

## DWELLING UNIT REMOVAL AGREEMENT

This Dwelling Unit Removal Agreement (the "Agreement") is between and among Joshua P. Babyak and Carrie R. Babyak ("Landowner") and Routt County, Colorado ("County") by and through its Board of County Commissioners by Kristy Winsor, Planning Director, by delegation of authority, pursuant to Routt County Resolution Number 2006-078.

### Recitals

- A. Landowner is the owner of real property located in Routt County, Colorado described in Exhibit A attached hereto (the "Land").
- B. The Land is approximately 55 acres.
- C. The Land is located in the Agriculture/Forestry ("A/F") zone district and is a single Buildable Lot as that term is defined in the Routt County Zoning Regulations (the "Zoning Regulations").
- D. Currently there is a single-family dwelling unit of 2,658 square feet (the "Existing Dwelling Unit") located on the Land.
- E. The Existing Dwelling Unit and the surrounding structures, commonly known as the Fair Acres Ranch were designated to the Routt County Register of Historic Properities, pursuant to Resolution No. 2022-016, recorded at reception number 835992.
- F. Landowner has applied for a building permit for the construction of a new residential structure of approximately 4,300 square feet (the "New Dwelling Unit") on the Land to replace the Existing Dwelling Unit.
- G. County is unwilling to issue a building permit for the New Dwelling Unit unless and until Landowner agrees to obtain a variance from the Secondary Dwelling Unit Standards found in Section 5.3 of the Zoning Regulations, remove the Existing Dwelling Unit or convert the Existing Dwelling Unit to a use other than a Dwelling Unit upon the issuance of temporary certificate of occupancy of the New Dwelling Unit.
- H. Section 5.3.3.E of the Zoning Regulations provides for a variance process ("Variance") to the Secondary Dwelling Unit standards that is decided upon by the Board of County Commissioners.
- I. Landowner has been advised that the Existing Dwelling Unit could be made to meet the requirements of the Routt County Zoning Regulations in three ways. They are:
  - 1. The Landowner could convert the use of the Existing Dwelling Unit to a use other than a Dwelling Unit and enter into an agreement to not thereafter use the structure as a Dwelling Unit.

2. The Existing Dwelling Unit could be removed or demolished.
3. A variance may be obtained from the Board of County Commissioners in accordance with Section 5.3.3.E of the Zoning Regulations.
- J. Landowner has elected to apply for a Variance to comply with the Routt County Zoning Regulations.
- K. If such Varaince is denied, Landowner has agreed to either convert the structure to a different use to comply with the Routt County Zoning Regulations, such as indoor storage, or remove or demolish the Existing Dwelling Unit.
- L. This Agreement is intended to set forth the terms and conditions of Landowner's agreement to obtain a variance or convert the Existing Dwelling Unit or remove or demolish the Existing Dwelling Unit upon issuance of temporary certificate of occupancy of the New Dwelling Unit.

#### Terms and Conditions

1. Upon payment of all applicable building permit fees and submittal of plans for the New Dwelling Unit acceptable to the Building Official of Routt County, County shall issue a building permit for the New Dwelling Unit notwithstanding the existence of the Existing Dwelling Unit on the Land.
2. The New Dwelling Unit shall not be occupied as a residence until the Building Official has issued a certificate of occupancy or a temporary certificate of occupancy for it. A temporary certificate of occupancy may be issued by the County to the Landowner prior to, but final certificate of occupancy shall be conditioned upon the following:
  - a. The Landowner converting the use of the Existing Dwelling Unit to a use other than a Dwelling Unit, such as an indoor storage facility, and enter into an agreement to not thereafter use the structure as a Dwelling Unit; or
  - b. The Landowner removing or destroying the Existing Dwelling Unit; or
  - c. The Landowner obtaining a variance may be obtained from the Board of County Commissioners in accordance with Section 5.3.3.E of the Zoning Regulations.
3. The Landowner shall apply for a Variance from the Board of County Commissioners for the the Existing Dwelling Unit within 6 months of the date of this Agreement.
4. If the Variance is not approved by the Board of County Commissioners, the Landowner agrees to either convert the Existing Dwelling Unit to a use that is in conformance with the Zoning Regulations or remove or destroy the Existing Dwelling Unit. Landowners shall comply with the regulations of the Routt County Building Department for the conversion of the Existing Dwelling Unit or removal or destruction of the Existing Dwelling Unit. Upon issuance of the temporary certificate of occupancy for the New Dwelling Unit, the Existing Dwelling Unit shall no longer be occupied or used as a residence and the Landowner shall complete all work necessary to convert the Existing Dwelling

Unit or remove or destroy the Existing Dwelling Unit within 60 days of issuance of the temporary certificate of occupancy for the New Dwelling Unit. The Landowner shall permit the County to inspect the Existing Dwelling Unit to verify such work.

