy and Sell Real Estate on October 24, 2003 for purchase of the Mapleton Home Mobile Park which was extended by letter agreements dated January 12, 2004 and March 16, 2004 (the “**Contract**”).
- B. The parties wish to amend the Contract to (1) further extend the deadlines (2) to modify the description of the property being sold (3) acknowledge the Seller’s consent to an assignment of the Contract (4) to clarify certain aspects regarding public access to the Property, (5) to modify the purchase price (6) to modify the terms pertaining to the City Loan and (7) provide for City Council authorization of the sale.

AGREEMENT:

Now, therefore, the parties agree that the Contract is amended as follows:

1. Contract Deadlines. The parties agree to extend the end of the Inspection Period to August 18, 2004 and the deadline for Closing to August 19, 2004.
2. Paragraph 1.1 Excluded Property is amended to read:

The Property to be conveyed excludes Outlot A of the Mapleton Mobile Home Park Subdivision, the Goose Creek floodplain and drainage way, and any structures or improvements of any kind to Goose Creek, any power and transmission lines and poles, all appurtenant and associated structures, improvements, bikepaths, sidewalks and revegetation (collectively the “**Goose Creek Improvements**”), and any and all mobile homes and tenant owned improvements on the Property (the “**Mobile Homes**”) whether owned by the City, or other parties (collectively the “**Excluded Property**”). Seller retains all responsibilities for owning, operating, maintaining, replacing and ensuring the safety of the Goose Creek Improvements (except that Purchaser shall maintain the surface of the 27th Street Bridge and the surface and landscaping improvements of the pedestrian walkway pursuant to a maintenance agreement the terms of which

shall be agreed upon by the parties prior to the end of the Inspection Period described herein), and Purchaser shall have no responsibility whatsoever for these matters as a purchaser of the Property, before or after Closing.

2. Assignment of Contract. As permitted by Paragraph 15.3 of the Contract, the Seller consents to an assignment of the Contract from the Purchaser to Mapleton LLC, a Colorado limited liability corporation which has been formed by Purchaser for the purpose of owning this Property.
3. Public Access Easement. The parties acknowledge that the North 28th Street Transportation Network Plan calls for a dedication of public access easement through the Property. The dedication of a public access easement will not allow for any widening of the street. The parties also acknowledge that this dedication is not intended for any use by the Seller or the Regional Transportation District (“RTD”) as a throughway on any bus route.
4. Purchase Price. The first sentence of Paragraph 2 of the Contract is revised as follows, “The purchase price for the Property shall be no more than \$2,960,000.00.”
5. City Loan. Paragraph 2.2 of the Contract concerning the proposed City Loan is hereby deleted.
6. City Credit. Paragraph 2.3 of the Contract is deleted and replaced in its entirety as follows,

“City Credit. The City shall give the Purchaser a credit at Closing equal to the difference, if any, between \$2,960,000 and the total principal and interest “owed on the Park” as of Closing (the “**City Credit**”). The amount “owed on the Park” means the principal and interest owing under the Deed of Trust recorded on March 10, 1997 on Film 2150 as Reception No. 01682430 of the record of the Boulder County Clerk and Recorder, plus the principal and interest owing to Public Works (as defined by an interdepartmental agreement), plus the principal and interest due on any additional debt the City may incur in order to reduce interest costs on the prior two debts. If the sum of the debts is greater than \$2,960,000 there will be no City Credit.”
7. City Council Authorization. This contract is specifically conditioned upon the passage of a motion authorizing the sale under the terms of the Contract, as amended, by the Boulder City Council prior to Closing.
8. Complete Agreement. Except as modified herein, all the terms and conditions of the Contract shall remain in full force and effect. In the event of conflict between the terms of the Contract and this Amendment, the terms of the Amendment shall control.

SELLER

CITY OF BOULDER, a Colorado municipal corporation

By: _____
Frank W. Bruno, City Manager

Date: _____

Attest:

By: _____
City Clerk on behalf of the
Director of Finance and Record

Date: _____

Approved as to form:

City Attorney

PURCHASER

Thistle Community Housing,
a Colorado non-profit corporation

By: _____

Date: _____

Its: _____

SECOND AMENDMENT TO CONTRACT TO BUY AND SELL REAL ESTATE

(Mapleton Mobile Home Park Property)

THIS AMENDMENT TO CONTRACT TO BUY AND SELL REAL ESTATE (the “**Amendment**”) is entered into effective this _____ day of September, 2004, between the **CITY OF BOULDER**, a Colorado municipal corporation, the address of which is P.O. Box 791, Boulder, CO 80302 Attention: Mr. Jeff Yegian and Mr. John Pollak (facsimile number: 303-441-4368) (the “**Seller**”) and **THISTLE COMMUNITY HOUSING**, a Colorado non-profit corporation, with offices at 1845 Folsom St. Boulder, CO 80302 Attention: Mr. Aaron Miripol and Mr. Jim Harrington, or its assigns (facsimile number: 303-443-0098) (the “**Purchaser**”).

RECITALS:

- A. The parties entered into a Contract to Buy and Sell Real Estate on October 24, 2003 for purchase of the Mapleton Home Mobile Park which was extended by letter agreements dated January 12, 2004 and March 16, 2004 and extended by the Amendment to Contract dated July 12, 2004 (the “**Contract**”).
- B. The parties wish to amend the Contract again to further extend the deadlines so that all items necessary for acceptance of the Property for purchase and closing can be completed.

AGREEMENT:

Now, therefore, the parties agree that the Contract is amended as follows:

- 1. Inspection Period Deadline. The parties agree to extend the end of the Inspection Period to September 22, 2004; provided that either party, by giving written notice to the other, may further extend the Inspection Period through October 12, 2004.
- 2. Closing Deadline. The parties agree to extend the deadline for Closing to not later than ten (10) days after the end of the Inspection Period (as extended) and anticipate that Closing will occur not later than October 22, 2004.
- 3. Extensions. The parties agree that the Purchaser may extend any deadline in the contract by up to 60 days.
- 4. Complete Agreement. Except as modified herein, all the terms and conditions of the Contract shall remain in full force and effect. In the event of conflict between the terms of the Contract and this Second Amendment, the terms of the Second Amendment shall control.

SELLER

CITY OF BOULDER, a Colorado municipal corporation

By: _____
Frank W. Bruno, City Manager

Date: _____

Attest:

By: _____
City Clerk on behalf of the
Director of Finance and Record

Date: _____

Approved as to form:

City Attorney

PURCHASER

Thistle Community Housing,
a Colorado non-profit corporation

By: _____

Date: _____

Its: _____

ATTACHMENT C
Memorandum of Understanding
Mapleton Mobile Home Park Affordability

Between:

City of Boulder Division of Housing
and
Mapleton LLC

RECITALS:

Whereas: Mapleton LLC, a Colorado limited liability company (“MLLC”), the sole member of which is Thistle Community Housing (“Thistle”), will purchase the Mapleton Mobile Home Park (the “Park”) from the City of Boulder (the “City”) in order to preserve it as a permanently affordable housing opportunity;

Whereas: Mapleton Home Association, a Colorado non-profit corporation (“MHA”), will enter into a 99-year renewable Master Land Lease with MLLC, and MHA has been assigned oversight of the management of the Park;

Whereas: The parties have agreed to a Permanently Affordable Housing Covenant (the “Covenant”) requiring a minimum of 120 permanently affordable home spaces with the following rent tiers:

- 65 spaces will be affordable to households at 30% Area Median Income(AMI) or less
- 30 spaces will be affordable to households at 40% AMI or less
- 15 spaces will be affordable to households at 50% AMI or less
- 10 spaces will be affordable to households at 60% AMI or less
- No more than 15 spaces will be at market rate;

Whereas: The parties acknowledge that MLLC is acquiring the Park with 130 leased spaces, but only 118 of the households have responded with their affordability preferences; and

Whereas: The parties wish to modify the terms of the Covenant for a limited time in order to accommodate the current homeowners; and

Whereas: The parties wish to acknowledge the significant levels of affordability in the Park, as evidenced by the Covenant and the above rent tier distribution, now and in the long-term; and

Whereas: The parties recognize the special attempt to preserve homeownership opportunities for low-income households, especially 30% AMI households; and

Whereas: The parties agree that improvement of the housing stock in the Park is a mutual goal;

Therefore: The parties have entered into this Memorandum of Understanding (MOU).

AGREEMENT:

1. MLLC will maintain a minimum of 120 permanently affordable spaces at all times.

2. Upon purchase of the Park, MLLC will establish and enforce the following affordability tiers:

- 70 spaces will be affordable to households at 30% AMI or less
- 28 spaces will be affordable to households at 40% AMI or less
- 14 spaces will be affordable to households at 50% AMI or less
- 8 spaces will be affordable to households at 60% AMI or less
- no more than 10 spaces will be at market rate

3. If MLLC requires that the 12 non-responding homeowners pay market rent, the City will accept a 60% AMI tier of 3 spaces and no more than 15 market rate spaces for so long as those homeowners are charged a market rate rent. If MLLC requires only some of the non-responding homeowners to pay market rent, or if MLLC reduces their rents in exchange for a commitment to maintain those spaces as permanently affordable, the rent tiers will adjust to reflect the affordability commitments.

4. MLLC may reduce the number of spaces affordable to 30% AMI from 70 to 65 so long as:

- there are at least 120 total permanently affordable spaces at all times;
- the reduction only happens when a home is replaced according to the approved development plan and is sold to a new homeowner; and,
- the other tiers (28 spaces at 40% AMI, 14 spaces at 50% AMI, 8 spaces at 60% AMI) may not be reduced except as outlined in #3 above

5. MLLC may allow a homeowner in the 30%, 40%, or 50% AMI tier to sell a home to a buyer in the next highest rent tier from the original rent tier, for example – a household in the 30% AMI rent tier may sell to a 40% AMI household, only under the following conditions:

- The homeowner must submit a Thistle-approved appraisal to Thistle, which is to be paid for by the homeowner.
- The appraisal must determine a market rate lot rent and appraise the home as if the homeowner were paying that rent.
- Once Thistle has received a copy of the appraisal, Thistle will calculate the percent of market that the affordable lot rent is. Thistle will then multiply that percent by the appraised market price to calculate the seller's maximum sales price. Thistle will give the homeowner this maximum price in writing

- The homeowner must make a bona fide effort, at Thistle's sole discretion, to sell the home for a minimum of 3 months.
- After 3 months, if the homeowner works to sell the home and cannot find a qualified buyer, the homeowner can request to sell to the next higher rent tier at no more than the maximum price.
- Thistle must determine that the homeowner will suffer a hardship if the exit clause is not used.
- If the home is sold to a Thistle-approved buyer with a higher income than initially allowed, that person must agree to sell to a buyer at the original income level. For example, a 40% AMI household that purchases from a household in the 30% AMI rent tier sells to a household at 30% AMI.

The parties' goal is that the process outlined above will be used in as few cases as possible. The fundamental assumption is that by selling to a limited market, determined by eligible income level, the price will necessarily adjust to a price affordable to someone in that income level. In this system, the seller bears some market risk; the price he can get depends on what interested income-qualified buyers are willing and able to pay. If eight households at any given time use the above process and sell to a household in the next highest rent tier within the initial five year period, MLLC will contact the City, and the parties will meet to address this issue prior to the renegotiation outlined in item 9. MLLC will not exceed eight households at a higher rent tier until the renegotiation is complete. In the event the parties do not find a mutually satisfactory solution, the mediation and arbitration procedure in item 9 shall apply.

6. MLLC may allow a homeowner to move to a different rental tier so long as another homeowner agrees to move to the first homeowner's rent tier.

