

V. ASSESSMENTS AND OTHER AMOUNTS:

5.3 Real Estate Transfer Assessment.

(a) (i) There is hereby imposed a Real Estate Transfer Assessment (RETA) on all Transfers whether by deeds, instruments, writings, leases, or any other documents or otherwise by which any lands, tenements or zoned density located in the Telluride Mountain Village are sold, granted, let, assigned, transferred, exchanged or otherwise conveyed to or vested in a Purchaser, or Purchasers thereof, or any other Person or Persons, except as may be specifically exempted by this Declaration. Said RETA shall be due and payable at the time of any such Transfer and contemporaneously therewith as hereinafter specified.

(ii) For purposes of Section 5.3(a)(i), a Transfer subject to RETA shall also include a sale, conveyance, or Transfer of a majority or controlling interest in a corporation, limited liability company, partnership, limited partnership, joint venture, trust or other association or organization where such organization or association owns a Site or Sites located in Telluride Mountain Village, and the fair market value of that Site or Sites represents more than one half of the total fair market value of all tangible assets of such entity, organization or association. The RETA for such Transfers shall be based upon the fair market value of the Site or Sites at the time of the Transfer. Said RETA shall be due and payable at the time of any such Transfer and contemporaneously therewith as hereinafter specified.

(iii) **Taxable Lease.** Taxable Lease means any lease of a Site with a term, or initial term and all renewal terms, which aggregate in length 29 years or more; provided lessee has possession or the right to possession on payment of rents. Taxable Lease also means any lease of a Site for less than 29 years of term, or initial term and all renewal terms aggregated, if lessee has a clause which would permit lessee at its discretion to extend the lease beyond 29 years or if lessee has an option to purchase some or all of the Site leased. If lessee has a lease with such an option to purchase which option may be exercised only within 3 years after the date the lease and option is entered into, then the RETA shall not be due and payable unless and until the exercise and consummation of such option. If any other lease with such an option to purchase is entered into, the RETA shall be due and payable at the time of such Transfer.

(b) The amount of RETA payable in each case shall be as follows:

(i) Where there is no Consideration or when the Consideration is Five Hundred Dollars (\$500) or less, no RETA shall be payable.

(ii) Where the Consideration shall exceed Five Hundred Dollars (\$500.00), the RETA payable shall be three percent (3%) of the Consideration or three percent (3%) of the fair market value of the Property where fair market value is specified elsewhere in this Section 5.3 as the basis for the RETA

(iii) Where fair market value is the basis for a RETA, fair market value of the Site shall be determined by Metro Services. A transferee may make written objection to Metro Services' determination of fair market value of a Site within fifteen (15) days after Metro Services has given notice of such determination, in which event Metro Services shall obtain a written appraisal, at the transferee's sole expense, from a certified MAI Real Estate Appraiser who is familiar with San Miguel County real estate values, and who shall be selected by Metro Services. The appraisal so obtained shall be binding on both Metro Services and the transferee. In the event a transferee fails to object to a determination of fair market value by Metro Services within fifteen (15) days following notice to the transferee of such a determination, the transferee shall be deemed to have waived all right of objection concerning fair market value, and Metro Services' determination of such value shall be binding.

(c) The RETA imposed by this Declaration shall not apply to any of the following, except to the extent that Metro Services determines they are being used for the purpose of improperly avoiding the RETA:

(i) (a) Any Transfer wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district or other political subdivisions of this State, is either the grantor or grantee, and (b) any Transfer wherein Metro Services is the grantor or grantee, as long as such Transfer is made within the ordinary course of Metro Services business as contemplated by this Declaration, and excluding any Transfer by Metro Services, as grantor, of property obtained by Metro Services through the exercise of its right to foreclose any liens imposed pursuant to this Declaration.

(ii) The Transfer of a Site or zoned density, to an organization which is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, provided that the Board of Directors specifically approves such exemption in each particular case.

(iii) Any Transfer by document, decree or agreement partitioning, terminating or evidencing termination, of a joint tenancy, tenancy in common or other co-ownership in a Site; however, if additional Consideration or value is paid in connection with such partition or termination, the Assessment shall apply and be based upon such additional Consideration.

(iv) Any Transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

(v) Transfers made pursuant to reorganization, merger or consolidation of corporations, or by a subsidiary to a parent corporation for no Consideration other than cancellation or surrender of the subsidiary's stock, or Transfers made to a corporation, limited liability company, partnership, limited partnership, joint venture, trust or other association or organization if that association or organization is owned by the Persons by whom

such Transfer was made and such owners have the same relative interest in said association or organization as they had in the real property immediately prior to said Transfer and there is no Consideration other than their respective interests in the new association or organization.

(vi) Any Transfer made and delivered without Consideration for the purpose of: confirming, correcting, modifying or supplementing a Transfer previously made; making minor boundary adjustments; removing clouds of titles; or granting rights-of-way, easements or licenses.

