



SILVIA DAVIS PITKIN COUNTY CO

**COVENANT
FOR THE PRESERVATION OF HISTORIC STRUCTURES**

THIS COVENANT FOR THE PRESERVATION OF HISTORIC STRUCTURES (the "Covenant") is made and entered into this 11th day of August, 2004, by HENRY EDWARD BOOHER, JR. and CHERIE L. BOOHER (hereinafter referred to herein jointly as "Declarant"), and PITKIN COUNTY, COLORADO (the "County"). This Covenant shall run with the land described herein and be binding upon the successors and assigns of the parties hereto, subject to the terms and conditions set forth herein.

RECITALS

A. Declarant owns the real property described in Exhibit "A" appended hereto and incorporated herein by this reference (the "Property"), according to the Final Plat of the Hoaglund Historic P.U.D., recorded in the real property records of Pitkin County, as Reception No. 501018.

B. There are two historic structures located on the Property, a log ranch house (Building No. 1 on Lot 8) and a log barn (Building No. 2 on the Common Area Parcel) as described in the Historic Building Inventory Record attached hereto as Exhibit "B."

C. This Covenant is intended by the parties to satisfy the requirements of Resolution No. 138-2003, condition 3C with respect to the maintenance and preservation of the Historic Buildings.

NOW THEREFORE, Declarant hereby represents, covenants and agrees as follows:

1. Maintenance Obligation. Declarant agrees to assume the obligation for the continued maintenance, repair, and preservation of the Property in a manner that complies with the attached U.S. Secretary of the Interior's Standards for Rehabilitation (codified at 36 C.R.F. SS68.1 through 68.3), so as to preserve the architectural, historical, archaeological, cultural, and/or engineering integrity of its features, materials, appearance, and workmanship in order to protect and enhance those significant characteristics which qualify it for historic preservation treatment. A copy of the Interior Secretary standards as they exist on the date of recordation of this covenant is attached hereto as Exhibit "C". Declarant shall maintain buildings #1 and #2 on the Property at all times and shall keep the buildings in a state of repair at least as good as that which exists as of the date of this Covenant, and shall not allow their appearance to deteriorate in any material way.

2. Exclusion. Declarant agrees that the County in no way assumes any obligation whatsoever for restoring, maintaining, repairing, or administering the Property covered by this Covenant. However, the County shall be entitled to enforce this Covenant.

3. Inspection and Compliance. Declarant agrees that the County shall have the right to request inspection of the Historic Buildings to assure compliance with this covenant, which request Declarant shall not unreasonably deny. Any inspection of the Historic Buildings by the County shall be at such times and upon such notice to Declarant as Declarant may reasonably require. Any inspection carried out pursuant to this paragraph shall be conducted in the presence of



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Declarant, if they wish to be present. The purpose of such inspection shall be to ascertain whether the terms of this Covenant have been and are being met and to insure compliance with the terms of this Covenant. Any notice allowed or required by this paragraph shall be served on Declarant.

4. Alterations. Declarant agrees that, no alterations shall be made to the exterior of the Historic Buildings, except for maintenance and repair and except such additions as may be consistent with the historic character of the Buildings, reasonably approved by the County's Historic Preservation Office; and that no structures shall be placed, erected, relocated, or demolished within thirty feet of the Historic Buildings on the Property, without the prior written consent of the County, its successors, transferees, or assigns, except for:

(a) Ordinary repair and maintenance to conserve architectural, historical, archaeological, cultural, and engineering values; or

(b) Actions required to mitigate a casualty or other emergency, reported to the County, its successors, transferees, or assigns.

5. Use Change. Declarant agrees that the Historic Building No. 1 shall be used for residential purposes only and that Historic Building No. 2 may be used for storage, recreation and community center purposes. There shall be no change in the use of the Historic Buildings without the prior written consent of the County.

6. Standards for Review. Review and approval of any proposed construction, alteration, rehabilitation, relocation, demolition, or change in use of the Historic Buildings shall be evaluated through use of the Interior Secretary Standards attached hereto as Exhibit "C". Declarant agrees to abide by the Interior Secretary Standards in performing any restoration, construction, alteration, rehabilitation, relocation, demolition, or change in use of the Historic Buildings.

7. Public Purpose. Declarant agrees that all changes to the Historic Buildings shall be in the spirit of contributing to the public purpose of protecting and preserving the Historic Buildings in conformance with the Standards for Review.

8. Continuation. In the event the Historic Buildings or any of their component parts is (are) destroyed or substantially damaged through no willful action or negligence of the Declarant, and if it is jointly determined by Declarant and the County that the affected structure(s) or feature(s) are to be preserved and not removed, all obligations contained in this Covenant shall continue unabated. However, should the Historic Buildings or any of its components be damaged to such an extent that the Historic Buildings are no longer deemed historic or necessary to be preserved by the County, this Covenant shall no longer be effective. In the event that the Historic Buildings are damaged or destroyed through the willful action or negligence of Declarant, the County may initiate such administrative or judicial actions as it deems to be legally available and appropriate.

9. Reserved Rights of Declarant. Declarant shall have all rights to utilize the Historic Buildings and the Property not specifically limited or restricted by this Covenant.