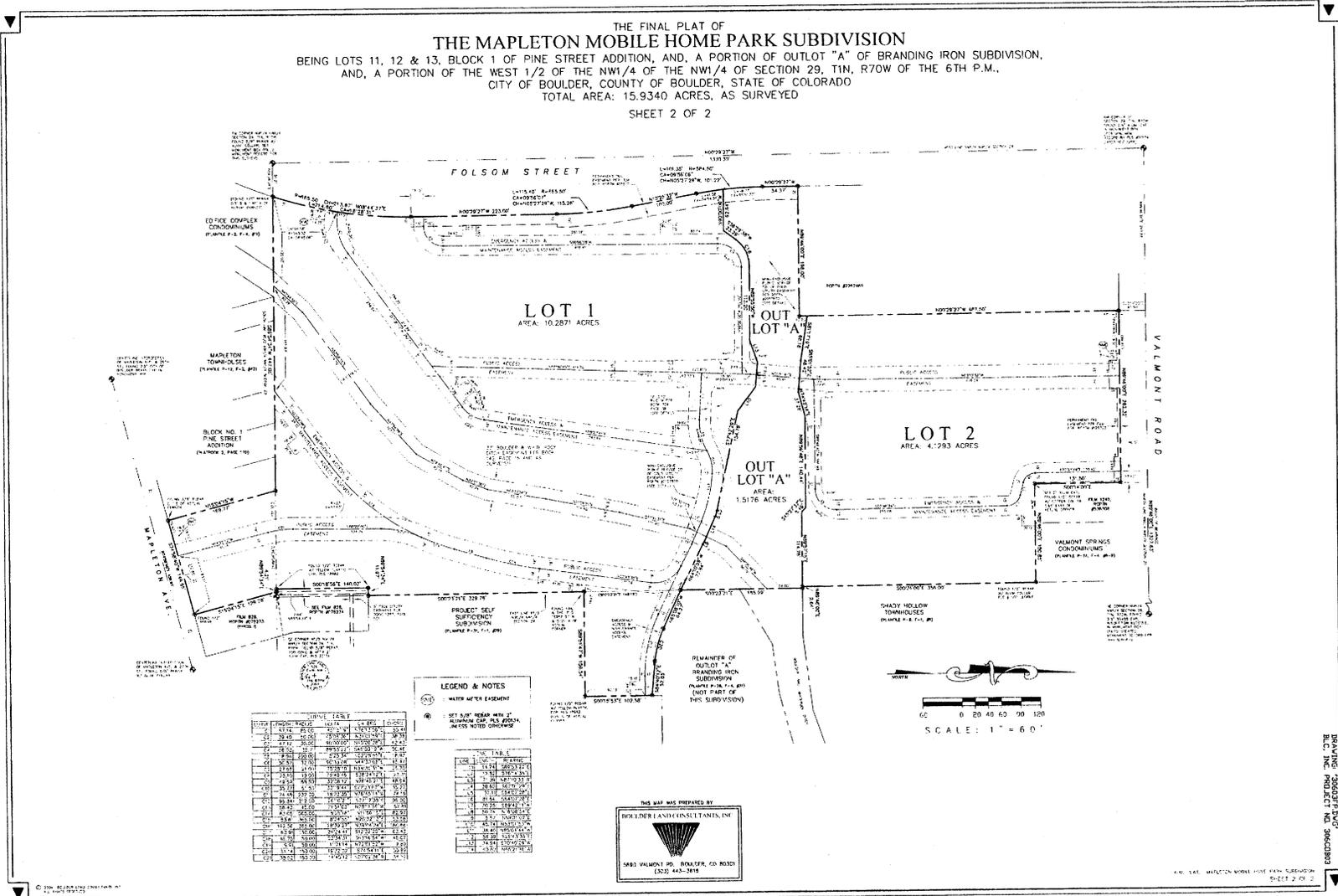
7. At no time will the City determine that MLLC is out of compliance with the terms of the Covenant so long as the terms of this Agreement are followed.

8. The City will reduce the sales price of the Park by \$60,000, to \$2,900,000 to allow for this affordability agreement.

9. The parties agree that item 5 of this Agreement will be renegotiated after five years at either party's request. The renegotiation will be based on the extent of variance from the affordability tiers in the Covenant and item 2 of this Agreement. If renegotiation is not requested, then item 5 shall remain in force, provided the Parties are in compliance with its terms, until such time as one party so requests. If MLLC and the City can not come to agreement they will utilize non-binding mediation. If mediation does not resolve the differences, either party may request binding arbitration using the least formal standards of the American Arbitration Association reasonably practical to resolve their differences in a cost-effective manner. In this event, the City will select an independent, impartial, arbitrator who is qualified based on professional affordable housing experience, after consulting with MLLC. The City shall not select an arbitrator with any past or current professional relationship with the City or Thistle other than as an arbitrator unless that person is mutually acceptable. The parties shall each pay one-half of the cost of the mediation or arbitration.

ATTACHMENT D
Final Plat of the Mapleton Mobile Home Park Subdivision

THE FINAL PLAT OF
THE MAPLETON MOBILE HOME PARK SUBDIVISION
 BEING LOTS 11, 12 & 13, BLOCK 1 OF PINE STREET ADDITION, AND, A PORTION OF OUTLOT "A" OF BRANDING IRON SUBDIVISION,
 AND, A PORTION OF THE WEST 1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M.,
 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 TOTAL AREA: 15.9340 ACRES, AS SURVEYED
 SHEET 2 OF 2



STATION	CHORD BEARING	CHORD DIST.	ARC BEARING	ARC DIST.
1+00	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+01	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+02	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+03	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+04	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+05	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+06	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+07	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+08	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+09	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+10	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+11	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+12	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+13	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+14	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+15	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+16	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+17	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+18	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+19	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+20	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+21	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+22	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+23	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+24	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+25	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+26	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+27	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+28	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+29	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000
1+30	S 89° 58' 00" W	100.0000	179° 56' 00" E	100.0000

LEGEND & NOTES

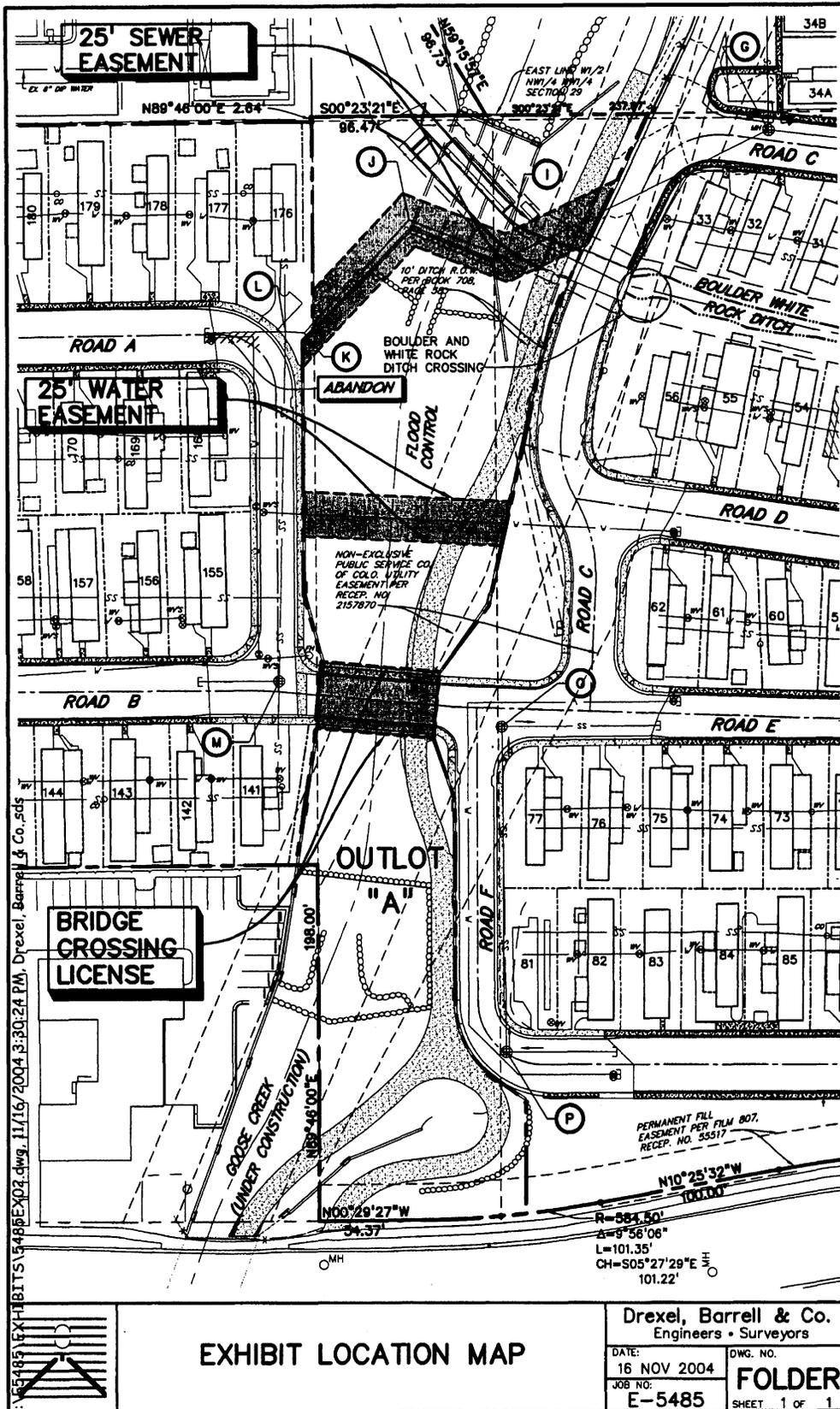
WATER METER EASEMENT

SET 6" R/W NEAR WITH 4" ALUMINUM CAP TO BE INSTALLED UNLESS NOTED OTHERWISE

SYMBOL	DESCRIPTION
(Symbol)	1" R/W
(Symbol)	2" R/W
(Symbol)	3" R/W
(Symbol)	4" R/W
(Symbol)	5" R/W
(Symbol)	6" R/W
(Symbol)	7" R/W
(Symbol)	8" R/W
(Symbol)	9" R/W
(Symbol)	10" R/W
(Symbol)	12" R/W
(Symbol)	15" R/W
(Symbol)	18" R/W
(Symbol)	24" R/W
(Symbol)	30" R/W
(Symbol)	36" R/W
(Symbol)	42" R/W
(Symbol)	48" R/W
(Symbol)	54" R/W
(Symbol)	60" R/W
(Symbol)	66" R/W
(Symbol)	72" R/W
(Symbol)	78" R/W
(Symbol)	84" R/W
(Symbol)	90" R/W
(Symbol)	96" R/W
(Symbol)	102" R/W
(Symbol)	108" R/W
(Symbol)	114" R/W
(Symbol)	120" R/W
(Symbol)	126" R/W
(Symbol)	132" R/W
(Symbol)	138" R/W
(Symbol)	144" R/W
(Symbol)	150" R/W

THIS MAP WAS PREPARED BY
BOULDER LAND SURVEYING, INC.
 5883 VALMONT RD. BOULDER, CO 80521
 (303) 443-2816

ATTACHMENT E - Easement Context Map



H:\5485\EXHIBITS\5485EX02.dwg, 11/15/2004 3:30:24 PM, Drexel, Barrell & Co., sds

EXHIBIT LOCATION MAP

Drexel, Barrell & Co.
Engineers • Surveyors

DATE: 16 NOV 2004	DWG. NO.
JOB NO: E-5485	FOLDER
	SHEET 1 OF 1

ATTACHMENT F

Sewer Crossing Maintenance Easement & Agreement **SEWER CROSSING MAINTENANCE EASEMENT AND AGREEMENT** (Goose Creek Crossing - Mapleton Mobile Home Park Property)

THIS SEWER CROSSING MAINTENANCE EASEMENT AND AGREEMENT (the "**Agreement**") is entered into this ___ day of _____, 2004, by and between the **CITY OF BOULDER**, a Colorado municipal corporation, the address of which is P.O. Box 791, Boulder, CO 80302 (the "**City**") and **MAPLETON LLC**, a Colorado limited liability company, with offices at 1845 Folsom St. Boulder, CO 80302 ("**MLLC**"). The following exhibits are attached hereto and made a part of this Agreement:

- Exhibit A - Diagram of Sewer Line Easement and facilities
- Exhibit B - Agreement between City and The Boulder and White Rock Ditch and Reservoir Company (Goose Creek Improvements)

RECITALS:

- A. On the same date as this Agreement the City sold and MLLC acquired the 14.5 acres of land, more or less, known as the Mapleton Mobile Home Park property, located at 2635 Mapleton Avenue, Boulder, CO 80304, Boulder County, CO, which is described as Lots 1 and 2 of The Mapleton Mobile Home Park Subdivision ("**MMHP Subdivision**"), according to the plat thereof recorded on _____, 2004 as Reception No. _____ of the records of the Boulder County, Colorado Clerk and Recorder (the "**Property**").
- B. The sale of the Property to MLLC included the sewer pipeline which crosses Goose Creek, among other private utilities (the "**Sewer Line**"). The Sewer Line crosses Outlot A of the MMHP Subdivision which is owned by the City and bisects the Property acquired by MLLC. A portion of the Sewer Line is encased in a concrete culvert which is part of a flood control and ditch structure (the "**Flood Control Structure**") that carries the Boulder and White Rock Ditch over Goose Creek.
- C. The City wishes to grant MLLC an easement over and across the area where the Sewer Line crosses Outlot A (the "**Sewer Line Easement**") in the location which is depicted on the attached **Exhibit A**, for the purpose of maintaining and repairing the Sewer Line, and the parties wish to enter into this agreement concerning their respective rights and responsibilities
- D. On December 21, 2001, the City entered into an agreement with The Boulder and White Rock Ditch and Reservoir Company for Goose Creek Improvements as set forth in **Exhibit B** ("**Ditch Agreement**") to obtain the The Boulder and White Rock Ditch and Reservoir Company's ("**Ditch Company**") permission to construct and maintain the overflow/diversion structure, bridge and other appurtenant structures on the Property ("**Facilities**").

