

RESOLUTION NO. 18

SERIES 1998

A RESOLUTION RATIFYING AND APPROVING AN OPTION AGREEMENT WITH JANET DELABY, JOHN SCHNUR, LARRY POWELL AND DONNA TATE

WHEREAS, the Town of Breckenridge, together with the Board of County Commissioners of Summit County ("County"), desires to enter into an Option Agreement with Janet Delaby, John Schnur, Larry Powell and Donna Tate granting to the Town and the County the right and option to acquire an undivided 33.333% interest in certain mining claims located in Sections 29 and 30, Township 6 South, Range 77 West of the sixth principal meridian in Summit County, Colorado; and

WHEREAS, an Option Agreement between the Town, the County, Janet Delaby, John Schnur, Larry Powell and Donna Tate has been prepared, a copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference ("Agreement"); and

WHEREAS, the Town Council of the Town of Breckenridge has reviewed the proposed Agreement, and finds and determines that it would be in the best interests of the Town and its residents for the Town to enter into the proposed Agreement; and

WHEREAS, Rule 6.1(b) of the Council Procedures and Rules of Order provides that a Resolution may be used to approve a contract; and

WHEREAS, the Agreement has heretofore been executed by the Town Manager, and it necessary and appropriate for the Town Council to ratify the previous execution of the Agreement by the Town Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO, as follows:

Section 1. The Option Agreement between the Town, the County, Janet Delaby, John Schnur, Larry Powell and Donna Tate (Exhibit "A" hereto) is approved; and the Town Manager's prior execution of such Agreement for and on behalf of the Town of Breckenridge is hereby ratified, confirmed and approved.

Section 2. The Town Manger is hereby authorized, empowered and directed to give notice of the exercise of the option granted to the Town by said Agreement prior to the June 1, 1998 deadline provided for in the Agreement, and thereafter to take all necessary and appropriate action to close the purchase of the real property contemplated by the Agreement. In connection therewith, the Town Manager shall have full power and authority to do and perform all matters and things necessary to the purchase and acquisition of the property described in the Agreement, including but not limited to the following:

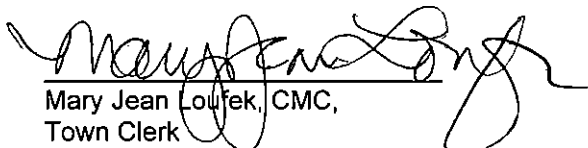
1. The making, execution and acknowledgment of settlement statements, closing agreements and other usual and customary closing documents;
2. The acceptance of delivery of the Deed for the Town's interest in subject real property;
3. The recording of the Deed for the Town's interest in the subject property with the Summit County Clerk and Recorder; and
4. The performance of all other things necessary to the acquisition of the subject property by the Town.

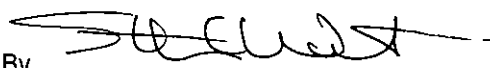
Section 3. This Resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED THIS 12TH DAY OF MAY, 1998.

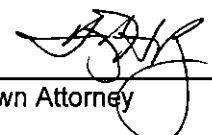
TOWN OF BRECKENRIDGE

ATTEST:


Mary Jean Loufek, CMC,
Town Clerk

By 
Stephen C. West, Mayor

APPROVED IN FORM


Town Attorney

5/12/98
date

EXHIBIT "A" TO
RESOLUTION NO. 18, SERIES 1998

OPTION AGREEMENT

Date: April 24, 1998

SELLER: Janet DeLaby
2050 Ivy Lane
Cumming, GA 30041

John Schnur
1455 Summit Loop Road
Grants Pass, OR 97527

Larry Powell
2017 Teton Pass
El Cajon, CA 92019

Donna Tate
469 Ena Road, #2703
Honolulu, HI 96815

PURCHASER: Board of County Commissioners of Summit County, Colorado (undivided 50% interest)
P.O. Box 68
Breckenridge, CO 80424

Town of Breckenridge, Colorado (undivided 50% interest)
150 Ski Hill Road
Breckenridge, CO 80424