5. A certificate of occupancy shall be issued for the New Dwelling Unit, once all work to the Existing Dwelling Unit under the building permit has been completed and inspected by the Building Department.
6. If Landowner breaches this Development Agreement, Landowner agrees (1) immediate irreparable injury will result from any breach, (2) such injury can be prevented by injunctive relief, (3) the County lacks a plain, speedy and adequate remedy at law, (4) money damages are inadequate to remedy the injury or threatened injury, and (5) injunctive relief preserving the status quo will not disserve the public interest. Landowner further agrees that the County shall be entitled to injunctive relief to prevent the breach or threatened breach of this Agreement, and the County shall be so entitled without a showing that it would be entitled to any order or judgment requiring specific performance of the terms of this Agreement. In addition, the County shall be entitled to enforce the provisions of its Zoning Resolution and Subdivision Regulations either by civil action or criminal process and to recover such fines, assessments and penalties as provided in such regulations and resolutions or by Colorado law.
7. In the event either Landowner or Routt County brings suit to enforce or interpret any portion of this Agreement, the party substantially prevailing in such action shall be entitled to recover all costs incurred in such action, including without limitation reasonable attorney fees.
8. This Agreement is to be recorded in the records of the Office of the Clerk and Recorder of Routt County, Colorado.
9. This Agreement shall run with the Land and shall be a perpetual burden on the Land. This Agreement shall be binding on and inure to the benefit of Landowner and Routt County and their successors and assigns, and shall not be deemed to be for the benefit of or enforceable by any third party, except that the rights of Routt County pursuant to this Agreement shall be automatically transferred to any successor governmental entity with authority to regulate the subdivision or zoning of the Land.
10. This Agreement may not be amended except pursuant to the provisions of the Zoning Regulations and except by a written document executed by both the then-owner of the Land and Routt County.
11. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without reference to choice of laws rules. Landowner agrees that venue for any action on this Agreement shall be in the Colorado judicial district in which Routt County, Colorado is located at the time of such action.

Landowner:

Joshua P. Babyak  
Joshua P. Babyak

Carrie R. Babyak  
Carrie R. Babyak

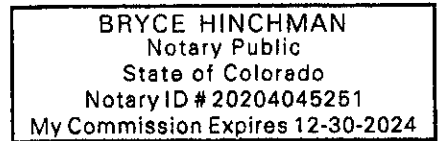
STATE OF COLORADO )  
 )ss.  
COUNTY OF ROUTT )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of August, 2022, by Joshua P. Babyak and Carrie R. Babyak.

Witness my hand and official seal.

My commission expires December 30, 2024.

[Signature]  
Notary Public



The Planning Director of Routt County, Colorado this 23 day of August, 2022 accepts the foregoing Agreement.

[Signature]  
Kristy Winser  
Planning Director, Routt County, Colorado  
Per delegation under Resolution Number  
2006-078

Exhibit A

A tract of land located in the NE1/4SW1/4 and Lot 3 of Section 31, Township 5 North, Range 84 West and in Tract 90, Section 36, Township 5 North, Range 85 West of the 6th P.M., bounded by a line described as follows:

Beginning at the NE corner of a parcel of land as conveyed by deed appearing in Book 548 at Page 349 from which the Corner of Section 31 Bears N 01°15'15" E 751.35 feet,  
thence West 914.42 feet along the North line of said parcel,  
thence S 68°27'14" W 784.79 feet along the North line of said parcel,  
thence N 89°43'46" W 1163.63 feet along the North line of said parcel to the Northwest corner of said parcel and the East right of way fence of County Road No. 14,  
thence along said East right of way fence for the following twelve(12) courses:  
1) N 37°06'46" E 197.58 feet,  
2) N 23°41'57" E 119.88 feet,  
3) N 24°05'44" E 64.01 feet,  
4) N 13°26'43" W 44.84 feet,  
5) N 80°01'46" W 8.23 feet,  
6) N 49°13'38" W 16.14 feet,  
7) N 02°56'13" E 95.01 feet,  
8) N 02°40'02" E 38.36 feet,  
9) N 00°12'37" E 96.09 feet,  
10) N 01°33'28" E 94.28 feet,  
11) N 00°59'53" E 164.07 feet,  
12) N 03°01'53" E 174.40 feet to the North line of Lot 3, Section 31,  
thence S 89°48'02" E 2640.01 feet along said North line and the North line of the NE1/4SW1/4, Section 31 to the center of Section 31,  
thence S 01°15'15" W 751.35 feet along the East line of the SW1/4 to the Point of Beginning.

Bearing based upon the South line of the SW1/4, Section 31 being East.

EXCEPT two parcels of land being more particularly described in that Warranty Deed to Routt County, Colorado recorded June 10, 2010 at Reception No. 699801

County of Routt, State of Colorado.