10. Binding on Successors to Declarant; Enforcement; Attorneys' Fees. This Covenant shall be a binding servitude, and shall run with the land and be binding upon Declarant, its successors, transferees, and assigns, in perpetuity, unless terminated by the terms of this Covenant or by voluntarily relinquishment by the County. It is explicitly agreed by the parties hereto that this Covenant shall be enforceable in the courts of the State of Colorado; and that in the event an action to enforce this Covenant is brought, that the party or parties which substantially prevail in any such enforcement action shall be entitled to recover from the non-prevailing party(ies) the full cost of such action (including reasonable attorneys' fees and costs).

11. Exercise of Rights and Remedies. Failure of the County to exercise any right or remedy granted under this Covenant shall not have the effect of saving or limiting the exercise by the County of any other right or remedy, or the invocation of such right or remedy, at any other time.

12. Notices. Any notice, consent or approval which is required to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Covenant. All such notices shall be effective seven days following the date the notice was deposited in the U.S. Mail. Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant:

Henry Edward Booher, Jr.
and Cherie L. Booher
c/o Richard Y. Neiley, Jr.
Neiley & Alder
201 North Mill Street, Suite 102
Aspen, CO 81611

To County:

Pitkin County Government
Attn: County Attorney
530 East Main Street
Aspen, CO 81611

13. Severability. Whenever possible, each provision of this covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document.

14. Choice of Law. This Covenant and each and every related document is to be governed and construed in accordance with the laws of the State of Colorado.

15. Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.



16. Modifications. The parties to this Covenant agree that any modifications of this Covenant shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of Pitkin County, Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year first above-written.

Declarant:

County:

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

HENRY EDWARD BOOHER, JR.

By
Chairman

CHERIE L. BOOHER

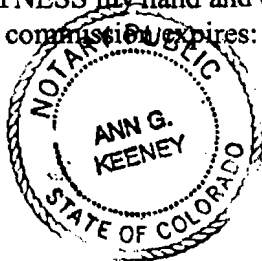
List of Attachments:

- A. Description of the Property
- B. Historic Building Inventory Record
- C. Secretary of Interior's Standards for Rehabilitation

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing Covenant for the Preservation of Historic Structures was acknowledged and signed before me this 11 day of August, 2004 by HENRY EDWARD BOOHER, JR., Declarant.

WITNESS my hand and official seal.
My commission expires: 5/14/2008



Notary Public

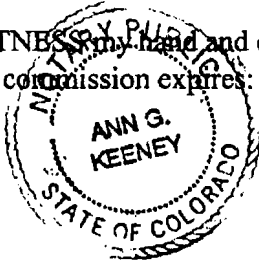
STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)



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The foregoing Covenant for the Preservation of Historic Structures was acknowledged and signed before me this 11 day of August, 2004 by CHERIE L. BOOHER, Declarant.

WITNESS my hand and official seal.
My commission expires: 5/14/2008



Ann G. Keeney
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing Covenant for the Preservation of Historic Structures was acknowledged and signed before me this 19th day of August, 2004 by DOROTHEA FARRIS, Chairman of the BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO.

WITNESS my hand and official seal.
My commission expires: 7-6-08

Janette Jones
Notary Public

EXHIBIT "A"



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SILVIA DAVIS PITKIN COUNTY CO

R 31.00

D 0.00

A PARCEL OF LAND SITUATED IN TRACT 55, TOWNSHIP 8 SOUTH, RANGE 86 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF PITKIN, STATE OF COLORADO; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT ANGLE POINT NO. 4 OF TRACT 53; THENCE S 25°03'58" W 2229.86 FEET TO THE SOUTHEASTERLY CORNER OF HOLLAND HILLS SUBDIVISION, AS SHOWN ON THE PLAT THEREOF RECORDED IN PLAT BOOK 4 AT PAGE 252 OF THE PITKIN COUNTY CLERK AND RECORDER'S OFFICE; THENCE N 38°55'03" E ALONG THE EASTERLY BOUNDARY LINE OF SAID SUBDIVISION A DISTANCE OF 26.26 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF STATE HIGHWAY 82; THENCE N 38°55'03" E ALONG THE EASTERLY BOUNDARY LINE OF SAID SUBDIVISION A DISTANCE OF 470.87 FEET, THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY LINE N38°55'03"E A DISTANCE OF 486.19 FEET, TO A POINT ON THE SOUTHERLY LINE OF SAID SUBDIVISION; THENCE LEAVING SAID EASTERLY LINE S42°57'22"E ALONG THE SOUTHERLY LINE OF SAID SUBDIVISION A DISTANCE OF 940.58 FEET TO A POINT ON THE WESTERLY LINE OF RECEPTION NO. 376874 OF THE PITKIN COUNTY CLERK AND RECORDER'S OFFICE; THENCE CONTINUING ALONG SAID WESTERLY LINE S71°31'20"W A DISTANCE OF 89.28 FEET; THENCE CONTINUING ALONG SAID WESTERLY LINE S39°04'51"W A DISTANCE OF 476.62 FEET; THENCE LEAVING SAID WESTERLY LINE N44°23'49"W A DISTANCE OF 135.32 FEET; THENCE N39°30'11"E A DISTANCE OF 25.41 FEET; THENCE N04°06'01"E A DISTANCE OF 59.98 FEET; THENCE N43°34'43"W A DISTANCE OF 247.58 FEET; THENCE N41°52'17"W A DISTANCE OF 473.94 FEET; TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINING 10.239 ACRES, MORE OR LESS