- E. The parties desire that MLLC shall comply with certain applicable provisions of the Ditch Agreement as further described herein, including but not limited to the following: (1) notifying the Ditch Company 5 days prior to commencing any work related to replacement of the Sewer Line as set forth in Section 4.5.d of the Ditch Agreement; and (2) maintaining the Sewer Line in a manner that will not cause damage to The Boulder and White Rock Ditch (“**Ditch**”).

AGREEMENT:

The parties agree as follows:

- 1. SEWER LINE MAINTENANCE EASEMENT. The City hereby grants a perpetual, non-exclusive easement to MLLC, and its successors in interest and assigns, over and across the property depicted in the attached Exhibit A (the “**Sewer Line Easement**”), for the purpose of maintaining and repairing, the Sewer Line.
- 2. NOTIFICATION. MLLC agrees that it shall provide the City and the Ditch Company with a 5-day notice prior to commencing any work related to replacement of the Sewer Line as set forth in Section 4.5.d of the Ditch Agreement.

2.1. All notices under this Contract shall be given by registered or certified mail, postage prepaid, directed as follows, and shall be deemed given on the date of mailing:

If to City: _____

Phone:

If to Ditch Company: _____

Phone:

- 3. INSURANCE. The City and its officers, agents, and employees shall be named as additional insureds on all insurance policies provided by the Consultants under this Agreement. The parties shall carry the following minimum amounts of insurance and each party shall provide a copy of its certificate of insurance to the other party:
 - 3.1. Workers ’ compensation in statutory limits.
 - 3.2. Comprehensive general liability policy with minimum limits at least equal to the liability limits set forth in the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

4. CITY'S RESPONSIBILITY.

- 4.1. General. The City assumes responsibility for its, its agents', and its employees' actions and omissions in the performance or failure to perform work under this Agreement. The City neither waives nor intends to waive the limitations on liability which are provided to the City, its officers, and employees under the Colorado Governmental Immunity Act, Sec. 24-10-101 et seq., C.R.S.
- 4.2. Damage to Sewer Line. In the event of damage to the Sewer Line, the City shall be responsible for all costs of constructing a new Sewer Line in the same location or an alternative location that is mutually agreed upon by the parties. Any repair to the Sewer Line shall meet reasonable industry standards.

5. MLLC'S RESPONSIBILITY.

- 5.1. Indemnification. MLLC agrees to hold harmless, indemnify, and defend the City, and the members, directors, officers, employees, agents, and contractors and their heirs, personal representatives, successor and assigns of each of them (collectively, "**City Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with (1) injury or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Sewer Line, as a result of the maintenance, repair or replacement of the Sewer Line by MLLC, unless due to the negligence, intentional acts or omissions of any of the City Indemnified Parties (in which case liability shall be apportioned in accordance with Colorado law); (2) the obligations of MLLC herein; and (3) the presence or release of hazardous or toxic substances on, under or about the Sewer Line Easement (except to the extent such is cause by a City Indemnified Party).
- 5.2. Damage to City Property. At MLLC's expense, all portions of City property damaged by the activities of the MLLC, MLLC's agents or MLLC's contractors shall be restored to a condition at least equal to the condition of such City property prior to such damage. Any repair to City property shall meet the City's Design and Construction Standards and must be approved by the City in advance. Such approval shall not be unreasonably withheld.
- 5.3. The Boulder and White Rock Ditch. MLLC shall maintain and repair the Sewer Line in compliance with Sections 4(c), 4(d), 4(e), 4(h), 5, 6, 9, and the first paragraph of Section 10 of the Ditch Agreement, including but not limited to the following: (1) notifying the Ditch Company 5 days prior to commencing any work related to replacement of the Facilities as set forth in Section 4.5.d of the Ditch Agreement; and (2) maintaining the Facilities in a manner that will not cause damage to the Ditch.

6. MISCELLANEOUS.

- 6.1. Binding Effect. The terms and conditions of this Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties their agents, lessees and assigns, and all other successors to it in interest and shall continue as a servitude running in perpetuity with the Property described above.
- 6.2. Exhibits. The exhibits hereto constitute an integral part of this Agreement and are hereby incorporated herein.
- 6.3. Entire Agreement. This Agreement represents the entire agreement of the parties and may not be amended except by a writing signed by each party thereto.
- 6.4. Authority. Each party to this Agreement warrants to the other that the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents.
- 6.5. Further Actions. Each party shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to vest in each party all rights, interests and benefits intended to be conferred by this Agreement.
- 6.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any dispute shall be in Boulder County.
- 6.7. Compliance with Laws. All construction and maintenance shall be conducted in accordance with all applicable laws and regulations and in a good and workmanlike manner.
- 6.8. Regulations and Permits. Nothing in this easement shall be construed as a waiver of any regulations or permitting processes of the City of Boulder, except as provided in Section 2 above.

Executed as of the date first shown above.

CITY OF BOULDER,

a Colorado municipal corporation

By: _____
Frank W. Bruno, City Manager

Attest:

By: _____
City Clerk on behalf of the
Director of Finance and Record

WITNESS my hand and official seal.

My commission expires: _____.

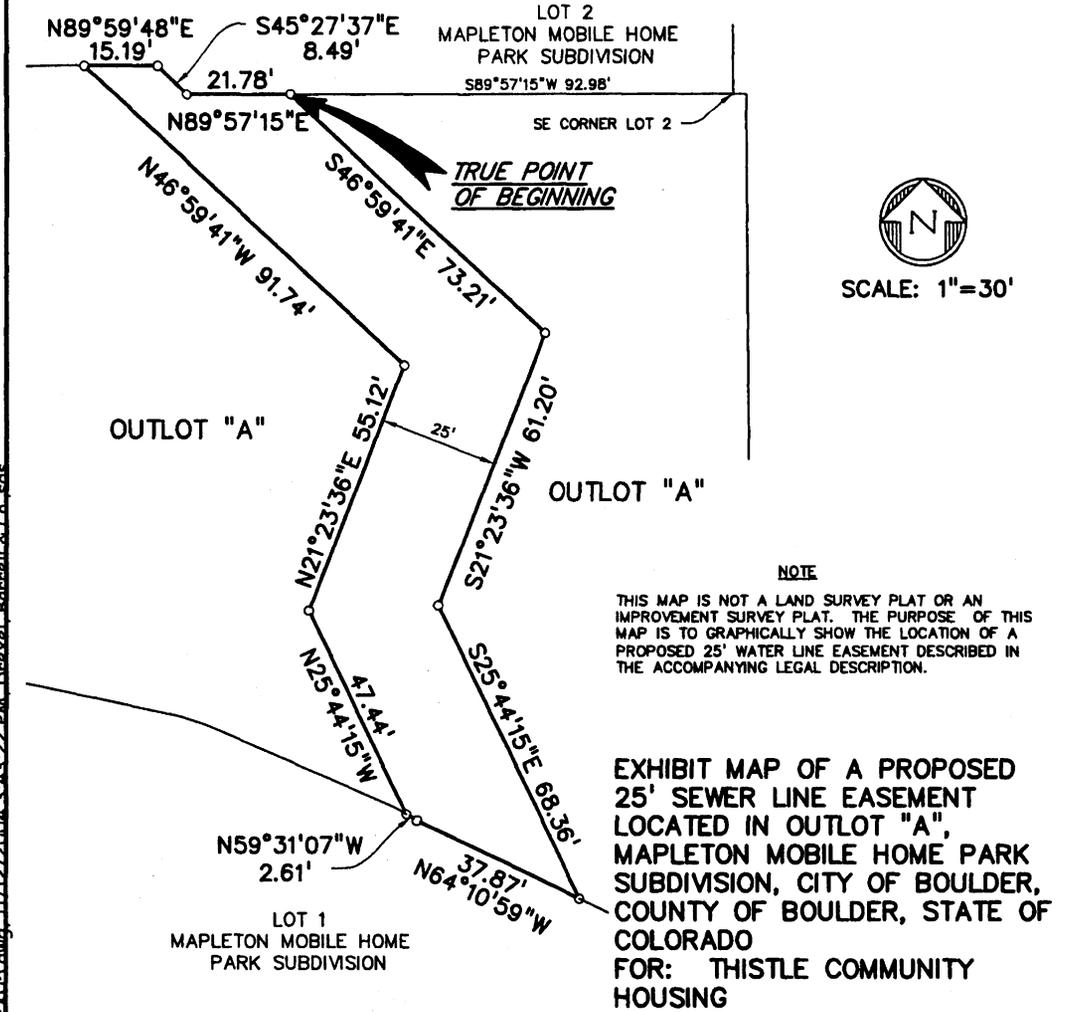
(SEAL)

Notary Public

Attach:

Exhibit A Sewer Line Easement
Exhibit B Agreement between City and The Boulder and White Rock
 Ditch and Reservoir Company (Goose Creek Improvements

SEWER LINE EASEMENT EXHIBIT A



SCALE: 1"=30'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF A PROPOSED 25' WATER LINE EASEMENT DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

EXHIBIT MAP OF A PROPOSED 25' SEWER LINE EASEMENT LOCATED IN OUTLOT "A", MAPLETON MOBILE HOME PARK SUBDIVISION, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO FOR: THISTLE COMMUNITY HOUSING

H:\ES485\EXHIBIT\5484EY05.dwg, 11/12/2004 3:43:22 PM, Drexel, Barrell & Co., eds

IN ACCORDANCE WITH CRS 13-80-105, NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co. Engineers/Surveyors <small>4840 FRANK RAYT CIRCLE, SUITE 114 BOULDER, COLORADO 80504 (303) 440-4888 6000 COMMERCE DRIVE, COLORADO SPRINGS, COLORADO 80905 (719) 593-8897 600 84TH AVENUE, SUITE 200 CHELSEA, COLORADO 80824 (970) 951-0545</small>			
Revisions - Date	Date	Drawn By	Job No.
	11/12/04	SDS	E5485
	Scale	Checked By	Drawn by
	1"=30'	KA	IN FOLDER

EXHIBIT B

AGREEMENT BETWEEN THE CITY OF BOULDER AND THE BOULDER AND WHITE ROCK DITCH AND RESERVOIR COMPANY GOOSE CREEK IMPROVEMENTS

1. **PARTIES.** The parties to this Agreement are the BOULDER AND WHITE ROCK DITCH AND RESERVOIR COMPANY, a mutual ditch company (the "Ditch Company"), and the CITY OF BOULDER, a Colorado municipal corporation (the "City").
2. **RECITALS.** The City desires to obtain the permission of the Ditch Company to construct an overflow/diversion structure, bridge and other appurtenant structures. The location of said structures as described in Exhibit A-1, attached hereto, will be in the vicinity of the Mapleton Mobile Home Park, located at 2635 Mapleton Avenue, Boulder, Colorado, in the NW 1/4 of Section 29, Township 1 N, Range 70 W of the 6th principal meridian. The Ditch Company agrees to allow the proposed construction to occur, subject to the terms, conditions, covenants, and agreements set forth in this Agreement.
3. **GRANT OF RIGHT TO CONSTRUCT FACILITIES.** For consideration and subject to the covenants, conditions, and limitations of this Agreement, the Ditch Company grants to the City the right to construct the overflow/diversion structure, bridge and other appurtenant structures (the "Facilities") as part of a project situated in the City of Boulder, County of Boulder, State of Colorado. The details and location of this construction are described in Exhibit A, attached and incorporated herein by reference.
4. **CONSTRUCTION.** The Facilities constructed or installed by the City on the above lands under the terms of this grant shall be constructed, installed, operated and maintained in a good and workmanlike manner and in accordance with the designs, specifications, provisions, and requirements approved and initialized by the Ditch Company's Engineer, as set forth in Exhibit A, and the following:
 - a. The structures, referred to in Sections 2 and 3 hereof, shall be constructed at no cost to the Ditch Company and in accordance with Exhibit A. In no event shall the cost to the City exceed \$650,000.00. In the event the City's bids exceed this cost and the City does not commence the construction, this Agreement shall thereupon become null and void, except for para. 4.b.
 - b. The City agrees to reimburse the Ditch Company (or pay directly) for all engineering, administrative, and legal costs incurred by it in revising and approving the plans and specifications and entering into this Agreement, provided that all fees set forth in paragraphs 4.b, 4.d, and 11 shall not exceed \$20,000.00.
 - c. Except as may be modified by the actual construction set forth in Exhibit A, all portions of the right-of-way and of the ditch bottom, sides, and banks which are disturbed by the process of the City's construction shall be restored to original condition and all fencing and other facilities appurtenant to the ditch right-of-way shall

be replaced in a condition at least equal to the condition of such facilities and appurtenances prior to construction of the Facilities permitted by this Agreement.

d. The City shall notify the Ditch Company at least five days preceding the date of commencing work involved in the installation, or replacement of Facilities, permitted by this Agreement. The City and the Ditch Company will provide inspection of all installations or replacements during the construction thereof, and the City agrees to reimburse the Ditch Company for all administrative and inspection costs incurred by the Ditch Company's engineer and other Ditch Company personnel. The Ditch Company's inspection is solely for the benefit of the Ditch Company and creates no obligation on the part of the Ditch Company. Upon completion of the project, the City shall provide the Ditch Company with "as built drawings" completed by the City, which shall demonstrate that the installation of the overflow/diversion structure, bridge, and other appurtenant structures comply with this agreement. For purposes of this Agreement, reimbursement shall be made by the City at the actual hourly rate for labor and equipment incurred by the Ditch Company. Payment shall be made as set forth in paragraph number 4.f., but shall be limited as set forth in paragraph 4.b. above.

e. The City agrees that the construction permitted by this Agreement shall proceed with reasonable diligence from the initiation of such construction to its completion.

f. An itemized statement for the total costs chargeable to the City shall be forwarded to the City as billed, and the same shall be paid to the Ditch Company within forty-five days after the billing date.

g. The City has sole responsibility for obtaining all applicable local, state, and federal permits or approvals prior to construction and for compliance with said permits.

h. The City shall be responsible for preventing trash, debris, dirt, pollution and other foreign material from entering the Ditch as a result of the installation, operation or maintenance of the Facilities.

