

RESOLUTION NO. 2

SERIES 1999

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH LINCOLN HIGHLANDS I LIMITED AND LINCOLN HIGHLANDS III LIMITED

WHEREAS, Lincoln Highlands I Limited, a Colorado limited partnership, and Lincoln Highlands III Limited, a Colorado limited partnership, are successor Master Developers to Delaware Associates, Ltd. under that certain Master Plan Agreement dated March 28, 1984 ("Master Plan"); and

WHEREAS, a dispute has arisen between the Town and Lincoln Highlands I Limited and Lincoln Highlands III Limited regarding the proper interpretation of the Master Plan; and

WHEREAS, the parties desire to resolve such dispute, and a proposed Settlement Agreement describing the parties' proposed resolution of such dispute has been prepared, a copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, the Town Council has reviewed the proposed Settlement Agreement and finds and determines that it would be in the best interest of the Town to enter into such Agreement.

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

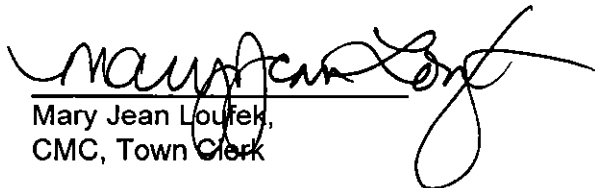
Section 1. The proposed Settlement Agreement with Lincoln Highlands I Limited, a Colorado limited partnership, and Lincoln Highlands III Limited, a Colorado limited partnership (Exhibit "A" hereto) is approved; and the Town Manager is hereby authorized, empowered and directed to execute such Agreement for and on behalf of the Town of Breckenridge.

Section 2. This Resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED this 12<sup>th</sup> day of January, 1999.


TOWN OF BRECKENRIDGE

ATTEST:

  
\_\_\_\_\_  
Mary Jean Loufek,  
CMC, Town Clerk

By   
\_\_\_\_\_  
Stephen C. West, Mayor

APPROVED IN FORM

 1/12/99  
\_\_\_\_\_  
Town Attorney      Date

## SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of January 12, 1999 between Lincoln Highlands I Limited, a Colorado limited partnership, and Lincoln Highlands III Limited, a Colorado limited partnership (collectively, "Master Developer"), and the Town of Breckenridge, a municipal corporation of the State of Colorado, located in Summit County, Colorado ("Town").

### Recitals

A. Master Developer (as successor to Delaware Associates, Ltd.) and the Town are parties to a Master Plan Agreement dated March 28, 1984 (the "Master Plan").

B. A dispute has arisen between the Town and Master Developer regarding the interpretation of the Master Plan as to whether densities under the Master Plan for detached single family residential lots (i.e., not including cluster single family or duplex)("Single Family Lots") are to be calculated on a net acreage or gross acreage basis and whether Single Family Lots are required under the Master Plan to be a minimum of one acre in size.

C. Master Developer and the Town desire to resolve such dispute on the terms and conditions set forth herein.

### Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Master Developer and the Town hereby agree as follows:

1. Subject to the provisions of Sections 2, 3 and 4 below, the Town acknowledges and agrees that, notwithstanding anything to the contrary that may be inferred from the example at the end of Section 3.2 of the Master Plan, there is no one acre minimum lot size for Single Family Lots, and the number of Single Family Lots permitted within a subdivision shall be calculated on a gross acreage basis (i.e., one Single Family Lot for every acre of total land area within the boundaries of the subdivision).

2. Master Developer agrees that no detached single-family residential lot (i.e., not including cluster single family or duplex) ("Single Family Lot") within the property covered by the Master Plan shall be less than one-half acre in size.

3. All Single Family Lots within the property covered by the Master Plan that are less than one acre in size shall be subject to the following conditions:

- (a) The total square footage of (i) the aboveground portion of the living area included within the surrounding exterior walls (including the exterior wall itself) of the residence to be constructed on any such Single Family Lot (including closets, bathrooms, living room, etc., but excluding any areas

that are not designed as living area, such as attics), and (ii) any garage to be constructed on such Single Family Lot, shall not exceed 20% of the gross square footage of such Single Family Lot. For purposes of the foregoing, only that portion of any basement that has exterior walls that are at least four feet in height above final grade shall be considered to be aboveground.


- (b) There shall be a minimum of 50 feet between areas of permitted site disturbance (as defined below) (excluding disturbance relating to the installation of water, sewer and other utilities) on any adjacent such Single Family Lots (unless the Town and Master Developer mutually agree to a lesser separation in connection with site specific planning).
- (c) The area of site disturbance (excluding disturbance relating to the installation of water, sewer and other utilities) shall not exceed 50 percent of any such Single Family Lot. For purposes of the foregoing, "site disturbance" shall mean any placement of any building or other structure (including retaining walls), excavation, driveways, grading or cutting of trees greater than 4" in diameter, and shall not include construction staging, stockpiling of materials, planting, landscaping or cutting of trees less than 4" in diameter.

4. With respect to districts in which more than one type of use is permitted under the Master Plan (as indicated on the Matrix attached as Exhibit B to the Master Plan), Master Developer acknowledges and agrees that having Single-Family Lots that are less than one acre will not make more acreage available for purposes of calculating the number of other types of units that are permitted in that district. For example, if 25 Single Family Lots were planned for a district that contains 37 gross acres, the amount of density permitted for other uses would be based on what the allowable density for those uses would be for 12 acres, regardless of the size of the Single Family Lots.

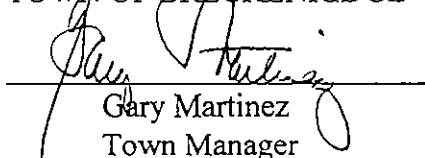
5. This Agreement shall be enforceable by either party by an action at law or in equity, including, without limitation, an action for specific performance. In any such proceeding, the prevailing party shall be entitled to recover, in addition to any other award, such party's costs incurred in connection therewith (including, without limitation, reasonable attorneys' fees).

EXECUTED as of the date first set forth above.

ATTEST:

  
Mary Jean Loufek  
Town Clerk

TOWN OF BRECKENRIDGE

  
Gary Martinez  
Town Manager

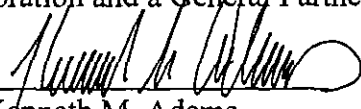
MASTER DEVELOPER:

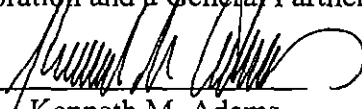
LINCOLN HIGHLANDS I LIMITED,  
a Colorado limited partnership

LINCOLN HIGHLANDS III LIMITED,  
a Colorado limited partnership

BY: Lincoln North, Inc., a Colorado  
corporation and a General Partner

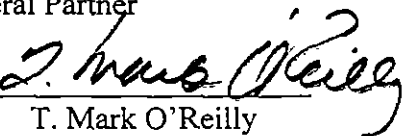
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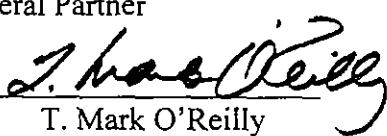
BY:   
Kenneth M. Adams  
President

BY:   
Kenneth M. Adams  
President

BY: Highlands Management Group, Inc.,  
a Colorado corporation and  
General Partner

BY: Highlands Management Group, Inc.,  
a Colorado corporation and  
General Partner

BY:   
T. Mark O'Reilly  
Vice President

BY:   
T. Mark O'Reilly  
Vice President