In consideration of the sum of \$100.00 (One-hundred dollars) paid to the Seller, the receipt and sufficiency of which are hereby acknowledged, Seller hereby gives and grants to Purchaser the exclusive option to purchase the following described real estate in the County of Summit, Colorado, to wit:

An undivided 33.333% interest in the following mining claims, located in Sections 29 and 30, Township 6 South, Range 77 West and described in Schedule #2809484 of the Summit County Assessor's records: Romance Lode M.S. No. 6719, Tip Top Lode M.S. No. 6719, Salina Lode M.S. No. 6719, AC Lode M.S. No. 6811, Little Corporal Lode M.S. No. 6450, Hindoo Lode M.S. No. 6450, Morning Star Lode M.S. No. 6811, Aihos Lode M.S. No. 6450, Mastodon Lode M.S. No. 6450, Croesus Lode M.S. No. 6450, AC Lode M.S. No. 6577, Alice Lode M.S. No. 6719, Canfield Lode M.S. No. 6450, and AC Lode M.S. No. 6719,

together with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other appurtenances thereto, all improvements thereon and all attached fixtures thereon in their present condition and free of encumbrances, except as herein provided (collectively the "Property").

If Purchaser decides to purchase the Property, Purchaser must notify Seller on or before June 1, 1998 (Notification Date) which notice must be in writing and sent by registered or certified mail or delivered personally. Such notice shall be effective when mailed or delivered to Seller at the addresses set forth above. The total purchase price of the Property shall be \$38,470.00 which shall be paid as follows:

\$2,000.00 in the form of a check, as an earnest money deposit and part payment of purchase price. Said earnest money payment will be deposited in escrow with a title company with offices in Summit County chosen by Seller when purchase notice is given and shall be paid to Seller at

the time of closing.

\$36,470.00 plus closing costs customarily paid by Purchaser, to be paid by Purchaser at closing in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check, and cashier's check (Good Funds).

If the option is not exercised on or before the above date, the option money paid hereunder will not be refunded to the Purchaser.

In the event the option is exercised, the Property will be transferred and the closing will take place upon the following terms and conditions:

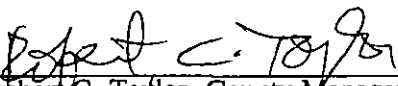
1. The purchase price shall include all water rights appurtenant to or historically used in conjunction with the Property, and all minerals appurtenant to the Property and owned by Seller.
2. Seller will furnish to Purchaser, at Seller's expense, a current commitment for owner's title insurance policy in an amount equal to the purchase price on or before fourteen (14) days after Purchaser notifies Seller of its intent to purchase the Property. Copies of all documents referred to in the title commitment shall be provided to Purchaser, at Seller's cost, along with the commitment. Purchaser shall have the right to inspect the title commitment and provide Seller written notice of unmerchantability of title or of any other unsatisfactory title condition shown by the title documents prior to closing. If any unsatisfactory title condition is not corrected prior to closing, then Purchaser shall have the option to terminate this contract and demand and receive the return of all monies paid hereunder.
3. Seller will furnish, at Seller's expense, an ALTA title insurance policy to Purchaser at closing or as soon thereafter as possible. Such title policy shall have owner's extended coverage (title insurance with standard exceptions deleted and including gap coverage) at Seller's expense.
4. The date of closing shall be within forty (40) calendar days after Purchaser notifies Seller of its intent to purchase the Property. The location, date and time of closing shall be designated by Seller and Purchaser upon mutual agreement. The title company's costs of performing the closing shall be split equally between Purchaser and Seller.
5. Seller shall convey merchantable title to the Property by a good and sufficient general warranty deed, free and clear of all taxes and encumbrances, except as provided for in Paragraph 7 below. If title is not merchantable, or if the Property should be damaged prior to closing, the Purchaser may elect to demand and receive the return of all monies paid hereunder.
6. Any real estate commission due upon the sale of the Property to Purchaser shall be paid by Seller. Purchaser represents to Seller that it is not a party to a contract which requires the payment of any real estate commission upon sale of the Property to Purchaser.
7. At the time of closing on the Property, Seller shall warrant that the Property is free and clear of any liens, encumbrances and, except for easements, rights-of-way, restrictions and mineral reservations accepted by Purchaser pursuant to Paragraph 2 above, and except for taxes and assessments for the year of closing. Taxes, as determined by the current levy and assessment, assessments, and all pre-paid items shall be apportioned to the date of closing when the deed and possession of the Property shall be delivered to Purchaser.
8. During the term of this Contract the Purchaser, its agents, employees, contractors, and engineers, shall have the right from time to time to enter upon the Property at their risk for the purpose of inspecting the same and conducting surveys, engineering studies, borings, soil tests, investigations, feasibility studies and the like. Within a reasonable time after such entries Purchaser shall, to the extent practicable, restore the Property to its prior condition. The Purchaser agrees to indemnify and save the Seller harmless from all claims arising by reason of

