

PRE-ANNEXATION, UTILITY CONNECTION
AND HYDROPOWER LEASE AGREEMENT
FOR THE LAWSON HILL PROJECT
(5-14-91)

The parties to this Agreement are the Town of Telluride, a home rule municipality and political subdivision of the State of Colorado (hereafter "TOWN"); and Telecam Partnership II Limited, a limited partnership organized under the laws of the State of Colorado ("OWNER").

I. RECITALS

WHEREAS, OWNER owns certain land described in Exhibit A ("the Property") which consists of approximately 300 acres located 3.0 miles to the west of the corporate boundaries of the Town of Telluride, and which is mostly located within the TOWN'S service area; and

WHEREAS, OWNER has applied to the Town of Telluride for approval of extension of water and/or sewer service utilities for not more than two hundred six (206) residential dwelling units and various other commercial and industrial uses to be located on a portion of the Property (excluding Ilium Valley and the area east of Highway 145) as identified in the map attached hereto as Exhibit B-1, Lawson Hill Project "Service Area Map", and such approval will facilitate certain planned unit development and subdivision plat approval for the Property (hereafter referred to as the "Lawson Hill Project" or "Project") which the OWNER is seeking from San Miguel County; and

WHEREAS, the Lawson Hill Project will include not more than 252 units of deed-restricted affordable housing, and will provide sites for light industrial uses, thus helping to address the critical shortage of affordable housing and industrial locations in the Telluride Region; and

WHEREAS, on January 17, 1991 the Telluride Planning and Zoning Commission recommended to the Telluride Town Council approval of the utility extension request, subject to certain conditions as more fully incorporated below, together with a recommendation on February 7, 1991, to amend the Town's Master Plan for this area; and

WHEREAS, the TOWN is an applicant before the Federal Energy Regulatory Commission ("FERC") for a license to construct the San Miguel Project, a small hydroelectric power project, and the TOWN and OWNER desire to utilize a portion of OWNER'S property as identified in the map attached to Exhibit C, "Hydropower

Lease Agreement" for this purpose and related recreational and educational activities; and

WHEREAS, the Telluride Town Council is empowered pursuant to Article XIII of the Telluride Home Rule Charter to extend municipal utilities beyond TOWN boundaries at terms and conditions deemed appropriate by the Town Council; and

WHEREAS, the Telluride Municipal Code Section 13.12.140 provides that a tap to the TOWN waterworks or sewer works for property outside of TOWN limits shall be issued only by ordinance of the Town Council; and

WHEREAS, Telluride Land Use Code Section 18.72.020 provides that the TOWN shall require consent to annexation by benefited land owners as a condition of extension of municipal utility service, and C.R.S. Section 31-12-121 further authorizes the TOWN to require consent to annexation as a condition of extension of utility service; and

WHEREAS, the Telluride Town Council is willing to authorize extension of municipal water and sewer utilities to The Lawson Hill Project, and to authorize connection to the TOWN'S water and sewer systems, and to perform utility service, maintenance, repair, billing, and collection functions, subject to the terms, conditions and requirements as set forth below.

NOW, THEREFORE IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS, AND OBLIGATIONS PROVIDED FOR HEREIN, THE PARTIES HERETO, ON BEHALF OF THEMSELVES AND THEIR SUCCESSORS AND ASSIGNS, HEREBY COVENANT AND AGREE AS FOLLOWS:

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SECTION 1 Recitals Incorporated:

The recitals set forth above are incorporated as essential terms of this Agreement.

SECTION 2 Water & Sewer Service Extension Authorization:

A. The OWNER hereby authorizes extension of the TOWN'S municipal water and sewer systems to that portion of the OWNER'S property within the Service Area identified in Section 4, subject to and conditioned upon continuing compliance with all conditions of this Agreement.

B. The TOWN agrees to prepare an update of the TOWN'S "Section 201 Plan" (Wastewater Treatment Management Plan) in coordination with and in a form acceptable to the Colorado Department of Health Water Quality Control Division. The Section 201 Plan update shall conform with the requirements of the letter from Richard Bowman to Richard Grice dated April 15, 1991, including an assessment of all feasible alternatives for sewer service for Illium Valley. The OWNER shall reimburse the TOWN for one-third of the cost of the Section 201 Plan update, up to a maximum of \$3,500.00. The TOWN agrees to retain an engineering

consultant as quickly as possible, and to complete the Section 201 Plan update with all reasonable speed. OWNER shall immediately notify the TOWN if OWNER believes the TOWN is not meeting its Plan completion obligation in a timely manner.

C. OWNER desires to obtain sewer service from the TOWN for the Lawson Hill Service Area. The Town Council shall immediately authorize connection of the TOWN's sewer system to the Lawson Hill Service Area.

D. On or before June 30, 1991 OWNER may notify the TOWN whether it will commence construction of the Project utility infrastructure during the 1991 building season, and if so, whether OWNER intends to obtain potable water service from the TOWN during such season pursuant to the terms of this Agreement. If no notice of intent to construct and obtain water service from the TOWN is received on/or before June 1, 1992, then the TOWN shall thereafter have no obligation pursuant to this Agreement to provide water service to the Property.

E. Upon receipt of a notice as provided in Section 2D, the Town Council shall immediately authorize connection of the TOWN'S water system to the Lawson Hill Service Area during the building season identified in such notice(s).

F. After connection, the TOWN agrees to provide potable water distribution and/or sanitary sewage collection and treatment for domestic and municipal purposes (including industrial, commercial, and recreational uses) to the Service Area.

G. By this Agreement the TOWN does not guarantee or warrant that at the time of initial connection of the TOWN'S water and/or sewer systems to the Lawson Hill Service Area water distribution or sewage collection lines, that sufficient potable water supply or sewage treatment capacity will then exist for service to the entire Project, other than for "Phase I", (which consists of approximately ___ EQR's and will require approximately gallons per day of potable water). The TOWN agrees to diligently attempt to provide sufficient potable water supply and/or sewage treatment capacity to serve the Project as well as all other properties within and without the TOWN which may be served by the TOWN. The TOWN agrees to plan for orderly expansion of the TOWN'S water and sewer systems so as to be able to ultimately serve the Lawson Hill Project Service Area, and to do so in accordance with the Town/Metro District Sewer Agreement and applicable state law.

SECTION 3 Exclusive Provider:

Upon connection to the TOWN'S water and/or sewer systems, the TOWN shall become the exclusive provider of the services(s)

so provided by the TOWN for all domestic and municipal purposes to the Lawson Hill Service Area.

SECTION 4 Service Area & Expansion of Use:

The area within The Lawson Hill Project within which water and/or sewer service is authorized is referred to as the "Lawson Hill Service Area" or "Service Area", and is depicted on the Lawson Hill Project "Service Area Map" (Exhibit B-1). A legal description of the properties within the Lawson Hill Project Service Area is attached hereto as Exhibit B-2, "Service Area-Legal", and is incorporated herein by reference. No alteration of service area boundaries, or additional extension of or connections to the water or sewer facilities authorized by this Agreement, or expansion of water and/or sewer use to serve more than equivalent residential units (EQR's) as defined in Exhibit C ("Lawson Hill Project Equivalent Residential Units"), or expansion of water and/or sewer use to serve additional dwelling units, facilities, or uses not described in Section 21, may occur except upon prior written consent of the Telluride Town Council in accordance with Telluride Municipal Code Section 13.12.140, "Connections Outside Town". Any additional lands which may be included within the Lawson Hill Service Area shall, at the TOWN'S discretion, be subject to all terms and conditions of this Agreement.

SECTION 5 Construction Approval Required:

A. OWNER agrees to construct all water and/or sewer mains, facilities, and appurtenances required to serve OWNER'S property. All plans, designs, specifications, shall be subject to prior review and approval by the Town Engineer, who shall have up to 20 working days for such review; failure to object within such period shall be deemed to constitute approval. Substantial change orders shall be subject to prior review and approval by the Town Engineer, provided that such review shall be completed within 5 working days after submittal, and failure to object within such period shall be deemed to constitute approval. Upon completion, a qualified engineer licensed in the State of Colorado shall certify to the TOWN that all water and sewer lines and facilities have been designed and installed in accordance with plans approved by the Town Engineer.

B. Upon completion and such certification, all water and sewer mains and lines, tanks, hydrants, pumps, and appurtenances up to and including service stops to be located at exterior lot lines, shall become the property of the TOWN as provided by Section 17D.

SECTION 6 Construction Costs:

A. The OWNER shall pay all planning, design, land, engineering, construction, labor, materials, and miscellaneous costs of the water and/or sewer mains, facilities, and connections authorized or required by this Agreement. The TOWN shall not be liable for any such costs.

B. In the event of additional water service connections to or extension from the water main to be constructed by OWNER, certain additional properties not included within the Lawson Hill Service Area will be benefited (the potential "Benefited Properties"). Owners of such properties accordingly should share on an equitable basis in the costs of the portion of the improvements which they benefit from, provided that OWNER complies with the terms of this Agreement.

C. OWNER agrees that all construction work shall be performed at the lowest reasonable cost. The Town Engineer shall approve those costs proposed to be eligible for reimbursement for the water main construction project, including all planning, design, engineering, legal, materials, labor, construction, land acquisition, equipment, and miscellaneous costs. Such approval shall not be unreasonably withheld.

D. OWNER shall warrant and provide documentation verifying that all such costs were actually incurred solely for the above-referenced purposes. The TOWN shall have a right of inspection, audit, and copying, at OWNER'S cost, of all records related to the eligible water system reimbursement costs. All costs shall be subject to final approval by the Town Engineer. The approved costs shall automatically be increased by 5% annually on the anniversary date of acceptance of the new water main.

E. The Water Main Cost shall be allocated to the Benefited Properties according to the following formula

ac/b = d, where:

a equals the number of equivalent residential units (EQR) within a Benefited Property proposed to be connected;

b equals the total number of EQR's (including OWNER'S and the Benefited Property) to be served using any portion of the Water Main Trunk;

c equals that portion of the total Water Main Cost (allocable on a per foot basis) from the point of extension of the TOWN'S water main at Hillside/Gold King to the point of delivery to the Benefited Property which is closest to TOWN;

d equals the Water Main Cost allocated to the Benefited Property and reimbursable to the OWNER.

F. If any of the Benefited Properties are rezoned resulting in a higher or lower permitted EQR, then upon notification thereof by the OWNER or Benefited Property owner, the number of EQR's to be used in the formulas set forth above shall be adjusted accordingly.

G. Within one month after completion of construction of the new water facilities, OWNER shall submit to the Town Engineer a map and statement identifying by each potentially Benefited Property the EQR's permitted by the San Miguel County Master Plan to be served, and proposing the Water Main cost to be allocated to the Benefited Properties identified by reference therein, in accordance with this Agreement.

Within one month after notice from TOWN to OWNER of application by a potential Benefited Property for connection to the Water Main constructed by OWNER, OWNER shall submit to the Town Engineer a map and statement proposing the Water Main Cost to be allocated to such Benefited Property (such Benefited Property's "Reimbursable Cost") in accordance with this Agreement. This statement shall be updated by OWNER within thirty working days after notice to OWNER of any change in the EQR's permitted to be served in such Benefitted Property.

H. Before issuance of any water tap permit to an owner of any portion of a Benefited Property, and as a condition of permit issuance, the Town Manager or his or her designee shall require payment to the TOWN of the Reimbursable Cost for the entire Benefited Property, plus any applicable tap fees and charges. The intention of this subsection is to require owners of Benefited Properties consisting of a discrete subdivision or P.U.D. to collectively pay the reimbursable cost on a single occasion prior to connection.

I. Within forty-five days after receipt of any reimbursement cost payment by owners of the Benefited Properties, the Town Manager shall remit such payment to the OWNER, provided that such payment is received prior to the date on which the TOWN'S reimbursement obligation shall terminate.

J. The Town Manager shall deduct from each payment to the OWNER, an administrative charge of \$100.00.

K. Payment shall be remitted to the OWNER at the address set forth in Section 37, below. In the event that the OWNER cannot be located at the OWNER'S address, or elsewhere after a reasonable diligent search, within a ten month period after attempted delivery of payment by the TOWN, then OWNER shall for-

feit all right to any reimbursement provided for by this Agreement.

L. OWNER agrees that the TOWN, its officers, agents, and employees shall not be liable or held responsible for non-reimbursement to OWNER on account of Benefited Property in the event of invalidity of this Agreement or the invalidity of imposition of reimbursement obligations upon the Benefited Properties.

M. This reimbursement obligation shall inure solely to the personal benefit of the OWNER, and shall not benefit or be enforceable by OWNER'S successors and assigns unless written agreement and notification thereof by registered mail is first provided by OWNER to the TOWN.

N. The TOWN'S reimbursement obligation shall terminate upon payment to the OWNER of the total Reimbursable Costs with respect to all Benefited Properties, or fifteen years after the effective date of this Agreement, whichever is sooner. Upon request of the OWNER, the Town Council may, in its discretion, extend the reimbursement period for a one-year period which shall be automatically extended for successive one year periods up to a total extension period of five years, unless the Town Council has found that the Town Water Fund has incurred major or extraordinary expenditures in maintaining the new water facilities.

SECTION 7 Construction License:

The OWNER agrees that after acceptance of water and/or sewer facilities by the TOWN and, during any subsequent maintenance, repairs, and improvements, the TOWN shall have a license to temporarily enter, occupy, and store materials and equipment on any public or private roads or rights-of-way, or water or sewer line easements, or general common areas within The Lawson Hill Project, and on any adjoining property, owned or controlled by the OWNER, for immediate use on water and/or sewer systems which may serve Lawson Hill.

SECTION 8 As-Builts:

The OWNER shall prepare at its cost "as built" drawings of the new water and sewer facilities. The drawings shall define the locations by three-point ties of all water distribution and sewage collection lines, manholes, valves, water service curb stops, and sewer service connections. An engineer or land surveyor, licensed by the State of Colorado, shall stamp the drawings. The drawings shall be submitted to the Town Engineer in a reasonably acceptable form no later than two weeks after completion and at least seven days prior to preliminary acceptance by the TOWN.

SECTION 9 Tap Fee Payments:

A. At the time of issuance of a foundation building permit, the OWNER (or successor individual property owner) within the Lawson Hill Service Area shall become liable for immediate payment in full to the TOWN, of tap fees for new water and/or sewer service. Such fees shall be as set forth in Telluride Municipal Code Chapter 13.20, and in accordance with the tap fee schedule in effect at the time of application for issuance of the tap. Each caretaker or employee dwelling unit shall require a separate tap and shall be considered as a separate EQR.

B. No tap fee shall be charged by the TOWN in excess of any tap fee rate which may be generally in effect for other properties outside of the TOWN'S corporate limits, unless charged pursuant to Sections 11C or 17 I.

SECTION 10 Service Charge Payments:

A. Water and sewer service charges will be billed bi-monthly, in arrears. In accordance with Telluride Municipal Code Section 13.24.200, the initial minimum service charge rate shall be 125% of in-Town service rates, as they presently exist or hereafter may be amended.

B. OWNER agrees that a Homeowner's Association shall be created for administration of common areas. The Association shall be billed directly by any electricity provider, and shall pay all electricity charges for operation of any water pump or sewer lift station necessary to service The Lawson Hill Project Service Area.

C. The initial Water Base Quantity for Water Rate/Types 1 and 2 to be applied to residential service in The Lawson Hill Project Service Area shall be 12,000 gallons/month/water using unit, and not "unlimited" as presently provided in Telluride Municipal Code Section 13.24.010.

D. As a disincentive to non-metered usage, and in the event that any residential apartment unit, residential condominium unit, or other individual residential water or sewer-using unit is not provided with a separate meter as required by Section 12 and the building containing such unit is "master-metered", the TOWN shall be entitled to bill, at two hundred percent of the applicable out-of-TOWN rate, either the building owner for all such units, or the individual unit owners and tenants on a prorated basis according to the number of units in the building, unless the TOWN agrees to a different method of proration based on fixture allocation or otherwise. The TOWN reserves the right to charge the base rate for each such unit, or to charge based on actual metered usage.

SECTION 11 Town Water and Sewer Codes Apply:

A. The OWNER covenants and agrees that all provisions of Telluride Municipal Code Title 13, "Waters and Sewers", as it presently exists or may hereafter be amended, shall henceforth apply to water and/or sewer using units to which water and/or sewer service is provided by the TOWN in the Lawson Hill Project Service Area. The TOWN is authorized by the OWNER to enforce and administer Title 13 within this area regardless of whether the Property is incorporated into the Town's municipal boundaries. This covenant shall be a burden upon the land within the Lawson Hill Service Area and shall run with such land.

B. Notwithstanding anything in this Agreement to the contrary, the TOWN reserves the legislative right to amend, modify, increase, or adopt new service charges, rates, tap fees, other charges, or to amend any provisions of Title 13. In the event of such modification, increase, or adoption of additional charges or fees, the owners of property in The Lawson Hill service area shall not be subject to charges or fees in excess of the charge or fee schedules generally in effect for similar types and similarly located properties outside of the TOWN'S corporate limits.

C. The financial burden of the debt service for the TOWN's water and wastewater treatment plants is currently subsidized by the TOWN's Capital Fund based on in-TOWN taxes in the amount of \$490,000 annually. The TOWN is considering the imposition of a tap fee or service surcharge or a new charge for the purpose of equalizing the financial burden by requiring out of TOWN users to pay an annual subsidy or other charge for debt service on the water and waste water plants in an amount at least equal to taxes paid by in TOWN users. Such surcharge or new charge shall not apply to water or sewer using units which are "deed restricted" affordable housing units pursuant to Section 22 at the time such charge is imposed, provided that in the event of release or termination of any such deed restriction, payment of such charge or surcharge, plus annual interest thereon at the rate of 6% per annum, shall be a condition of continued service.

SECTION 12 Metering:

A. Each individual water or sewer-using unit (including individual condominiums, apartments, or dwellings within a multi-dwelling unit) within the Lawson Hill Service Area shall be individually metered in accordance with Telluride Municipal Code Chapter 13.16, "Meters", as it presently exists or as it may subsequently be amended. Any irrigation taps which may be permitted shall be separately metered before connection. The TOWN reserves the right to enter the Property and to read any meter on a bi-monthly or other basis and to charge in accordance with Section 10.

B. OWNER may be required to install at its cost a sewage flow meter acceptable to the Town Engineer at a location to be specified by the Town Engineer.

SECTION 13 Irrigation:

A. No potable water provided by the TOWN may be used for car washes, horticultural, gardening, landscaping, irrigation, or related agricultural or domestic purposes within the Project, except no more than 131 dwelling units may irrigate no more than 250 square feet each.

B. Nothing herein shall restrict OWNER from using water reserved pursuant to Section 17 for irrigation purposes on perimeter landscaping and playing fields.

SECTION 14 Conservation, Curtailment, and Pretreatment:

A. The TOWN shall employ all reasonable means to furnish sufficient potable water and sewage treatment capacity to the OWNER under this Agreement to fulfill the reasonable needs of the residents and property owners of the Lawson Hill Project Service Area. In the event that the TOWN'S potable water supply or sewage treatment capacity becomes inadequate to supply the water demands of the TOWN and the Lawson Hill Service Area, whether due to inadequate system capacity, pre-existing demand, pollution, or natural supply shortage, regulatory requirements, or otherwise, then the water to be delivered by the TOWN, and water usage within the TOWN and the Lawson Hill Service Area, may be uniformly curtailed in accordance with water conservation and regulation requirements of the TOWN which shall be uniformly applied to properties both within and without the TOWN's corporate limits served by TOWN.

B. OWNER shall by covenant require that all toilets installed in the Lawson Hill Service Area be low-volume toilets which use no more than 1.6 gallons per flush. In the event that the TOWN adopts water or plumbing fixture conservation requirements for buildings within the TOWN, such requirements shall apply prospectively to all buildings, structures, or building modifications within the Lawson Hill Project. No permit for a new tap or fixture addition within the Lawson Hill Service Area shall be issued by the TOWN and no building permit shall be issued by the County, unless the new building and new fixtures to be served comply with all such requirements of the TOWN. Nothing herein shall restrict the OWNER from adopting water or plumbing fixture conservation requirements which are more stringent than the TOWN'S.

C. The OWNER agrees that no wastes which are unacceptable to the TOWN shall be permitted to enter the sewer system within the Project. Non-residential properties may be required by the

Town Manager to install grease, oil, or sand traps and interceptors, or any other facilities required to pretreat or intercept non-acceptable wastes.

D. The TOWN reserves the right to refuse water and sewer taps to water intensive uses if the projected use is "excessive" and cannot be reasonably accommodated.

SECTION 15 Annexation Consent:

A. OWNER hereby consents to annexation of OWNER'S property to the TOWN as described in Exhibit B-2. Such consent shall be memorialized in the form set forth in Exhibit E, which is a

limited power of attorney granting the Telluride Town Clerk the right to exercise such consent and to execute an annexation petition on OWNER'S behalf. Although it is the policy of TOWN in extending utility service to areas outside the incorporated boundaries of TOWN to require the owners of such areas to consent to the immediate annexation to TOWN, because (i) OWNER is dedicating a large portion of the Lawson Hill Project to affordable housing and other needed uses not presently provided for within the immediate area of TOWN and (ii) TOWN desires to afford OWNER the reasonable opportunity to effect the development of such uses for a period of time with a minimum of interaction with the governmental regulations of The TOWN which could otherwise possibly delay and make such development more expensive (and thus such affordable housing less affordable), TOWN agrees not to commence formal annexation proceedings pursuant to such consent for at least seven years after the effective date of this Agreement, unless requested by a majority of the residents of the Lawson Hill Service Area. Subject to this seven year limitation, OWNER waives any right to notice when the power of attorney is exercised.

B. Annexation shall remain discretionary with the TOWN.

C. Annexation eligibility shall be determined by reference to the Colorado Municipal Annexation Act of 1965, as it presently exists or may hereafter be amended.

D. Upon annexation of portions of the Lawson Hill Project to the TOWN, the TOWN shall zone the Lawson Hill Project Service Area to such zoning classifications as shall reflect the then zoning of such Area under the Land Use Code of San Miguel County, together with such provisions for "grandfathering" uses which may become non-conforming under which the Telluride Land Use Code, as it presently exists or may hereafter be amended, and for continuation of any vested real property development rights for site specific development plans approved by San Miguel County, for the duration of such rights.

E. In connection with the annexation of portions of the Lawson Hill Project to the TOWN, TOWN shall do what is needed to cause the provisions of TOWN ordinances relating to historical and architectural review (but not including the TOWN's ordinances relating to building standards, such as the Uniform Building Code) to be applied to the portions of the Lawson Hill Project annexed as follows:

(i) The authority of the Telluride Historical and Architectural Review Commission shall be delegated to the Design Review Board created pursuant to the General Declaration for Lawson Hill (the "Declaration"), which shall be recorded prior to the first conveyance by OWNER of any real estate within the Lawson Hill Project.

(ii) The Design Review Board shall apply the provisions of the Declaration and the Design Regulations promulgated pursuant to the Declaration in determining whether or not to issue a "Certificate of Appropriateness" for any proposed structure or improvement or any alteration in any structure or improvement. Any vacancy in the membership of the Design Review Board occurring subsequent to annexation to the TOWN shall be filled as provided in the Declaration, provided however that the appointment of any new member to fill such a vacancy shall require the ratification of the Town Council of TOWN. Subsequent to annexation persons aggrieved by decisions of the Design Review Board shall have the same rights of appeal and other remedies as may then be available under the ordinances of TOWN with respect to decisions of the Historic and Architectural Review Commission.

F. OWNER, and its successors and assigns, shall not, for a period of 20 years from the effective date of the Agreement, petition for or otherwise initiate municipal incorporation with respect to the Lawson Hill Service Area.

SECTION 16 Easements and Conveyances:

A. Prior to connection, OWNER agrees to provide to the TOWN at the OWNER'S sole cost an improvement survey plat prepared by a surveyor licensed in the State of Colorado identifying easements, rights-of-way, public and private roads and water and sewer transmission lines within the Lawson Hill Service Area, which survey shall reference all subdivision plats and all public or private rights-of-way and utility easements of record within the Lawson Hill Project Service Area.

B. Within the final subdivision plats for the Lawson Hill Service Area, the OWNER shall establish and dedicate such non-exclusive surface and subsurface easements, as are necessary to provide the TOWN with lawful and unimpeded access to and control

over all water and sewer lines, pipes, valves, vaults, manholes, hydrants, and other appurtenances. This requirement shall not apply to service lines located within interior lot lines and which only serve such property. The OWNER warrants that such easements to be dedicated or conveyed shall be sufficient for this purpose.

C. For any water and sewer line extensions which may be located off OWNER'S property, OWNER shall obtain and convey to the TOWN at the time of acceptance of the facilities such easements as will provide the TOWN with lawful and unimpaired access to and control over all the water and/or sewer lines, pipes, valves, vaults, hydrants, and other appurtenances. If such lines are located in a public right-of-way, a right-of-way permit from the governing jurisdiction shall be obtained at OWNER'S cost and assigned to the TOWN.

D. All easements required to be dedicated or conveyed by this Agreement shall be at least twenty feet, or twenty-five feet in width if water and sewer lines are located in the same easement, unless otherwise approved by the Town Engineer.

E. At its option the TOWN may require the OWNER to convey to the TOWN by deed such easements as may be required pursuant to sections 16B and 16C, and such water rights as may be required pursuant to section 17, except that no separate conveyance by deed requirement shall apply to any easements for water lines of less than 4" diameter or sewer lines of less than 6" diameter. Title to all easements and personal property required to be conveyed by this Agreement shall be good and merchantable, free and clear of all liens and encumbrances except as may be acceptable to the TOWN. Title to all water rights required to be conveyed by this Agreement shall be as good and merchantable and free and clear of all liens and encumbrances as such title was in OWNER prior to such conveyance, except as may be acceptable to the TOWN. OWNER has ordered a water attorney's opinion of title and a water engineer's report with respect to the water rights appurtenant to OWNER'S Property; OWNER shall furnish a copy of each of such opinion and report to TOWN promptly upon OWNER'S receipt thereof. All deeds shall be in a form acceptable to the Town Attorney, and shall include a general warranty of title, and a metes and bounds or center line description if applicable. An Owner's title insurance policy for such easements shall be provided to the Town at the time of conveyance at OWNER'S cost.

F. All recording costs shall be paid by the OWNER.

G. The easements to be dedicated or conveyed shall be subject to, or shall incorporate, the following provisions: OWNER may use all easement areas for any purpose provided that such use does not interfere with the rights granted to the TOWN,

and provided that OWNER shall not erect or place any building or structure, excluding wood fences, nor any plant any tree or shrubbery on any of the easements, except such species as may be approved by the Town Engineer on a case-by-case basis and which have a root length of 2 feet or less. The TOWN shall not be liable for damages occasioned by injury to or removal of any such building, structure, fence, tree or shrubbery when necessary to the use and enjoyment of the easement.

SECTION 17 System Transfer; Warranty and Bond:

A. Within six months after substantial completion, preparation of as-builts, and engineer's certification, as to any phase of construction of the water distribution and/or sewer collection system, OWNER shall apply to the TOWN for acceptance of the new water and/or sewer facilities.

B. On the date of initial connection to the TOWN'S water system, the OWNER shall have obtained and convey by special warranty deed to the TOWN, free and clear of all liens and encumbrances and at no cost to the TOWN, all water rights, presently appurtenant to or used within the Lawson Hill Project Service Area, in full satisfaction of all water right dedication requirements to the TOWN, including, but not limited to:

1. a 75% undivided interest in the Golf Course Ditch structure and the 3.0 c.f.s. decreed thereto on August 11, 1980 in Case No. W-3044, with an appropriation date of June 1, 1948, excepting therefrom so much of said water rights as shall be required to (i) provide irrigation for landscaping on 6 acres along the perimeter of the Project, (ii) provide irrigation for recreational fields, (iii) provide potable water for domestic and industrial purposes in the Ilium Valley portion of the Project, and (iv) to be provided to the Mountain Village Metropolitan District as a condition of inclusion in said District of the portion of the Lawson Hill Project lying east of Highway 145.
2. consent to withdrawal of non-tributary ground water under lands of the Lawson Hill Project Service Area as described in Exhibit B-2.

C. In the event of any future water right change, change of place of use, other transfer, or augmentation proceeding initiated by the TOWN to enable the TOWN or its assigns to efficiently utilize the water rights to be conveyed to the TOWN, the OWNER covenants and agrees not to object to, oppose, protest, or otherwise interfere with any such transfer provided such transfer is not in conflict with the terms of this agreement. OWNER shall cooperate with the TOWN, at TOWN'S expense, in providing all documents and testimony as may be necessary to establish

historic consumptive use of such water rights, or to establish reasonable diligence in putting to beneficial use such appropriations, and to prove non-abandonment of such rights. The TOWN, at its expense, shall have the right to enter upon OWNER'S property for the purpose of performing inspections, surveys, measurements, as may be necessary in the TOWN'S determination for any change, transfer, augmentation, diligence or related proceeding upon request by the TOWN, within thirty days. OWNER shall pay the TOWN its expenses, engineering costs, and reasonably incurred legal fees in any such transfer proceeding up to a maximum amount of \$8,000.

D. On the date of connection, the OWNER shall transfer and convey by Hill of Sale to the TOWN at no cost to the TOWN, free and clear of all liens and encumbrances, all water and sewer mains and service lines, pipes, pumps, valves, service stops, vaults, hydrants and appurtenances required or authorized to be constructed pursuant to this Agreement.

E. At the time of conveyance, OWNER shall warrant to the TOWN that all utility facilities then conveyed shall be free from known defects in materials and workmanship and were installed in a good and workmanlike manner and in accordance with all design requirements of this Agreement. Such warranty shall remain in effect and be actionable for only a period, of one year after acceptance of such facilities by TOWN.

The OWNER agrees to indemnify and hold harmless the TOWN, its officers, agents, and employees, from and against all liabilities, claims, and demands, on account of injury, loss, or damage (including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever) which arise out of or are in any manner connected with the design, location, or construction of the utility facilities conveyed to the TOWN caused or claimed to be caused in whole or in part by the act, omission, error, professional error, mistake, negligence, or other fault of the OWNER or its successors in interest, or of any employee or contractor of the OWNER, except however to the extent caused by any negligent act or omission by the TOWN or its officers, agents, and employees. Such agreement to indemnify shall remain in effect and be actionable for only a period of four years after acceptance of such facilities by TOWN.

The OWNER agrees to investigate, handle, respond to, and provide defense for and defend against, any such liability, claims, or demands at the sole expense of the OWNER, and to bear all costs and expenses related thereto, including court costs and attorneys fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

G. At the time of acceptance, OWNER shall provide the TOWN with a corporate surety bond or other collateral acceptable to the TOWN in a penal sum of not less than \$400,000.00 and guaranteeing to the TOWN, OWNER'S warranty pursuant to section 17F, to remain in effect for a period of one year after acceptance by the TOWN.

H. In the event that OWNER is in violation of any warranty or bond requirement provided for herein, TOWN may exercise any of the remedies provided for by this Agreement, and may refuse to authorize additional connections.

I. In the event that the water rights to be transferred pursuant to section 17B are not, in the sole determination of TOWN, sufficient in terms of quantity, availability and priority to serve all prospective potable water users within the Lawson Hill Service Area, the TOWN may acquire such additional water rights as may be needed to serve an equivalent number of such users and charge the reasonable cost of acquiring such additional water rights so needed, including legal, engineering and transfer costs, to the Lawson Hill Service Area properties not yet connected to the TOWN water system by way of a tap fee surcharge. If Idarado Mining Company conveys water rights to the TOWN which are specified by Idarado Mining Company to be credited to OWNER's obligations set forth in this section 171, Town shall accept such water rights in partial or full, as the case may be, satisfaction of OWNER's said obligations.

SECTION 18 Right of Shut-Off; Repair:

In case of bursting, breakage, leakage of, or accident to any water mains or pipes of the TOWN'S water or sewer system, or in case of accident or other cause and it becomes necessary to repair any part of the TOWN water or sewer system, whereby it becomes necessary to shut-off the water or sewer system temporarily, the TOWN is authorized to close any valve or valves in any of the water mains or sewer mains within or serving the TOWN water or sewer system or the Lawson Hill Service Area as may be necessary for any repair or for the protection of the systems, or to meet the exigencies of the situation. The TOWN agrees to use due diligence to repair or replace any and all breakages.

SECTION 19 New Water and Sewer Service Approval:

The parties agree that all new water or sewer taps, and all water or plumbing fixture additions made or installed after connection, shall be subject to supervision, inspection, and prior approval by the TOWN pursuant to a written permit, and under such terms and conditions as the TOWN may require. All new service lines shall become the property of the TOWN, provided that the TOWN shall not assume responsibility for maintenance, repair, or replacement of any such service line beyond service

stops required at lot lines, or past service stops which the TOWN may permit to be located at the outside of buildings. Immediately after final subdivision/PUD plan approval by San Miguel County and before any subsequent sale of the Property, OWNER shall record a covenant requiring owners of property in the Project Service Area to present to the County Building inspector evidence of payment of the TOWN'S water and/or sewer tap fees, prior to issuance of receipt of a building permit for such property.

SECTION 20 Utility Plan Approval:

After connection and prior to installation, relocation, or replacement of any new or existing utility facility within The Lawson Hill Project, the TOWN shall have the right to review the proposed plans and recommend to the OWNER and the County Building Inspector such conditions as may be required to protect the TOWN'S water and/or sewer systems. The Town Engineer shall have the right to conditionally approve or disapprove any utility facility installation or relocation which in the Town Engineer's reasonable judgment will adversely affect or endanger operation of the TOWN'S water and/or sewer systems.

SECTION 21 Land Uses:

It is the intent and purpose of OWNER to develop the Lawson Hill Project so as to provide low intensity industrial areas to provide utility, light industrial and support service uses not otherwise readily available within the Telluride Region and not competitive with the retail and/or tourist related uses found within the Town of Telluride. For the purpose of ensuring that the Project develops in a manner complementary to the TOWN and the TOWN'S commercial core area and utility infrastructure, the following limitations on land uses and structures are hereby imposed:

- A. Land Use.
 1. Only those land uses identified in OWNER'S application for preliminary subdivision plat and PUD Plan from San Miguel County dated , including Affordable Housing (AH) PUD, Forestry, Agriculture and Open (F), Low Intensity Industrial (LI), Public (PUB), and Low Density (LD) are presently permitted in the specific areas identified in such plats and plan. Permitted uses shall be defined in accordance with the zone district "standards" presently set forth in the San Miguel County Land Use Code Section 5-3 (February 22, 1991 version), or any amendment thereto.
 2. Notwithstanding anything in such Code or any amendment thereto or this Agreement to the contrary, the follow-

ing uses shall be prohibited within the Lawson Hill Project Service Area:

- a. auction house;
 - b. motor vehicle sales.
3. Notwithstanding anything in such Code or any amendment thereto or this Agreement to the contrary, the following uses shall be permitted within the Lawson Hill Project Service Area but may not be allocated TOWN water and sewer service pursuant to section 14.D:
- a. car washes and other commercial or industrial uses that are water-intensive (except laundromats) in the reasonable determination of the Town Engineer;

B. All land uses and development shall be subject to the development limitations (including maximum dwelling units, floor area, bedrooms, etc.) set forth in Exhibit F, "Land Use Limitations" as the same may be amended by San Miguel County.

C. These land use and development limitations shall apply to all future land uses and structures within the Lawson Hill Project, and shall not be modified, varied or exceeded unless and until the OWNER shall have applied to and been granted by San Miguel County, pursuant to the San Miguel County Land Use Code, the right to so modify, vary or exceed such uses and structures. The Town shall have no obligation or duty to provide water and/or sewer service to any land or structure within the Lawson Hill Service Area unless the land use and structure is authorized pursuant to this Agreement or any amendment hereto.

SECTION 22 Affordable Housing:

A. The OWNER agrees and covenants, prior to connection to the TOWN's sewer and/or water service, to restrict to perpetual use as affordable residential housing all lots designated as "affordable housing" sites on the Lawson Hill preliminary site plan dated February 12, 1991, and, when approved by San Miguel County, the final site plan provided such final site plan is not inconsistent with the terms of this Agreement, by recording a deed restriction in the form prescribed by the San Miguel County Land Use Code, as the same may be amended. Owners and renters of such property shall be subject to such qualifications as may be adopted by the San Miguel County Board of County Commissioners, or the San Miguel County Housing Authority or their successor.

SECTION 23 Transportation:

A. OWNER agrees to mitigate transportation impacts by reservation and dedication of rights-of-way for alternative transportation (including gondola, light rail, and/or bus) as may be required by the San Miguel County Board of County Commissioners, or its designee, including any regional transportation entity which may be subsequently formed.

H. The Homeowners' Association referred to in section 10B shall contribute a sum equal to 33 1/3 percent, (1.00 percent of the Consideration (defined in the Declaration)), of the Real Estate Transfer Assessment (provided for in the Declaration) collected by it to the County, or such regional transportation entity which succeeds to the County's regional transportation function, for the purpose of funding the provision of capital facilities for, and the development, operation and maintenance of, a regional transportation system, all as described in the Declaration.

SECTION 24 Recreation:

A. Developer will construct on-site full-sized soccer and softball playing fields as identified on the site plan in OWNER'S preliminary subdivision plat application dated February 12, 1991, and, when approved by San Miguel County, the final site plan provided such final site plan is not inconsistent with the terms of this agreement. A bentonite layer or other impervious layer acceptable to the Colorado Department of Health will be placed to separate any tailings from the field surface. Final grading and surfacing of the playing fields will be constructed by the OWNER upon agreement of the Colorado Department of Health and Idarado Mining Company as to remediation and the execution of such remediation.

B. In the event that OWNER does not construct such fields by the time fifty per cent of the OWNER's Middle Site Affordable Housing dwelling unit densities are built upon and occupied, then OWNER shall construct equivalent recreational facilities elsewhere in the Lawson Hill Project. Subject to the approval of the County, OWNER shall provide collateral to the TOWN for such improvement obligation by naming the TOWN as beneficiary in addition to the County, on any collateral or other security instrument which may be given to the County. OWNER agrees to participate in, and not oppose formation of, any special recreational district which may be created in the Telluride Region.

SECTION 25 Hydropower Facilities and Lease:

A. The TOWN and OWNER agree to enter into and execute simultaneously with this Agreement, a Hydropower Lease Agreement

in the form attached hereto as Exhibit H and incorporated herein by this reference.

B. The Hydropower Lease Agreement shall supersede in all respects the Temporary License Agreement dated January 10, 1991, between Telecam Partnership II Limited and the TOWN.

C. The Hydropower Lease Agreement shall be an independent legal instrument which shall be construed solely in accordance with the terms contained therein.

SECTION 26 Solid Fuel Burners:

OWNER covenants and agrees that all provisions of Telluride Municipal Code Chapter 8.12, "Solid Fuel Burners", shall apply to all property and structures within the Lawson Hill Project (except that portion thereof lying east of Highway 145). OWNER agrees that no new or used solid fuel burning devices, including fireplaces or wood-burning stoves of any type, shall be installed, used, or operated within the Lawson Hill Project (except that portion thereof lying east of Highway 145), except that OWNER may operate not more than three solid fuel burning devices (including fireplaces) in the Lawson Hill Project provided that:

1. (i) such devices are registered with the Town of Telluride Building Department and (ii) devices other than fireplaces are certified by the Town of Telluride Building Department as complying with all applicable emission standards of the TOWN; and
2. a permit establishing such registration pursuant to Telluride Municipal Code Section 8.12.030.B and verifying compliance is obtained from the TOWN at the time of building permit issuance; and
3. such right and permit shall not be transferable apart from the structure or property to which the permit is assigned.
4. each solid fuel burning device must be located in a public or community facility, and not in any private residence.

SECTION 27 Airport Impact Fees:

If after annexation of OWNER'S property to the TOWN any new dwelling or structure is constructed within The Lawson Hill Service Area, the OWNER of such dwelling or structure shall be required to pay to the TOWN at the time of application for a building permit, such amount as the TOWN may then be obligated to pay to the Telluride Regional Airport Authority (TRAA) pursu-

ant to the "Town, Telco, TRAA, Resort Company Airport Funding Agreement" as recorded at Book 427, Pages 534-558, San Miguel County Clerk and Recorder's Office.

SECTION 28 Business License Assessment:

OWNER, by covenant affecting all properties in the Lawson Hill Service Area, shall impose an assessment on such properties equal in application and amount to the TOWN Business License Tax and Building License Fee imposed on businesses within the TOWN as set forth in Telluride Municipal Code Chapter 5.04 as it presently exists or may be hereafter may be amended. Such assessment shall be collected directly by TOWN and shall be expended by Town exclusively for marketing of TOWN and the Telluride Region.

SECTION 29 Road Standards Consistency:

OWNER agrees that all roads within The Lawson Hill Service Area shall be constructed in compliance with Town of Telluride "Design Guidelines". The road right-of-way (other than drive-ways) shall have a minimum width of 24 feet without parking, or 32 feet with parking. No roads shall exceed 10% in grade. All road designs and specifications shall be reviewed and approved by the Telluride Town Engineer prior to construction.

SECTION 30 Non-Liability:

A. The OWNER recognizes that the Lawson Hill Project Service Area will be located directly next to the TOWN'S existing regional wastewater treatment plant, which was constructed at a time when the Lawson Hill Project was zoned for low-intensity residential and agricultural/forest uses. The OWNER also recognizes that the wastewater treatment plant is odoriferous, even during normal and proper operation. The TOWN is planning to install additional equipment which is expected to reduce current odor problems, and to expand the plant in the future. The TOWN agrees to use its best efforts to operate the plant so as to minimize any odors to the extent practicable. OWNER agrees to equitably participate in the cost of any subsequent odor control improvements at the plant which may be requested by the OWNER or its successors to reasonably control odors from the Plant in the Service Area.

B. The TOWN shall not be liable to the OWNER or its successors, guests, assigns, invitees, or lessees for any loss, costs, claim, demand, liability, judgment, or damage to person(s) or property arising out of or resulting from:

1. the design, installation, maintenance, condition, or location of the water and sewer systems to be con-

structed by OWNER at the time of conveyance to the TOWN pursuant to section 17D;

2. from any odor which may emanate from the Telluride Regional Wastewater Plant due to the normal and proper operation, maintenance, or expansion of the Plant.

C. The TOWN shall not be held liable or accountable for any bursting, breakage, leakage, or accident within the TOWN water or sewer systems, which may result in shut-off of the water or sewer service to any property in the Project.

D. By entering into this Agreement, the TOWN does not assume any debt or obligation, financial or otherwise, of the OWNER, including without limitation any liens, charges, taxes, or agreements for repayment of loans. The parties agree that the TOWN shall not be deemed a successor or assignee of the OWNER with respect to any such debt or obligation, and the OWNER shall forever hold the TOWN harmless from, and defend the TOWN against, any claim, demand, liability or judgment which imposes or would impose any such obligation, lien, or debt on the TOWN by virtue of this Agreement or any conveyance provided for herein.

E. The parties intend that the TOWN will not operate as an agent of, or joint venturer with, the OWNER pursuant to this Agreement. To the extent that contractual relationship for the provision of water or sewer service is hereby established, however, the TOWN shall operate as an independent contractor and not as an agent or employee of the OWNER.

SECTION 31 Indemnification:

A. The OWNER agrees to indemnify and hold harmless the TOWN, its officers, agents, and employees, from and against all liabilities, claims, and demands, on account of injury, loss, or damage (including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever) which arise out of or are in any manner connected with the maintenance, repair, utility supply, or provision of water and/or sewer service to the OWNER'S property by the TOWN, caused or claimed to be caused in whole or in part by the acts omission, error, professional error, mistake, negligence, or other fault of the OWNER or its successors in interest, or of any employee or contractor of the OWNER, except however to the extent caused by any negligent act or omission by the TOWN or its officers, agents, and employees.

H. The OWNER agrees to investigate, handle, respond to, and provide defense for and defend against, any such liability, claims, or demands at the sole expense of the OWNER, and to bear

all costs and expenses related thereto, including court costs and attorneys fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

SECTION 32 Insurance - Additional Insured:

A. The OWNER agrees to procure and maintain a policy or policies of insurance sufficient as set forth below to insure against all liability, claims, demands, and other obligations assumed by it pursuant to the indemnification requirements of Section 31. OWNER shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section 31 of this Agreement by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. Coverages shall be procured and maintained with forms and insurers reasonably acceptable to the TOWN. In case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage from the date of connection.

B. General liability insurance combined single limit shall be \$150,000.00 each occurrence, and \$400,000.00 aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage including completed operations, personal injury including coverage for contractual and employee acts, blanket contractual, and independent contractors, prior acts, and completed operations. The policy shall contain a severability of interests provision.

C. The policies referred to above shall be endorsed to include the TOWN, its officers, agents, and employees as additional insureds. Only with respect to the actions of OWNER, and not with respect to the actions of the TOWN, every insurance policy carried by TOWN, its officers, agents, or employees shall be excess and not contributory insurance to that provided by OWNER. A certificate of insurance shall be provided by OWNER'S insurance agent to the TOWN as evidence of the policies referred to above providing all required coverages, conditions, and minimum limits are in full force and effect, and such certificates shall be reviewed and approved by TOWN prior to connection. The certificates shall specifically identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least thirty (30) days prior written notice has been given to the TOWN. The TOWN reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

D. The parties hereto agree that the TOWN is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Im-

munity Act, C.R.S. 24-10-101 et seq., as from time to time may be amended.

SECTION 33 Amendment:

A. This Agreement may be amended from time to time by written agreement duly authorized by both parties to this Agreement.

B. In the event that OWNER elects on or before June 1, 1992 not to utilize water service from the TOWN, the TOWN and OWNER shall promptly revise this Agreement to delete applicable water service and water system transfer provisions, and such revision shall thereupon supersede this Agreement in all respects.

SECTION 34 Force Majeure:

No failure, interruption, or delay in performance of this Agreement by the parties shall be deemed a breach hereof, nor shall they be held liable, when such failure, interruption or delay is occasioned by or due to any act of God, flood, storm, lack of fuel or power, strike, lock-out, suit, decree, breakage, proceeding, war, riot, epidemic, explosion, sabotage, or unavoidable accident to the TOWN or OWNER'S water system or to any machinery, equipment or any water or sewer transmission or service line therein, or to any other cause beyond the control of the parties.

SECTION 35 Termination - Breach:

A. By the TOWN. In the event of any default or breach by the OWNER, of a covenant, term, condition or obligation under this Agreement, and if such default or breach continues after notice thereof for sixty days, then this Agreement may be forthwith terminated at the option of the TOWN. Any declaration of termination of the Agreement, shall be effective only after and upon a resolution to that effect, duly authorized by the Town Council.

B. By the OWNER. In the event of any substantial default or material breach by the TOWN of any covenant, term, condition, or obligation of the TOWN under this Agreement, and if such default or breach continues after notice thereof for sixty days, then the, OWNER shall have the right to terminate this Agreement.

C. Land Use Approval. This Agreement shall automatically terminate in the event OWNER fails to obtain a final subdivision plat approval and planned unit development approval for a portion of the Lawson Hill Project Service Area from San Miguel County on or before, 1992, or in the event that either such ap-

proval expires prior to commencement of construction of the water and sewer facilities.

D. Survival. All rights concerning non-liability, remedies, attorneys fees, payment obligations, warranties, guarantees, indemnification, insurance, and the hydropower lease shall survive any termination of this Agreement.

SECTION 36 Remedies and Attorney Fees:

The parties to this Agreement shall have all rights available at law or in equity to enforce the terms of this Agreement, including the right of specific performance. In the event that any action is filed or maintained by any party in relation to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney's fees or the reasonable value of salaried attorney's time.

SECTION 37 Notices:

Any notice required to be given hereunder shall be deemed given when deposited in the U.S. mail, certified, return receipt requested, addressed as follows:

Town of Telluride
P.O. Box 397
Telluride, CO 81435
Attention: Mayor

Copy to: Town Manager
P. O. Box 397
Telluride, CO 81435

STS Hydropower Ltd.
455 University Ave.,
Suite 100
Sacramento, CA 95825
Att: Jeff Twitchell

Telecam Partnership II Ltd.
P. O. Box 656
Telluride, CO 81435

Copy to: Henson L. Jones
744 Santa Barbara
Berkeley, CA 94707

David I. Hoffman
P.O. Box 1438
Telluride, CO 81435

These addresses shall remain valid until notice of a change of address is given in accordance herewith. In the event that a return receipt is not obtained, notice shall be deemed effective three days after mailing.

SECTION 38 Authorization:

A. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and that all necessary actions, notices, consents, or

releases required pursuant to any Law, Charter, Declaration, Partnership Agreement, Articles, or Bylaws or deeds of trust required to authorize their execution of this Agreement have been made or obtained.

SECTION 39 Captions:

The use of captions as section headings in this Agreement is for convenience only, and shall not be used to construe or interpret the meaning of any section hereof.

SECTION 40 Definitions:

A. Any terms referenced herein which are defined in Telluride Municipal Code Chapter 13.04, "Definitions", shall have the meaning as set forth in such Chapter.

B. As used herein, the term "connection" shall mean the physical connection between the TOWN water and/or sewer system, and the water and/or sewer mains to be constructed by the OWNER, when such connections and construction has been finally completed and all construction provided for herein has been finally accepted in writing by the Town Engineer.

C. As used herein, the term "TOWN water system" means the TOWN'S municipal water supply and waterworks, and includes all water mains, pipes, treatment plants, hydrants, vaults, valves, siphons, and related equipment, and the term shall include the OWNER'S water system after transfer to the TOWN occurs unless the context clearly requires otherwise.

D. As used herein, the term "TOWN sewer system" means the TOWN'S sanitary sewer collection and treatment works, and includes all sanitary sewer mains, pipes, lines, manholes, vaults, valves, treatment plant, and related equipment, and the term shall include the OWNER'S sewer system after transfer to the TOWN unless the context clearly requires otherwise.

SECTION 41 Severability:

Should any part, term, portion or provision of this Agreement be finally decided to be in conflict with any law, ordinance, rule, resolution or regulation, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portion or provision shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

SECTION 42 Entire Agreement:

This Agreement constitutes the entire Agreement between the parties, and no other prior or current representation, oral or written, shall be effective or binding upon the parties.

SECTION 43 Successors and Assigns:

All the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the successors in interest and assigns of the parties hereto.

SECTION 44 Execution:

This Agreement shall be executed in two original counterparts, one of which shall be recorded with the San Miguel County Clerk and Recorder. An authentic photocopy of any original executed Agreement shall be effective as if it were an original.

SECTION 45 Conforming Amendments:

A. OWNER shall cause its Planned Unit Development Agreement with San Miguel County to be amended to conform with the applicable provisions hereof prior to the recordation of any final plat for the Lawson Hill Project.

B. OWNER, prior to the recordation of the Declaration, shall cause the Declaration to provide for conformance with the applicable provisions hereof.

SECTION 46 Effective Date:

This Agreement shall become effective upon the last date of the last signature hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers.

TOWN OF TELLURIDE

By:

Peter H. Spencer
Peter Spencer, Mayor

Date: June 7, 1991

ATTEST:

Mary Jo Schillaci
Mary Jo Schillaci, Town Clerk

Date: June 7, 1991

APPROVED AS TO FORM:

Stephen B. Johnson, Town Attorney

Date: _____

TELECAM PARTNERSHIP II LIMITED

By: Hensen L. Jones
Telecam Partnership I Limited,
General Partner, By its General
Partner, Hensen L. Jones

Date: June 7, 1991

STATE OF COLORADO)
) ss
County of San Miguel)

Subscribed, sworn to and acknowledged before me this 7th day
of June, 1991 by Hensen L. Jones, General Partner of
Telecam Partnership I Limited, General Partner of Telecam
Partnership II Limited. Witness my hand and official seal.



My commission expires 11/03/94

Kerry A. Welch
Notary Public
Address: 818 Spruce Dr., