

STATE OF COLORADO)
)SS. Resolution No. 2003-035
COUNTY OF OURAY) (Third Amendment to Resolution No. 1996-024)

At a regular meeting of the Board of the County Commissioners for Ouray County, Colorado, held at the Ouray County Courthouse, on the 23 day of June, 2003, there were present:

Bill Ferguson, Chairman
Don Batchelder, Commissioner
Tom Hollenbeck, Commissioner
Connie Hunt, Administrator

when the following proceedings, among others, were had and done, to wit:

WHEREAS, by Resolution dated December 2, 1991, the Board of County Commissioners approved the Preliminary Development Plan submitted by Fairway Pines Development by Fairway Pines Management Company, Inc., General Partner, for Fairway Pines Planned Unit Development Phases I and II, subject to certain conditions and modifications and;

WHEREAS, one of the conditions and modifications was:

An adequate supply of water and the legal right to use same for any irrigation purpose on the golf course as shown on the plat must be proven to the County's satisfaction to be available prior to final PUD approval.
and;

WHEREAS, Fairway Pines Development by Fairway Pines Management Co., Inc. General Partner (hereinafter referred to as the "Developer") submitted to the County an application for final approval of the Fairway Pines Estates, Phase II, Filing 4A, which was approved by the Ouray County Planning Commission and the Ouray Board of County Commissioners by Resolution No. 1996-024 with the pertinent conditions as follows:

1. The Developer shall enter into a Golf Course Water Bonding Agreement in a form satisfactory to the County with the following terms:
 - a. The bond shall be secured by a cash deposit in the amount of \$54,800.65 or other security approved by the County.
 - b. The bond shall be conditioned upon the Developer providing proof satisfactory to the County that, for a period of two consecutive years, the wells and well field approved in Division 4 Water Course Case Nos. 92-CW-178 and 92-CW-179 have yielded at least 97.961 acre feet of water annually and that this water has been used as the sole source of water for irrigation of the Fairway Pines Golf Course. Upon meeting this condition, the bond shall be released and the security refunded.

- c. If the Developer fails, by December 31, 2002, to meet the conditions set forth in paragraph (b) above, the bond shall be forfeited to the County which shall then be authorized to use the proceeds, together with any interest or income which has been earned on the proceeds, in the manner the County sees fit to provide a source of water to the golf course. This condition shall not obligate the County funds in excess of the proceeds of the bond for that purpose.
2. The Developer shall record an adequate deed and file necessary notice with the Water Court for Division 4 evidencing conveyance of all water rights referred to in Case Nos. 92-CW-177, 1778 and 179 to Fairway Pines Golf Partners, Ltd., a Colorado Limited Partnership.
3. The Developer and the County shall enter into a Water Service Agreement in the form attached as Exhibit "A" hereto.

Conditions 1, 2, and 3 are necessary to ensure that there is an adequate source of golf course water without interfering with domestic water supplies. These conditions are in compliance with the Preliminary Development Plan approval, as set forth, in part, above....

and;

WHEREAS, a Golf Course Bonding Agreement was entered by and between the Board of County Commissioners of Ouray County and Log Hill Village Investors, Ltd. on March 11, 1996, which was recorded in the Ouray County Clerk and Records Office on September 18, 1996 with Reception # 162742, which calls for the forfeiture of the Bond by December 31, 2002 due to the Developer's failure to meet the conditions set forth in the bond, which are identical to the conditions set forth in Resolution 1996-024 and;

WHEREAS, the Ouray Board of County Commissioners recognize that, while the conditions of the Golf Course Water Bonding Agreement have not been met as of December 31, 2002, an extension to allow the Developer to meet the conditions of the Bonding Agreement would benefit the citizens of the County by allowing the Developer time to complete such conditions in order to ensure that there is an adequate source of golf course water without interfering with domestic water supplies and;

WHEREAS, in order to protect the health, safety, and welfare of the residents of Fairway Pines Estates by providing sufficient bonding to ensure adequate water supply and to clarify that, for the purposes of this Resolution, the term "Developer" means Fairway Pines Development by Fairway Pines Management Co., Inc. General Partner and its heirs, successors and assigns.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Paragraph 1.c. of Resolution No. 1996-024 is hereby amended to read as follows:

If the Developer or Developer's heirs, successors, or assigns fail, by December 31, 2004, to meet the conditions set forth in paragraph (b) above, the bond shall

be forfeited to the County which shall then be authorized to use the proceeds, together with any interest or income which has been earned on the proceeds, in the manner the County sees fit to provide a source of water to the golf course. This condition shall not obligate the County to provide water or to expend any County funds in excess of the proceeds of the bond for that purpose.

2. Further, Paragraph 3 of the Golf Course Water Bonding Agreement entered on March 11, 1996 and recorded in the Office of the Ouray County Clerk and Recorded on September 18, 1996 with Reception # 162742 is hereby amended to read as follows:

If the DEVELOPER or Developer's heirs, successors, or assigns fail, by December 31, 2004, to meet the conditions set forth in paragraph 2 above, the Bond shall be forfeited to the COUNTY which shall then be authorized to use the proceeds, together with any interest or income which has been earned on the proceeds, in the manner the COUNTY shall see fit in order to provide a source of water to irrigate the said golf course. This paragraph shall not obligate the COUNTY to provide water or to expend any COUNTY funds in excess of the proceeds of the bond for that purpose.

This Resolution shall take effect immediately upon its adoption.

Executed this 23 day of June, 2003

THE BOARD OF COUNTY COMMISSIONERS OF
OURAY COUNTY, COLORADO

BY: *Don Batchelder*
Don Batchelder
Chairman, Board of County Commissioners

ATTEST: *Michelle Olin*
by A Banks, deputy clerk of the Board

STATE OF COLORADO)
)SS.
COUNTY OF OURAY)

I, Shelli Banks, Deputy County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid, do hereby certify that the annexed and foregoing Resolution is truly copied from the records of the Proceedings of the Board of County Commissioners for said Ouray County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Ouray, this 23 day of June, A.D. 2003.

Shelli Banks
Shelli Banks, Deputy County Clerk & Recorder