5. MAINTENANCE. The Facilities constructed and installed by the City as set forth in the design plans and specifications, Exhibit A, shall be the property of the City, and shall at all times be maintained by the City in a manner that will not create a hazard to the public or to the Ditch Company, or its officials, employees, and contractors; will not damage or constitute a threat of damage to the facilities or operations of the ditch; or interfere with the access, operation, maintenance or reconstruction of the ditch and the ditch easement. Except in the case of an emergency, in the event that said facilities installed by the City are not so maintained, the Ditch Company shall give notice to the City in writing of such defective or hazardous maintenance; and subject to City Council appropriation, the City shall correct such defect or hazard within twenty days. If proper correction is not made within the twenty-day period provided, then the Ditch Company and the City shall mutually agree on a

schedule of compliance to remedy the defect, or extension of the twenty-day period may simply be granted by the Ditch Company.

In the case of an emergency, which is defined as a situation which impacts the ability of the Ditch Company to deliver water when delivery of such water is being required by the laws of the State of Colorado, or a situation which becomes known to the Ditch Company presenting an immediate threat to the public health or safety, the City shall respond immediately to any reasonable maintenance requests made by the Ditch Company. Such requests may be made by telephone, but shall be followed by a written request. If the City fails to respond to an emergency request within twenty-four hours, or if that response fails to allow for the delivery of water as required by the water laws of the State of Colorado, then the Ditch Company may make such repairs as are necessary, however the Ditch Company shall not be liable for damages to the facilities, except for damages or injury caused by the negligence or wrongful acts of the Ditch Company. Subject to budgetary appropriations, the City shall reimburse the Ditch Company for the costs that are reasonable and necessary, including engineering and attorney's fees, for repairs related to such water delivery.

The City of Boulder Public Works/Utilities Division, Post Office Box 791, Boulder, Colorado 80306, telephone number (303)441-3247, fax number (303)441-4210, shall be the City's designated contact for maintenance related issues and problems.

6. **WATER LOSS.** The City recognizes, pursuant to Colorado law, that it may not impede the diversion or delivery of either direct or storage flow water that the Ditch company is legally and historically entitled or required to divert.

To the extent reasonably controllable by the Ditch Company, the amount of water run in the Ditch by the Ditch Company, shall not be in excess of the capacity of the Facilities as rated by the City and Ditch company's engineers after completion of construction.

If the Ditch Company requires that a flow rate in excess of the capacity of the Facilities be carried in its ditches at some future time, the Ditch Company, at its sole cost and subject to approval by the City, such approval to not be unreasonably withheld, may enlarge the Facilities to provide for the additional flows.

7. **TERM.** This Agreement and the covenants herein contained, shall be perpetual unless modified by Court order, or a signed written agreement of the parties or their successors in title.

8. **ASSIGNMENT.** This Agreement or the signed written agreement of the parties or their successors in title shall not be assigned by the City without the prior approval in writing of the Ditch Company. Any assignees or successors to the rights of the City shall be liable and bound under all of the provisions of this instrument to the same extent as the City.

9. **RIGHT OF ENTRY.** The easement appurtenant to the lands covered by this Agreement are a part of the Ditch Company ditch system. There is reserved to the Ditch Company, its successors, or assigns, the right to the use of its easement in order to construct, reconstruct, operate, and maintain all existing structures and facilities of the Ditch, including, but not limited to, canals, wasteways, laterals, ditches, roadways, dams, dikes, and pipelines, without any payment made by the Ditch Company or its successors for such right. The Ditch Company shall not enlarge or expand its use in a manner that interferes with the City's structures, or is inconsistent with the Ditch Company's easement.

There is also reserved to the Ditch Company the right of its directors, officers, agents, employees, licensees, and permittees at all proper times and places, freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing, and protecting the rights reserved herein.

10. **RESPONSIBILITY.** By virtue of entering into this Agreement, the Ditch Company: (1) disclaims all liability for use, operation or existence of the Facilities described in Exhibit A; (2) assumes no additional responsibilities or obligations related to the project improvements described in Exhibit A, except as may be set forth in this Agreement; and (3) disclaims all liability or responsibility with regard to subsequent easement grants by the City, or with regard to the City's own future or additional acts or activities within the easement area; except for damages or injury caused by the negligence or wrongful acts of the Ditch Company, its agents, assigns or employees; and (4) assumes no responsibility for any damages or injury caused by the negligence of the City, its agents or employees, or caused by any third party.

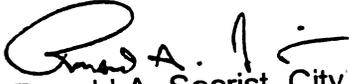
As between the City and the Ditch Company, the City shall bear full responsibility for the use and enjoyment of its property, except for damages or injury caused by the negligent or wrongful acts of the Ditch Company, its agents, assigns, or employees.

11. **CITY LANDLINK SYSTEM.** The City shall "tag" all properties adjacent to the Boulder and White Rock Ditch and the Goose Creek lateral, pipeline and diversion facilities on its LandLink system which exist as of the date of this Agreement. Such "tag" shall explain that the property is either adjacent to or crossed by the ditch and any landowner shall contact the Ditch Company.

12. **CONSIDERATION.** As consideration for the grant of this Agreement, the City shall, upon execution of this instrument, pay unto the Ditch Company the sum of \$250.00, which sum shall be included in the maximum amount limitation set forth in paragraph 4.b., but in no event shall any of the \$250.00 be refunded to the City.

13. **NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the address set forth on the signature page below,

CITY OF BOULDER, COLORADO

By: 
Ronald A. Secrist, City Manager

Address: P.O. Box 791
Boulder, Colorado 80306

Attest: 

city

City Clerk on behalf of the
Director of Finance and Record

Approved as to form:



City Attorney

FORMER TRAFFIC LOCATION. CONTRACTOR TO ELIM EXISTING WATER AND
 SEWER SERVICE LINES. PROVIDE CLEANOUT IN STREET TO EXISTING CURB
 EXISTING SEWER LINES.

EXISTING MAN BOX AND NEWSPAPER BOX TO BE RELOCATED ONTO CONCRETE
 BASES NEAR EXCEL ENERGY TRANSMISSION TOWER.

SIGN AND FOUR DUMPSTERS TO BE RELOCATED WITHIN MOBILE HOME PARK
 CONTRACTOR TO COORDINATE LOCATION WITH CITY.

ENERGY BURIED TRANSMISSION LINE. CONTRACTOR TO CONTACT XCEL
 TRANSMISSION ENGINEERING DIVISION WHEN DIGGING OVER OR ADJACENT TO
 LINE. CONTRACTOR SHALL FILL BURIED TRANSMISSION LINE IN VICINITY
 OF TRANSMISSION TOWER PRIOR TO BEGINNING CONSTRUCTION OF 36" RCP
 COLLECTION PIPE.

RELOCATE THREE EXISTING GLOBE LIGHTS TO LOCATIONS SHOWN. REFER TO
 DWG. E1.

RELOCATE MAN BOX BEHIND
 PROPOSED WALK.

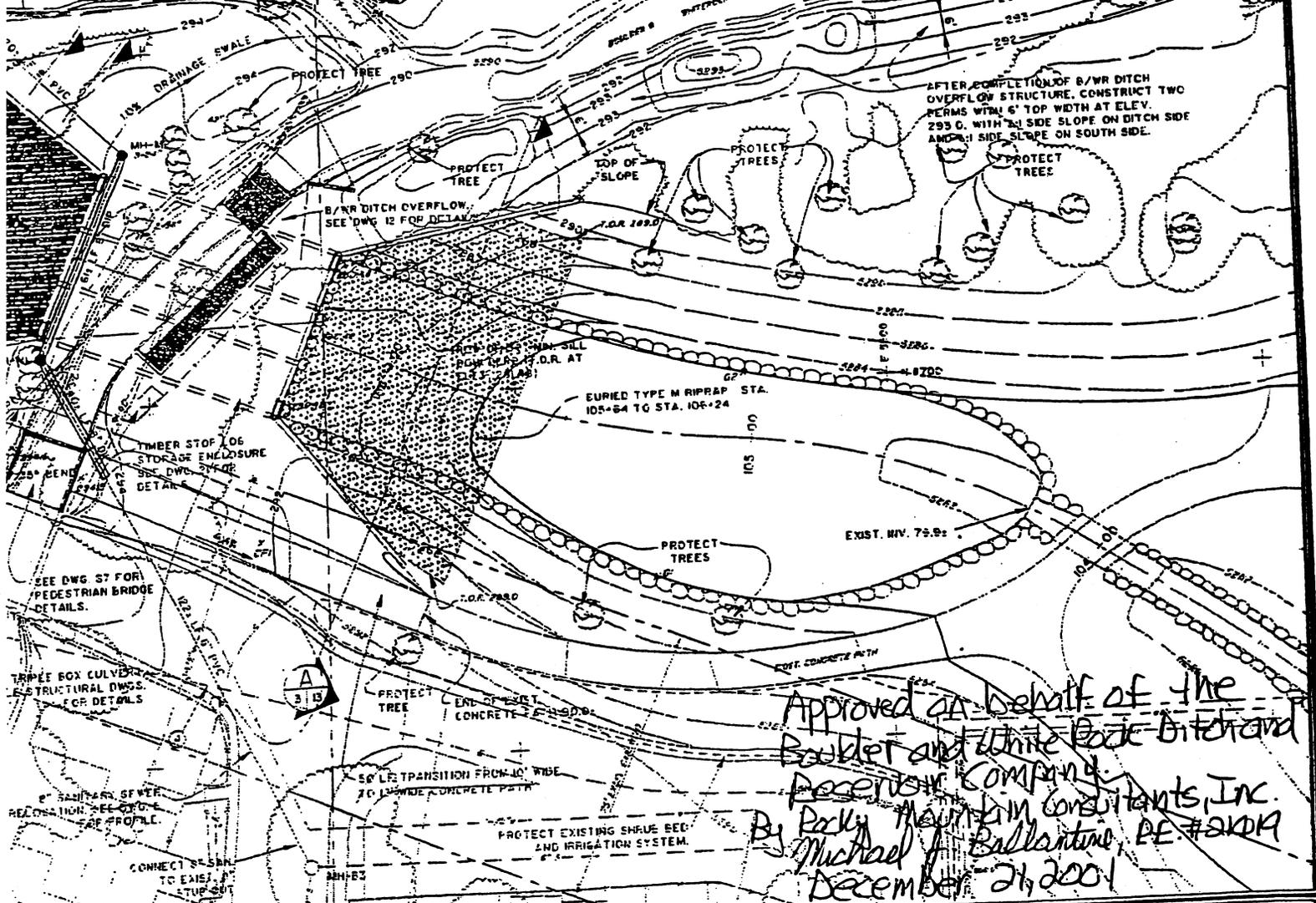
REMOVE EXIST. MANHOLE AND
 CONSTRUCT MR-44 IN SAME LOCATION.
 REMOVE 165' UP OF EXIST. 6" SANITARY
 SEWER AND MANHOLE TO THE SOUTH.