such entries.

9. Seller represents that Seller has no knowledge of any hazardous materials or environmental contamination on the Property. Purchase is subject to a Phase I environmental assessment satisfactory to Purchaser of hazardous substances being completed by Purchaser or its agent at Purchaser's expense prior to closing, and a finding that there are no hazardous substances on the Property. If notice is not provided to Seller by Purchaser on or before three days prior to closing then this provision shall be deemed to have been met.
10. In the event of a default hereunder by Purchaser, Seller shall be entitled to keep the option money without accounting to Purchaser therefor, and if the option to purchase has been exercised and earnest money has been deposited in escrow, Seller shall also be entitled to keep the earnest money deposit without accounting to Purchaser therefor. In the event Seller defaults under the terms and conditions hereof, Purchaser may demand and receive the return of the option money and earnest money paid hereunder, or Purchaser may elect to treat this contract as being in full force and effect and Purchaser shall have the right to an action for specific performance of this contract or damages, or both. In the event a civil action is filed regarding the terms of this contract, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney's fees.
11. This option proposal shall expire unless accepted in writing by Seller, as evidenced by Seller's signature below, and Purchaser receives notice of such acceptance on or before May 8, 1998. Signatures by telefax are acceptable for all purposes. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

PURCHASER

Board of County Commissioners of Summit County, Colorado

By: 
Robert C. Taylor, County Manager
Date: 4/29/98

Town of Breckenridge

By: 
Gary Martinez, Town Manager
Date: 4/30/98

SELLER

Janet DeLaby
Date: _____

John Schnur
Date: _____

Larry Powell
Date: _____

Donna Tate
Date: _____

STATE OF COLORADO)
County of Summit)

The foregoing instrument was acknowledged before me this 24th day of April, 19 98, by Robert C. Taylor as County Manager of Summit County, Colorado.

My commission expires March 15, 2000, ~~19~~. Witness my hand and official seal.

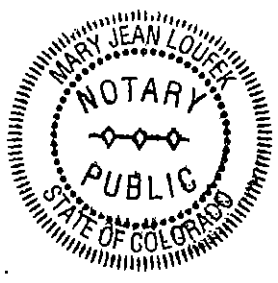
Kloris Jensen Webb
Notary Public

STATE OF COLORADO)
County of Summit)

The foregoing instrument was acknowledged before me this 30th day of APRIL, 19 98, by Gary Martinez as Town Manager of Breckenridge, Colorado.

My commission expires 12/13, 2001, ~~1999~~. Witness my hand and official seal.

Mary Jean Loufek
Notary Public



STATE OF GEORGIA)
)
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19 ____, by Janet DeLaby.

My commission expires _____, 19 _____. Witness my hand and official seal.

Notary Public

STATE OF OREGON)
)
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19 ____, by John Schnur.

My commission expires _____, 19 _____. Witness my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
)
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19 ____, by Larry Powell.

My commission expires _____, 19 ____: Witness my hand and official seal.

Notary Public

STATE OF HAWAII)
)
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19 ____, by Donna Tate.

My commission expires _____, 19 ____: Witness my hand and official seal.

Notary Public