(vii) Any decree or order of a court of record quieting, determining or resting title, except for a decree of foreclosure, including a final order awarding title pursuant to a condemnation proceeding.

(viii) Any Transfer of cemetery lots.

(ix) Any lease of any Site (or assignment or Transfer of any interest in any such lease) provided the terms and conditions of such lease do not constitute a Taxable Lease of the property, as defined herein.

(x) Transfers to secure a debt or other obligation, or releases other than by foreclosure of a Site which is security for a debt or other obligation.

(xi) An executory contract for the sale of a Site of less than three years' duration, under which the purchaser is entitled to or does take possession thereof without acquiring title thereto, or any assignment or cancellation of any such contract.

(xii) A Transfer of title or any lesser interest for the purpose of obtaining financing, or in connection with the design, construction, maintenance or operation of improvements, not intended to effect a permanent alienation of the grantor's interest.

(xiii) Transfers to spouses, natural children and adopted children.

(xiv) Transfers made to a corporation, limited liability company, partnership, limited partnership, joint venture, trust or other association or organization to the extent that the transferee is owned by the transferor or the transferor is owned by the transferee.

(xv) Transfers to a trust if the donor(s) has/have the same relative interest in the trust as they had prior to the Transfer; or if there is no Consideration other than love and affection or charitable donation. Transfers from such a trust conveying or releasing the property from the trust are also exempt where there is no Consideration.

(xvi) Any Transfer which fulfills all of the following three conditions:

(A) The Transferor obtained title to the property from the transferee.

(B) The Transfer occurred pursuant to a written agreement entered into on or before the date of the deed which conveyed title from the transferee to the transferor. At a minimum the agreement shall either (a) allow the transferor to require the transferee to reacquire the property, or (b) allow the transferee to require the transferor to reconvey the property to the transferee.

(C) The Transfer occurred on or before 365 days after the transferor obtained title from the transferee.

(xvii) Any of the following Transfers related to foreclosures of security interest in a Site:

(A) A Transfer pursuant to purchase at a foreclosure sale, whereby the mortgagee under a first priority mortgage (or a qualifying assignee of such a mortgage who acquires rights under such mortgage in the ordinary course of business and prior to any default) or the beneficiary under a first priority deed of trust (or the qualifying assignee of such a beneficiary who acquires rights under such deed of trust in the ordinary course of the assignee's business and prior to any default) takes title to Site. For purpose of this Section 5.3(c)(xvii), a qualifying assignee shall be defined as and limited to a Person or entity whose ordinary and regular course of business prior to the Transfer involved acquisition and sale of promissory notes or indebtedness secured by mortgages or deeds of trust. Purchase at foreclosure sale by any Person or entity other than the mortgagee under a first priority deed of trust (or the qualifying assignee of such a beneficiary) shall not be exempt from the Real Estate Transfer Assessment.

(B) A Transfer by voluntary conveyance in lieu of foreclosure, whereby the mortgagee, under a first priority mortgage (or the qualifying assignee of such a mortgage who acquires rights under such mortgage in the ordinary course of the assignee's business) or a beneficiary under a first priority deed of trust (or the qualifying assignee of such a beneficiary who acquires rights under such deed of trust in the ordinary course of the assignee's business) takes title to a Site. Such a Transfer shall be deemed a qualifying deed in lieu of foreclosure for purposes of this Section

5.3(c)(xvii)(B), provided that, the transferee submits a sworn affidavit to Metro Services

certifying that the Owner of the Site to be transferred is in default of the obligation which is secured by the Site and that no consideration, other than the forgiveness of the obligation which is secured by the Site, is being given for the Transfer. No other conveyances in lieu of foreclosure shall be exempt from RETA.

(C) Redemption from foreclosure by the Owner of a Site shall be exempt from RETA. Redemption from foreclosure sale by any Person or entity other than the Owner of the Property subject to foreclosure shall not be exempt from RETA.

(xviii) Transfers pursuant to a decree of separation or divorce.

(xix) Transfers to intermediaries for no Consideration for a period not to exceed six (6) months or the time allowed by the Internal Revenue Service to complete a Section 1031 tax free exchange, where such transfer is for lawful and legitimate business purposes, and provided the Board of Directors specifically approves such exemption in each particular case.

(xx) Transfers of employee housing zoned density and real property that is deed restricted as employee housing.

(xxi) A transfer of a Site, pursuant to an exchange of property that is tax-free for Internal Revenue Services purposes, which is the lower-valued property in the trade as determined by the Metro Services Board of Directors at their discretion.

(d) Each Purchaser and any other Person and Persons to whom a Transfer is made, which Transfer is subject to RETA, shall be jointly and severally liable for payment of the RETA. The Purchaser or Person to whom a Transfer is made shall remit the RETA to Metro Services at the time of the closing of the transaction.

(e) In the event of any Transfer claimed to be exempt from the RETA herein imposed, the grantor or Purchaser shall apply for and attempt to obtain from Metro Services a Certificate of Exemption, which may be affixed to the deed or other instrument of Transfer. Any request for an exemption shall be in writing on forms prescribed by Metro Services, shall identify the section under which the exemption is claimed, and shall include a complete and accurate written description of the Transfer, including a true and complete statement of the actual Consideration for the Transfer, the names of the parties thereto, the legal description of the Site, and shall also include any other documentation regarding the Transfer which Metro Services may request. The burden of proving any exemption shall in all cases be upon the Person claiming it, and Metro Services determination as to whether a Transfer falls within any of the exemptions provided above shall be final. Metro Services shall assess a RETA on all Transfers except those falling specifically within the exemptions set forth above. The exemptions provided in Section 5.3(c) hereof shall be allowed only upon issuance of a Certificate of Exemption by Metro Services prior to the date the RETA is payable to Metro Services.

(t) In the case of any application for an exemption which is not granted before the Transfer takes place, the RETA shall be paid as required by this Declaration, and payment of that RETA to Metro Services shall be a mandatory prerequisite to filing an application for exemption from the RETA. Thereafter, if the application for exemption is allowed, upon written request to Metro Services, the Person who has paid said RETA shall be entitled to a refund thereof, without any interest, or for so much of said RETA which shall qualify for refunding pursuant to the exemption granted. On a case by case basis, escrow of said RETA with a title company may be acceptable, at Metro Services sole discretion.

(g) When a Transfer subject to this Declaration includes Property located elsewhere, the RETA imposed under the authority of this Declaration shall be computed only with respect to that portion of the transfer located within the Telluride Mountain Village, and the RETA shall be assessed based on that part of the Consideration fairly attributable to such Site.

(h) The RETA imposed herein is due and payable at the time of any Transfer subject to this Declaration, and shall be delinquent if not paid at that time. In the event that the RETA becomes delinquent, a delinquency penalty of fifteen percent (15%) of the amount of the RETA shall be imposed. In the event a portion of the RETA becomes delinquent, the penalty shall only be imposed on that

portion which is delinquent. In addition, interest shall accrue at the rate of one and one-half percent (1.5%) per month, or fraction thereof, on the amount of the RETA, exclusive of penalties, from the date the RETA becomes delinquent to the date of payment. Penalty and interest accrued shall become part of the RETA.

(i) In the event any portion of this Section 5.3 is held to be invalid by a court of competent jurisdiction, then the invalid portion shall be deemed to be removed from this Section and all remaining portions of Section 5.3 shall remain in full force and effect.

5.4 Time for Payments. Except as provided in Section 5.3(i), the amount of any assessment, charge, fine, liquidated damage, penalty or other amount payable by any Owner, or with respect to such Owner's, Lessees, Subowners, Guests or Site shall become due and payable as specified in this Declaration, the Articles of Incorporation or Bylaws of Metro Services as from time to time are in force and effect. Metro Services may charge interest on such amounts at the rate of 18% per annum from the date due and payable until paid. In addition, the Bylaws of Metro Services authorize Metro Services, during the period of any delinquency, to suspend an Owner or Lessee's voting privileges or any other privileges.

5.5 Lien for Assessments and Other Amounts. Metro Services shall have a lien against each Site to secure payment of any assessment, charge, fine, penalty, liquidated damages, or other amount due and owing to Metro Services by the Owner of such Site or with respect to such Owner's, Lessees, Subowners, Guests or Site plus interest at the rate of 18% per annum from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable attorneys' fees. The lien may be foreclosed in the manner for foreclosures of mortgages in the State of Colorado, and the Owner shall be required to pay the costs and expenses of such proceedings, including but not limited to, reasonable attorneys' fees.

5.6 Liability of Owners, Purchasers and Encumbrancers. The amount of any assessment, charge, fine, liquidated damages, or penalty, payable by any Owner or with respect to such Owner's, Lessee's, Subowner's, or Guest's Site shall be a joint and several obligation to Metro Services of such Owner and such Owner's heirs, personal representatives, successors and assigns. A party acquiring fee simple title to a Site shall be jointly and severally liable with the former Owner of the Site for all such amounts which had accrued and were payable at the time of the acquisition of fee simple title to the Site by such party, without prejudice to such party's right to recover any of said amounts paid from the former Owner. Each such amount, together with interest thereon, may be recovered by suit for a money judgment by Metro Services without foreclosing or waiving any lien securing the same. Notwithstanding the foregoing, the holder of a first priority mortgage, first priority deed of trust or other first lien on a Site shall not be liable for any such assessment, charge, fine or penalty and the lien for any such assessments, charges, fines, liquidated damages or penalties shall be junior to any first lien on a Site taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of San Miguel County, Colorado, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Site and naming the Owner of the Site.