PROTECT TREE BY PLACING
 3"-12" SIZE ROCK AROUND
 EXPOSED ROOTS TO ELEV. 293.5.
 BACKFILL WITH 12" OF SDR.

LATERAL 24" 6" SANITARY SEWER
 SERVING 7' DIA. PROFILE.

FILL DITCH 3'-2" DEEP, AS DIRECTED BY
 THE ENGINEER, AND SLOPE TO DRAIN 2%.
 PROTECT EXISTING TREES ALONG BOTH
 SIDES OF DITCH.

AFTER COMPLETION OF B/WR DITCH
 OVERFLOW STRUCTURE, CONSTRUCT TWO
 PERMS WITH 6" TOP WIDTH AT ELEV.
 293.0, WITH 75% SIDE SLOPE ON DITCH SIDE
 AND 1:1 SIDE SLOPE ON SOUTH SIDE.

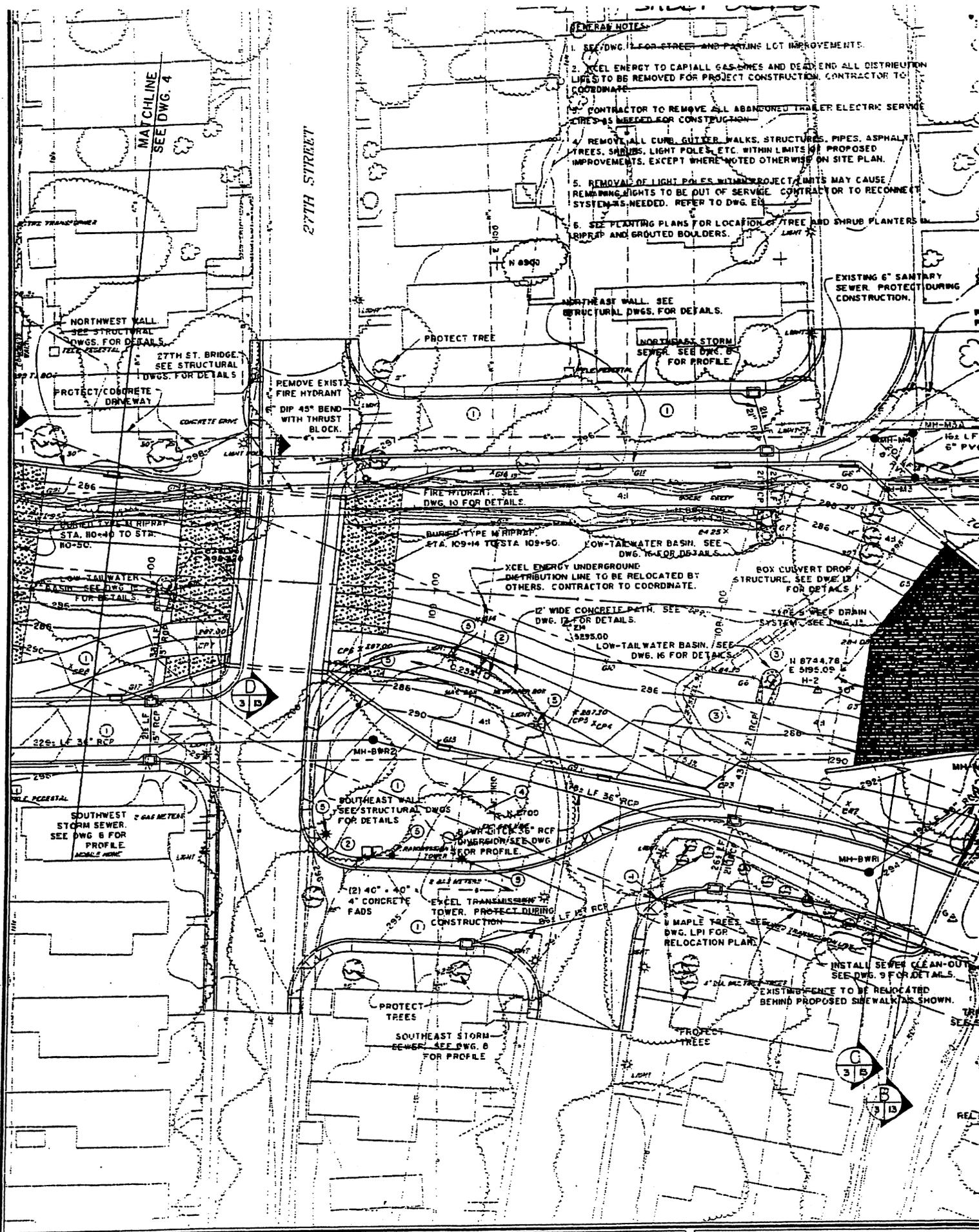


Approved on behalf of the
 Boulder and White Rock District
 Regenesis Company
 By Rocky Mountain Consultants, Inc.
 Michael J. Ballantine, PE #21019
 December 27, 2001

	<p>3115</p>	<p>DESIGN: [blank] DETAIL: [blank] CHECK: [blank]</p>	<p>PROJECT NUMBER: 83-022.03904 DATE: OCTOBER 2001</p>	<p>DRAWING NUMBER: 3</p>
--	-------------	---	---	--------------------------

GENERAL NOTES:

1. SEE DWG. 1 FOR STREET AND PAVING LOT IMPROVEMENTS.
2. XCEL ENERGY TO CAP ALL GAS LINES AND DEAD END ALL DISTRIBUTION LINES TO BE REMOVED FOR PROJECT CONSTRUCTION. CONTRACTOR TO COORDINATE.
3. CONTRACTOR TO REMOVE ALL ABANDONED TRAILER ELECTRIC SERVICE WIRES AS NEEDED FOR CONSTRUCTION.
4. REMOVE ALL CURB, GUTTER, WALKS, STRUCTURES, PIPES, ASPHALT, TREES, SHRUBS, LIGHT POLES, ETC. WITHIN LIMITS OF PROPOSED IMPROVEMENTS, EXCEPT WHERE NOTED OTHERWISE ON SITE PLAN.
5. REMOVAL OF LIGHT POLES WITHIN PROJECT LIMITS MAY CAUSE REMAINING LIGHTS TO BE OUT OF SERVICE. CONTRACTOR TO RECONNECT SYSTEMS, AS NEEDED. REFER TO DWG. E11.
6. SEE PLANTING PLANS FOR LOCATION OF TREE AND SHRUB PLANTERS IN RIPRAP AND GROUTED BOULDERS.



CITY OF BOULDER
UDFCD

GOOSE CREEK
DRAINAGE IMPROVEMENTS

SITE
PLAN

Exhibit A-1 Drawing No. 3 Sheet 2 of 2

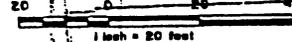
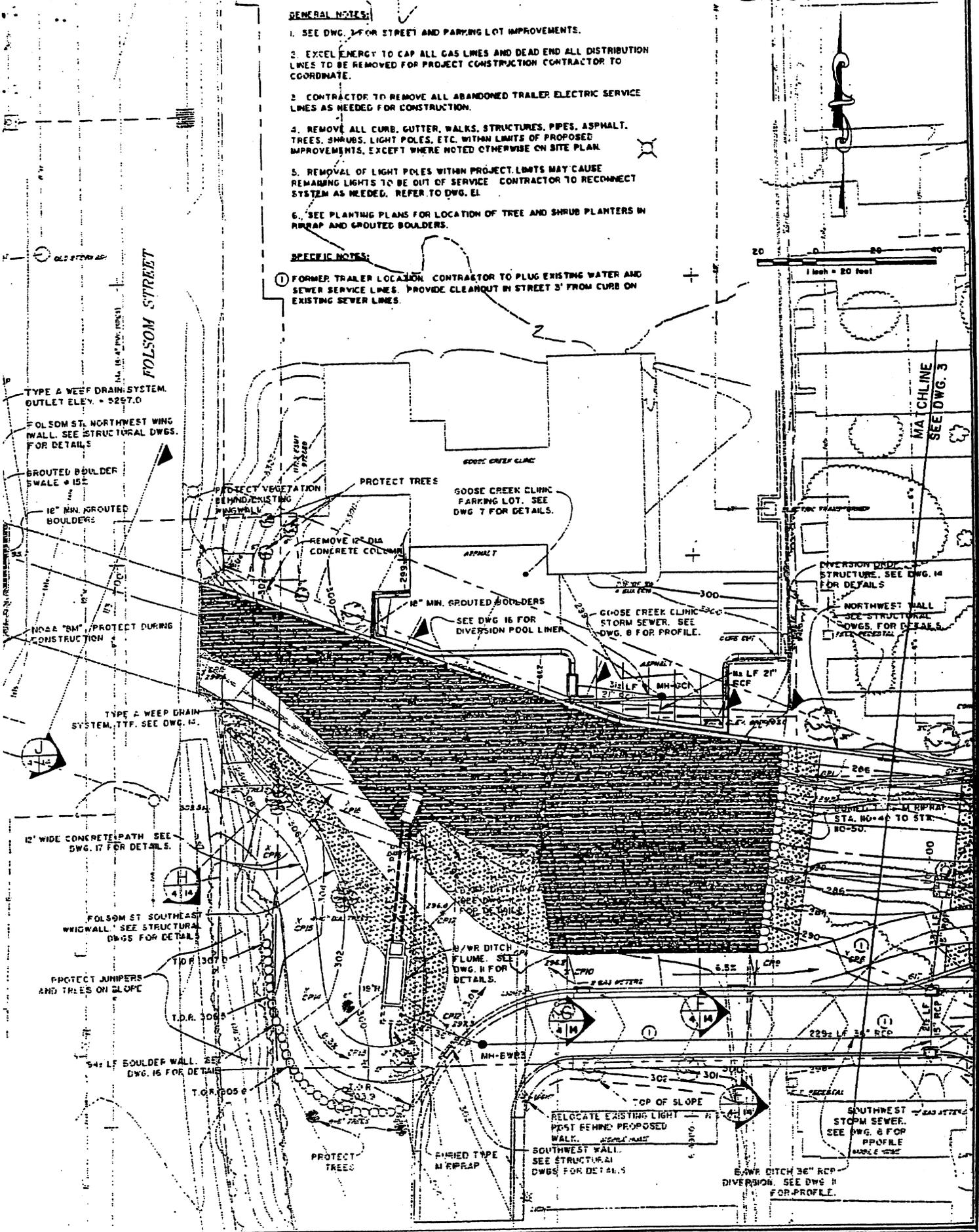
AGENDA ITEM # B.A. Page 55

GENERAL NOTES:

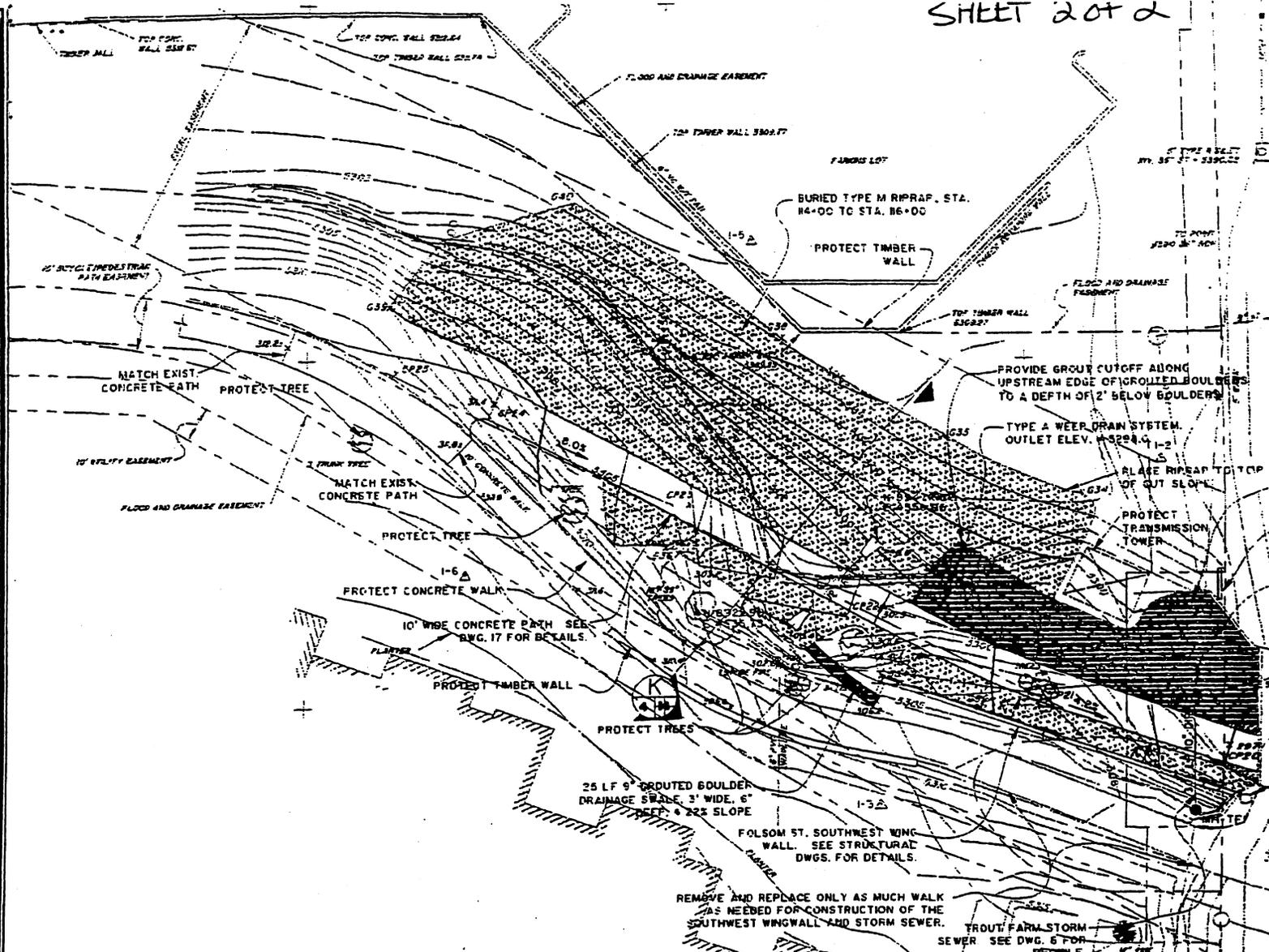
1. SEE DWG. 3 FOR STREET AND PARKING LOT IMPROVEMENTS.
2. EXCEL ENERGY TO CAP ALL GAS LINES AND DEAD END ALL DISTRIBUTION LINES TO BE REMOVED FOR PROJECT CONSTRUCTION CONTRACTOR TO COORDINATE.
3. CONTRACTOR TO REMOVE ALL ABANDONED TRAILER ELECTRIC SERVICE LINES AS NEEDED FOR CONSTRUCTION.
4. REMOVE ALL CURB, CUTTER, WALKS, STRUCTURES, PIPES, ASPHALT, TREES, SHRUBS, LIGHT POLES, ETC. WITHIN LIMITS OF PROPOSED IMPROVEMENTS, EXCEPT WHERE NOTED OTHERWISE ON SITE PLAN.
5. REMOVAL OF LIGHT POLES WITHIN PROJECT LIMITS MAY CAUSE REMAINING LIGHTS TO BE OUT OF SERVICE. CONTRACTOR TO RECONNECT SYSTEM AS NEEDED. REFER TO DWG. E1.
6. SEE PLANTING PLANS FOR LOCATION OF TREE AND SHRUB PLANTERS IN RIPRAP AND GROUTED BOULDERS.

SPECIFIC NOTES:

1. FORMER TRAILER LOCATION. CONTRACTOR TO PLUG EXISTING WATER AND SEWER SERVICE LINES. PROVIDE CLEANOUT IN STREET 3' FROM CURB ON EXISTING SEWER LINES.



	2220 West Beyond Avenue, Suite 200 Lakewood, Colorado 80226 Phone: (303) 440-1000 Fax: (303) 440-1001 www.mcquay-norris.com	DESIGN:	PROJECT NUMBER: 83-022.03904	DRAWING NUMBER: 4
		CHECK:	DATE: OCTOBER 2001	



GOOSE CREEK PHASE IV CONTROL POINTS

Point	Northing	Easting	Elevation	Description
G	8660.48	5258.23	5294.59	PK NAIL IN BRIDGE DECK OVER BOULDER AND WINTEROCK DITCH
H	8793.43	5005.69	5297.83	PK NAIL IN ROAD 20.5' S. OF GOOSE CREEK W SIDE 27TH STREET
H-2	8744.20	5212.07	5294.01	3/8" SPIKE IN FIELD 190' E. OF 27TH, 70' S. OF GOOSE CREEK
H-3	8783.30	4837.55	5304.63	PK NAIL AT BEND IN STREET 45' S. OF GOOSE CREEK, 120' E. OF FOLSOM ST.
I	5789.04	4725.17	5309.60	CHISELED 'X' OF E. WALK FOLSOM ST. 70' S. OF GOOSE CREEK
I-2	8971.00	4637.76	5307.02	3/8" SPIKE IN GRASS N. SIDE CREEK W SIDE OF FOLSOM 30' W. OF FIRE HYDRANT
I-3	8571.05	4561.07	5312.64	3/8" SPIKE ON GRASS SLOPE S. OF PATH 100' W. OF FOLSOM ST
I-5	9033.24	4524.25	5308.98	PK NAIL IN PARKING LOT N. OF GOOSE CREEK 160' W. OF FOLSOM ST.
I-6	8938.36	4444.29	5313.59	3/8" SPIKE IN GRASS S OF GOOSE CREEK 220' W. OF FOLSOM STREET
I2M-2	8467.90	5667.42	5289.31	PK NAIL NE CORNER DAY CARE - N. CORNER NEW PARKING LOT

Exhibit A

December 21, 2001

Mr. Douglas Sullivan
City of Boulder, Utilities Division
P.O. Box 791
Boulder, Colorado 80306

Re: Boulder and White Rock Ditch – Goose Creek Approval

Dear Douglas:

We have reviewed the Construction Plans for Goose Creek Drainage Improvements, prepared by McLaughlin Water Engineers, Inc., dated October 2001, on behalf of the Boulder and White Rock Ditch and Reservoir Company (Ditch Company). Specific sheets that were provided by the City of Boulder and reviewed included: Drawing Nos. 3, 4, 11, 12, 16, and 21, and SDG Incorporated Drawing Nos. S2, S3, S5, and S6. Approval of the plans is given by the Ditch Company subject to the following conditions:

1. The Goose Creek diversion structure and associated facilities were designed to allow the Ditch Company to divert the first 26 cfs of flow from Goose Creek into the Boulder and White Rock Ditch when there is 26 cfs of excess capacity in the ditch. The Ditch Company, through operation of the diversion structure, will determine if this criteria has been met. If the Goose Creek diversion structure does not allow the Ditch Company to divert the first 26 cfs of flow from Goose Creek, the Ditch Company may request that corrective measures be taken by the City of Boulder.
2. The Parshall Flume that will measure flows from Goose Creek was designed so the majority of the time the flow will not be 70 percent or more submerged and no correction to the flow measurement is needed. The Ditch Company through operation of the diversion structure will determine if this criteria has been met. If the Parshall Flume is submerged 70 percent or more for the majority of operation conditions, the Ditch Company may request that corrective measures be taken by the City of Boulder, possibly including replacing the Parshall Flume with another flow measuring device.
3. The aluminum stop log shop drawing submittal shall be provided to the Ditch Company for review and approval, such approval by the Ditch Company shall not be unreasonably withheld.
4. The trash rack shop drawing shall be submitted to the Ditch Company for review and approval, such approval by the Ditch Company shall not be unreasonably withheld.



Mr. Douglas Sullivan
December 21, 2001
Page 2

If you have any questions concerning the conditions of the Ditch Company approval, please feel free to call.

Sincerely,

ROCKY MOUNTAIN CONSULTANTS, INC.

Michael J. Ballantine

Michael J. Ballantine, P.E.
Water Resources Engineer

MJB:sp

cc: John McKenzie
Dave Sonnesyn
Jules Van Thuyne

I:\0056_088\GooseCreek.ltr.doc

ATTACHMENT G

Water Crossing Maintenance Easement & Agreement **WATER LINE CROSSING MAINTENANCE EASEMENT AND AGREEMENT** (Goose Creek Crossing - Mapleton Mobile Home Park Property)

THIS WATER LINE CROSSING MAINTENANCE EASEMENT AND AGREEMENT (the “**Agreement**”) is entered into this ___ day of _____, 2004, by and between the **CITY OF BOULDER**, a Colorado municipal corporation, the address of which is P.O. Box 791, Boulder, CO 80302 (the “**City**”) and **MAPLETON LLC**, a Colorado limited liability company, with offices at 1845 Folsom St. Boulder, CO 80302 (“**MLLC**”). The following exhibits are attached hereto and made a part of this Agreement:

Exhibit A - Diagram of Water Line Easement and Water Line

RECITALS:

- A. On the same date as this Agreement the City sold and MLLC acquired the 14.5 acres of land, more or less, known as the Mapleton Mobile Home Park property, located at 2635 Mapleton Avenue, Boulder, CO 80304, Boulder County, CO, which is described as Lots 1 and 2 of The Mapleton Mobile Home Park Subdivision (“**MMHP Subdivision**”), according to the plat thereof recorded on _____, 2004 as Reception No. _____ of the records of the Boulder County, Colorado Clerk and Recorder (the “**Property**”).
- B. The sale of the Property to MLLC included the water pipeline which crosses Goose Creek, among other private utilities (the “**Water Line**”). The Water Line crosses Outlot A of the MMHP Subdivision which is owned by the City and bisects the Property acquired by MLLC.
- C. The City wishes to grant MLLC an easement over and across the area where the Water Line crosses Outlot A (the “**Water Line Easement**”) in the location which is depicted on the attached **Exhibit A**, for the purpose of maintaining and repairing the Water Line, and the parties wish to enter into this agreement concerning their respective rights and responsibilities

AGREEMENT:

The parties agree as follows:

1. **WATERLINE MAINTENANCE EASEMENT**. The City hereby grants a perpetual, non-exclusive easement to MLLC, and its successors in interest and assigns, over and across the property depicted in the attached **Exhibit A** (the “**Water Line Easement**”), for the purpose of maintaining and repairing, the Water Line.

2. NOTIFICATION. MLLC agrees that it shall provide the City with a 5-day notice prior to commencing any work related to repair or replacement of the Water Line

All notices under this Contract shall be given by registered or certified mail, postage prepaid, directed as follows, and shall be deemed given on the date of mailing:

If to City: _____

Phone: _____

3. INSURANCE. The City and its officers, agents, and employees shall be named as additional insureds on all insurance policies provided by the Consultants under this Agreement. The parties shall carry the following minimum amounts of insurance and each party shall provide a copy of its certificate of insurance to the other party:

1. Workers' compensation in statutory limits.
2. Comprehensive general liability policy with minimum limits at least equal to the liability limits set forth in the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

4. CITY'S RESPONSIBILITY.

4.1 General. The City assumes responsibility for its, its agents', and its employees' actions and omissions in the performance or failure to perform work under this Agreement. The City does neither waive nor intends to waive the limitations on liability which are provided to the City, its officers, and employees under the Colorado Governmental Immunity Act, Sec. 24-10-101 et seq., C.R.S.

4.2 Damage to Water Line. In the event of damage to the Water Line, the City shall be responsible for all reasonable costs of constructing a new Water Line in the same location or an alternative location as may be agreed upon by the parties. Any repair or replacement of the Water Line shall meet reasonable industry standards

5. MLLC'S RESPONSIBILITY.

5.1. Indemnification. MLLC agrees to hold harmless, indemnify, and defend the City, and the members, directors, officers, employees, agents, and contractors and their heirs, personal representatives, successor and assigns of each of them (collectively, "**City Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with (1) injury or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on

or about the Water Line, as a result of the maintenance, repair or replacement of the Water Line by MLLC, unless due to the negligence, intentional acts or omissions of any of the City Indemnified Parties (in which case liability shall be apportioned in accordance with Colorado law); (2) the obligations of MLLC herein; and (3) the presence or release of hazardous or toxic substances on, under or about the Water Line Easement (except to the extent such is caused by a City Indemnified Party).

5.2 Damage to City Property. At MLLC's expense, all portions of City property damaged by the activities of the MLLC, MLLC's agents or MLLC's contractors shall be restored to a condition at least equal to the condition of such City property prior to such damage. Any repair to City property shall meet the City's Design and Construction Standards and must be approved by the City in advance. Such approval shall not be unreasonably withheld.

5.3 The Goose Creek Flood Control Channel

MLLC shall notify the City 5 days prior to commencing any work related to repair or replacement of the Water Line and shall conduct such work in a manner that will not impede the ability of the Goose Creek Flood Control Channel to safely contain and conduct floodwaters as presently designed.

6. MISCELLANEOUS.

6.1 Binding Effect. The terms and conditions of this Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties, their agents, lessees and assigns, and all other successors to it in interest and shall continue as a servitude running in perpetuity with the Property described above.

6.2 Exhibits. The exhibits hereto constitute an integral part of this Agreement and are hereby incorporated herein.

6.3 Entire Agreement. This Agreement represents the entire agreement of the parties and may not be amended except by a writing signed by each party thereto.

6.4 Authority. Each party to this Agreement warrants to the other that the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents.

6.5 Further Actions. Each party shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to vest in each party all rights, interests and benefits intended to be conferred by this Agreement.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any dispute shall be in Boulder County.

6.7 Compliance with Laws. All construction and maintenance shall be conducted in accordance with all applicable laws and regulations and in a

good and workmanlike manner.

6.8 Regulations and Permits. Nothing in this easement shall be construed as a waiver of any regulations or permitting processes of the City of Boulder.

Executed as of the date first shown above.

CITY OF BOULDER,
a Colorado municipal corporation

By: _____
Frank W. Bruno, City Manager

Attest:

By: _____
City Clerk on behalf of the
Director of Finance and Record

Approved as to form:

City Attorney

COUNTY OF BOULDER)
) ss:
STATE OF COLORADO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by Frank W. Bruno, as City Manager of the City of Boulder, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: _____.

(SEAL)

Notary Public

WATER LINE EASEMENT EXHIBIT A

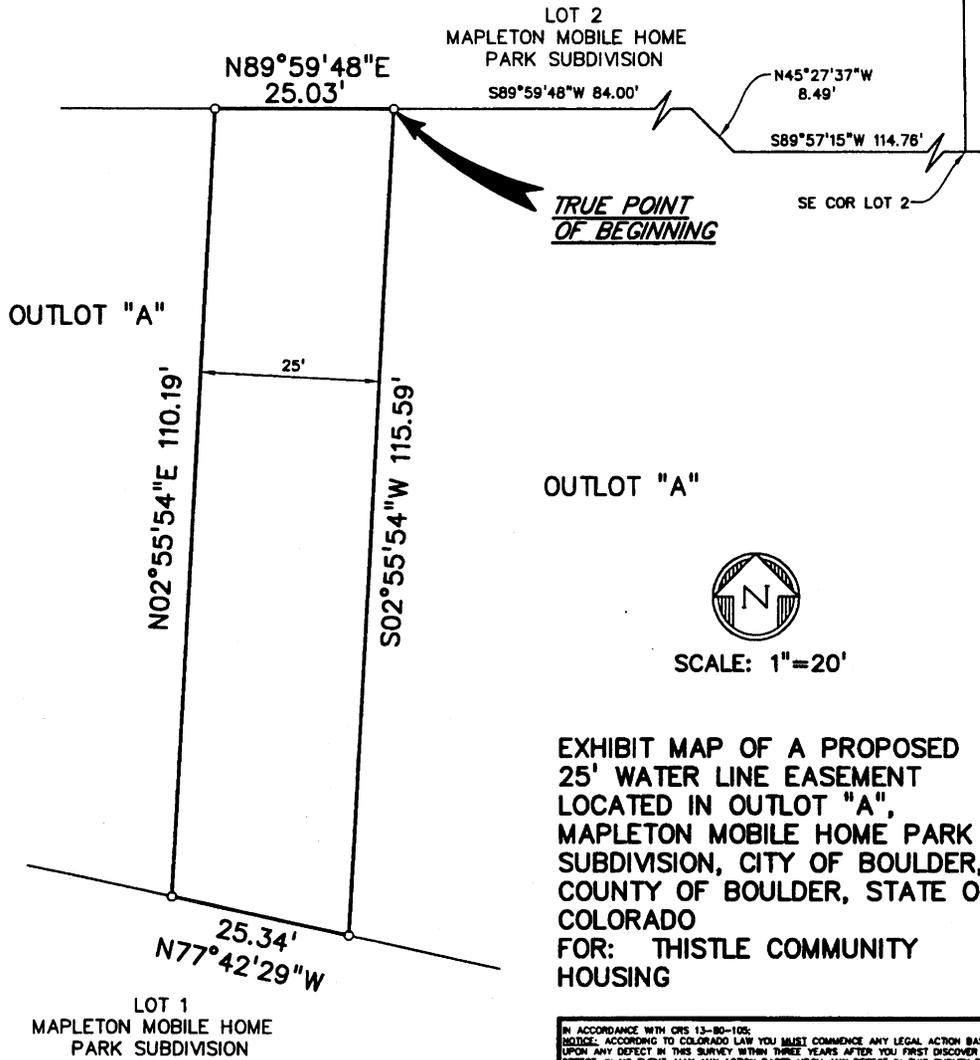


EXHIBIT MAP OF A PROPOSED
 25' WATER LINE EASEMENT
 LOCATED IN OUTLOT "A",
 MAPLETON MOBILE HOME PARK
 SUBDIVISION, CITY OF BOULDER,
 COUNTY OF BOULDER, STATE OF
 COLORADO
 FOR: THISTLE COMMUNITY
 HOUSING

LOT 1
 MAPLETON MOBILE HOME
 PARK SUBDIVISION

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN
 IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS
 MAP IS TO GRAPHICALLY SHOW THE LOCATION OF A
 PROPOSED 25' WATER LINE EASEMENT DESCRIBED IN
 THE ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-105:
 NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED
 UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH
 DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE
 COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co.		Engineers/Surveyors	
	4848 FRANK BART CIRCLE, SUITE 114 BOULDER, COLORADO 80504 (303) 440-4888	4848 FRANK BART CIRCLE, SUITE 114 BOULDER, COLORADO 80504 (303) 440-4888	4848 FRANK BART CIRCLE, SUITE 114 BOULDER, COLORADO 80504 (303) 440-4888
Revisions - Date	Date	Drawn By	Job No.
	11/12/04	SDS	E5485
	Scale	Checked By	Drawn To
	1"=20'	KA	IN FOLDER

H:\E5485\EXHIBITS\5485AEX04.dwg, 11/12/2004, 3:42:03 P.M., Drexel, Barrell & Co., sdc

ATTACHMENT H

Bridge Crossing License & Maintenance Agreement

BRIDGE CROSSING LICENSE AND MAINTENANCE AGREEMENT

(27th Street Bridge Goose Creek Crossing - Mapleton Mobile Home Park Property)

THIS BRIDGE CROSSING MAINTENANCE AGREEMENT (the “**Agreement**”) is entered into this ___ day of _____, 2004, by and between the **CITY OF BOULDER**, a Colorado municipal corporation, the address of which is P.O. Box 791, Boulder, CO 80302 (the “**City**” or “**Licensor**”) and **MAPLETON LLC**, a Colorado limited liability company, with offices at 1845 Folsom St. Boulder, CO 80302 (“**MLLC**” or “**Licensee**”). The following exhibits are attached hereto and made a part of this Agreement:

Exhibit A - Bridge Crossing License

RECITALS:

- A. On the same date as this Agreement the City sold and MLLC acquired the 14.5 acres of land, more or less, known as the Mapleton Mobile Home Park property, located at 2635 Mapleton Avenue, Boulder, CO 80304, Boulder County, CO, which is described as Lots 1 and 2 of The Mapleton Mobile Home Park Subdivision (“**MMHP Subdivision**”), according to the plat thereof recorded on _____, 2004 as Reception No. _____ of the records of the Boulder County, Colorado Clerk and Recorder (the “**Property**”). The property conveyed to MLLC by the City excluded Outlot A and the 27th Street Bridge (“**City Property**”).
- B. The City wishes to grant MLLC a license over and across the 27th Street bridge located on Outlot A (the “**Bridge Crossing License**”) in the location which is depicted on the attached **Exhibit A**, for the purpose of maintaining, repairing, improving and replacing the surface of the road on the 27th Street Bridge, and the parties wish to enter into this agreement concerning their respective rights and responsibilities

AGREEMENT:

The parties agree as follows:

1. **BRIDGE CROSSING MAINTENANCE LICENSE.** The City hereby grants a non-exclusive license to MLLC, and its successors in interest and assigns, over and across the property depicted in the attached **Exhibit A** (the “**Bridge Crossing License**”), for the purpose of maintaining, repairing, improving and replacing the paving which covers the top 5 inches (the “**Surface**”) of the road on the 27th Street Bridge.

2. RESPONSIBILITY FOR MAINTENANCE.
 - 2.1. Bridge Structure. The City owns the 27th Street Bridge and shall be solely responsible for maintaining and repairing the 27th Street Bridge structure which underlies the asphalt surface (the “**Bridge**”).
 - 2.2. Surface of Road. Routine Maintenance of the Surface of the road crossing the 27th Street Bridge shall be performed by MLLC at its cost and the road Surface shall be maintained and repaired by MLLC in a good, safe and sound condition.
3. NOTIFICATION. MLLC agrees that it shall provide the City with a 3-day notice prior to commencing any routine maintenance as described in paragraph 2.2 above.
4. TERM. This agreement and the covenants herein contained shall continue for so long as the Bridge exists and the roadway is in use, unless modified by Court order, or a signed written agreement of the parties.
5. INSURANCE. The City and its officers, agents, and employees shall be named as additional insureds on all insurance policies provided by the Consultants under this Agreement. The parties shall carry the following minimum amounts of insurance and each party shall provide a copy of its certificate of insurance to the other party:
 1. Workers’ compensation in statutory limits.
 2. Comprehensive general liability policy with minimum limits at least equal to the liability limits set forth in the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.
6. CITY’S RESPONSIBILITY.
 - 6.1. General. The City assumes responsibility for its, its agents’, and its employees’ actions and omissions in the performance or failure to perform work under this Agreement. The City does neither waive nor intends to waive the limitations on liability which are provided to the City, its officers, and employees under the Colorado Governmental Immunity Act, Sec. 24-10-101 et seq., C.R.S.
 - 6.2. Damage to Surface of Road. In the event of damage to or destruction of the Surface of the road, the City shall be responsible for all reasonable costs of repairing the Surface with a comparable design and quality as that which currently exists using reasonable industry standards.
7. LICENSEE’S RESPONSIBILITY FOR DAMAGE.
 - 7.1. Indemnification. MLLC agrees to hold harmless, indemnify, and defend the City, and the members, directors, officers, employees, agents, and contractors and their heirs, personal representatives, successor and assigns of each of them (collectively, “**City Indemnified Parties**”) from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or

judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with (1) injury or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the 27th Street Bridge resulting from the maintenance, repair or replacement of the road surface required of MLLC hereunder, unless due to the negligence, intentional acts or omissions of any of the City Indemnified Parties (in which case liability shall be apportioned in accordance with Colorado law); and (2) the obligations of MLLC herein.

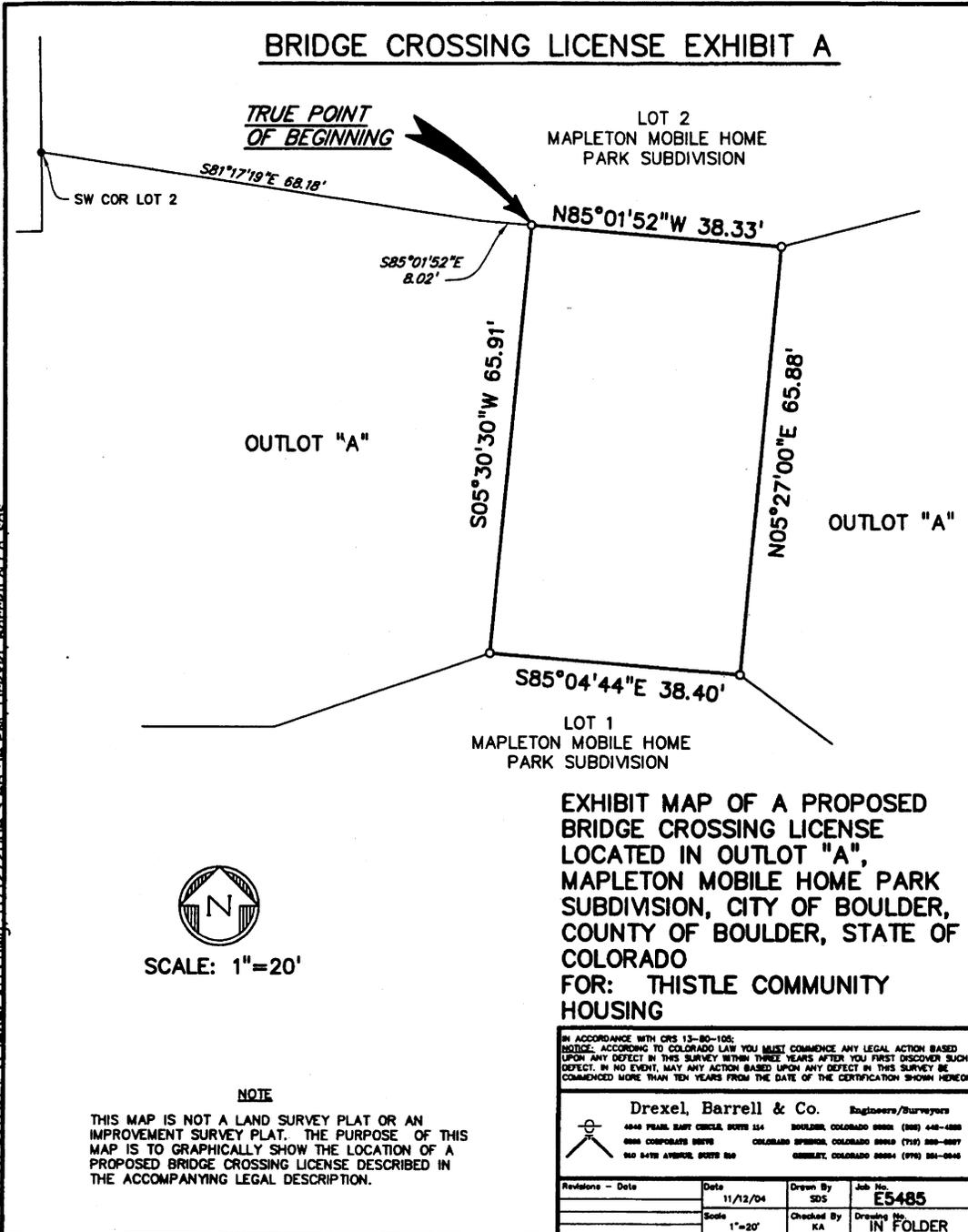
7.2 Damage to City Property. At Licensee's expense, all portions of City Property damaged by the activities of the Licensee, Licensee's agents or Licensee's contractors shall be restored to a condition at least equal to the condition of such City Property prior to such damage. Any repair to the road improvements shall meet the City's Design and Construction Standards and must be approved by the City in advance. Such approval shall not be unreasonably withheld.

8. MISCELLANEOUS.

- 8.1 Binding Effect. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties' heirs, executors, administrators, successors and assigns.
- 8.2 Exhibits. The exhibits hereto constitute an integral part of this Agreement and are hereby incorporated herein
- 8.3 Entire Agreement. This Agreement represents the entire agreement of the parties and may not be amended except by a writing signed by each party thereto.
- 8.4 Authority. Each party to this Agreement warrants to the other that the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents.
- 8.5 Further Actions. Each party shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to vest in each party all rights, interests and benefits intended to be conferred by this Agreement.
- 8.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any dispute shall be in Boulder County.
- 8.7 Compliance with Laws. All construction and maintenance shall be conducted in accordance with all applicable laws and regulations and in a good and workmanlike manner.

Executed as of the date first shown above.

BRIDGE CROSSING LICENSE EXHIBIT A



SCALE: 1"=20'

EXHIBIT MAP OF A PROPOSED BRIDGE CROSSING LICENSE LOCATED IN OUTLOT "A", MAPLETON MOBILE HOME PARK SUBDIVISION, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO FOR: THISTLE COMMUNITY HOUSING

NOTE
THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF A PROPOSED BRIDGE CROSSING LICENSE DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-102, NOTICE, ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co. Engineers/Surveyors
 4040 PEARL EAST CIRCLE, SUITE 114 BOULDER, COLORADO 80501 (303) 442-4222
 2224 CORPORATE DRIVE, COLORADO SPRINGS, COLORADO 80910 (719) 282-2227
 210 24TH AVENUE, SUITE 210 GREELEY, COLORADO 80634 (970) 341-0242

Revisions - Date	Date	Drawn By	Job No.
	11/12/04	SDS	E5485
	Scale	Checked By	Drawing No.
	1"=20'	KA	IN FOLDER

H:\E5485\EXHIBITS\5484EX03.dwg, 11/12/2004 3:46:54 PM Drexel, Barrell & Co. sdc

ATTACHMENT I

Sewer Warranty & Maintenance Agreement

Memorandum of Understanding Mapleton Mobile Home Park Sewer Warranty and Maintenance

Between:

City of Boulder Public Works Department and Division of Housing
and
Mapleton LLC

RECITALS:

- Whereas: The City of Boulder (the “City”) and Thistle Community Housing, a Colorado non-profit corporation have entered into a Contract to Buy and Sell Real Estate dated October 24, 2003 (the “Contract”), for the property to be known as “The Mapleton Mobile Home Park Subdivision”, according to the plat thereof recorded on October 6, 2004 as Reception No. 2632927 of the records of the Boulder County Clerk and Recorder (the “Park”). The rights and responsibilities of Thistle under the Contract and this Agreement may be assigned to Mapleton LLC, a Colorado limited liability company (“MLLC”), and any reference to Thistle herein shall be deemed to include MLLC upon assignment of the Contract to MLLC.
- Whereas: During the Goose Creek Phase IV construction project in the Park, the Mapleton Homeowners Association (“MHA”), Thistle, and the City agreed that the City would design and construct additional water and sewer facilities in the Park in an effort to realize significant cost savings.
- Whereas: The City, Thistle and MHA all desire a fully-operational sewer system that does not create health/safety issues or undue financial burden;
- Whereas: Thistle has expressed concern that those City-installed sewer and water lines may not provide adequate service to the Park;
- Therefore: As part of the consideration for the acquisition of the Park by Thistle the parties have entered into this Memorandum of Understanding.

AGREEMENT:

1. Warranty and Maintenance Agreement. As of Closing on the Contract the City agrees to the warranty and maintenance requirements described herein for the following pipelines (referred to as the “Pipelines”):
 - 1.1. The water and sewer pipelines which the City installed in the Park.

- 1.2. The existing sewer line from the intersection of Roads C-G to Mapleton Avenue and the proposed sewer line (approximately 298 feet of 8" PVC at 0.33% grade) that will connect into Mapleton Avenue.
2. Warranty Period. This warranty and maintenance agreement will end on August 18, 2009, unless extended pursuant to Paragraph #4, below (the "**Warranty Period**"). If the standard in Paragraph #4 is not met the Warranty Period and warranty and maintenance agreement will remain in effect indefinitely, as described in Paragraph #4, below.
3. Maintenance. The City shall be responsible for the maintenance of the water and sewer lines specified above during the Warranty Period and will perform "**Routine Maintenance**" activities to prevent damage to or failure of the water and sewer lines. Routine Maintenance shall include one flushing and one TV of the Pipelines every twelve (12) months. If there is a sewer backup to a service line cleanout or into one or more of the Mapleton homes, which is determined to be the result of a blockage in the City-constructed lines, the City of Boulder will address the required maintenance.
4. Problem-free Year. If, during the period from August 19, 2008 through August 18, 2009 (the last 12 months of the initial five-year Warranty Period), there is a need for maintenance or repair that is beyond the requirements of Routine Maintenance activities, the warranty and maintenance agreement and Warranty Period shall continue until such time as there are 12 consecutive months that only Routine Maintenance activities are required (a "Problem-free Year"). Once a Problem-free year has been achieved after August 19, 2008, then the City shall no longer have any warranty or maintenance responsibility and the Warranty Period shall expire. If a Problem-free Year after August 19, 2008 appears unachievable, the City recognizes that its interests will be best served by implementing a permanent solution for such problems prior to the end of the initial five-year Warranty Period.
5. Initial Flushing of Lines. The City will flush the City-constructed lines within 60 days of Thistle's purchase of the Park. The next scheduled flushing of the City-constructed lines will occur upon completion of the other sewer lines by Thistle or within one year of the initial flush, whichever occurs first. Subsequent flushings of City-constructed lines will be on an annual basis. If Thistle experiences problems resulting from the design or construction of the City-constructed lines between scheduled flushings, Thistle will notify the City, which will evaluate the problem and identify a solution within 60 days.
6. Access to Sewer Line Across Goose Creek. The City will provide Thistle with access to the sewer line across Goose Creek for maintenance purposes whenever Thistle secures any appropriate permits and uses a licensed contractor. To provide some financial assistance, the City will assume the permit cost for the contractor doing the work, provided the work is accomplished before April 1, 2011.
7. Dispute Resolution: If there is a disagreement between the Mapleton LLC and the City of Boulder during the Warranty Period regarding whether the problem is the

result of the City-constructed lines, Mapleton LLC and the City of Boulder will utilize non-binding mediation. If mediation does not resolve the differences, either party may request binding arbitration using the least formal standards of the American Arbitration Association reasonably practical to resolve their differences in a cost-effective manner. In this event, the City will select an independent, impartial, arbitrator who is qualified based on professional engineering experience, after consulting with Mapleton LLC. The City shall not select an arbitrator with any past or current professional relationship with the City or Thistle other than as an arbitrator. The parties shall each pay one-half of the cost of the mediation or arbitration.

8. Monitoring: If Mapleton LLC so chooses during the Warranty Period, Mapleton LLC may install a sensor in Manhole 2 and the City will reimburse up to \$3,000 or one half of the cost of the installation, whichever is less. Mapleton LLC is responsible for all costs to maintain and monitor the data once the installation is complete. Mapleton Home Association, Mapleton LLC and the City of Boulder will be notified about the results of the data as necessary and in a timely manner.

Ned Williams
Co-Director of
Public Works
for Utilities

John Pollak
Acting Co-Director
Housing and Human Services

Aaron Miripol
Executive Director
Thistle Community Housing

Date: _____

November 8, 2004

To: Thistle Community Housing
Aaron Miripol, Executive Director

Re: Mapleton Mobile Home Park

The City attempts to subsidize affordable housing developments adequately up front in order to ensure that the housing remains financially viable. Under unique circumstances, it is understood that subsequent additional funding is required in order to preserve safe, decent and affordable housing. If future sewer maintenance problems create costs unsupportable by Park operating revenue, the City will give strong consideration to additional funding requests through the Affordable Housing Fund. We also maintain a \$500,000 risk pool to address critical short-term needs. With Park residents and Thistle, Boulder's Department of Housing and Human Services shares the vision of preserving Mapleton Mobile Home Park as a safe and affordable neighborhood.

Sincerely,

John Pollak
Co-Director, Housing and Human Services

ATTACHMENT J

Summary of Documents for the Mapleton Mobile Home Park Sale

(A copy set of these documents may be found in the City Manager's Office.)

DOCUMENT	PARTIES
PURPOSE	
1) Permanently Affordable Housing Covenant	Mapleton LLC & City of Boulder
Recorded document that places limits on mobile home space rental rates and resident buyer incomes; requires owner occupancy; specifies a minimum of 120 spaces to be used to house low and very low income residents in exchange for \$825,000 in City subsidy funds; provides City protection and cure provisions if Mapleton LLC should default on its financial obligations; specifies Mapleton LLC reporting requirements; and other miscellaneous provisions necessary to preserve and regulate the permanently affordable housing created by this covenant.	
2) Funding Agreement, Deed of Trust & Promissory Note	Mapleton LLC & City of Boulder
The Funding Agreement sets forth the terms governing the provision of the \$825,000 in City subsidy funds. The Deed of Trust and Promissory Note assures that Thistle will make the Infrastructure Improvements within four (4) years of acquiring the Park or receiving final City approval for the plans and permits for such improvements, whichever comes first.	
3) HOME Agreement	Thistle Community Housing & City of Boulder
Required by the U.S. Department of Housing and Urban Development, the HOME Agreement sets forth the federal requirements attached to the \$532,200 in HOME funds awarded to the project by City Council in 2003. Requires that five mobile home spaces will be rented to HOME eligible households which are those households earning less than 60% of the Area Median Income.	
4) Similar Agency Agreement, \$10 Deed of Trust & Promissory Note	Mapleton LLC & City of Boulder
Establishes Mapleton LLC as an entity that provides housing services similar to the Housing Authority enabling it to restrict rents in accordance with the covenant. The \$10 Note and Deed of Trust establish the City's interest in the Mapleton Mobile Home Park for purposes of regulating rents in the park. In order to maintain the City's interest, the \$10 Promissory Note is not repayable.	
5) Sewer Maintenance & Warranty Agreement	Mapleton LLC & City of Boulder
City of Boulder to maintain and warranty City installed sewer lines for the next five years.	

6) Contract & Contract Amendments (2)	Thistle Community Housing & City of Boulder
Terms of sale for the Mapleton Mobile Home Park.	
7) Sewer & Water Line Crossing Easements	Mapleton LLC & City of Boulder
Provides access for the owner of the MMHP to City owned property in order to maintain and repair the private water and sewer lines located there.	
8) Bridge Crossing License & Maintenance Agreement	Mapleton LLC & City of Boulder
Enables the owner of MMHP to use the bridge connecting Lots 1 and 2 of the MMHP as well as maintain the travel surface of the bridge.	
9) Affordability Memorandum of Understanding	Mapleton LLC & City of Boulder
Adjusts initial affordability categories to serve 5 more very low income households; provides some flexibility for up to 8 households experiencing hardships to sell one time to the next highest income category.	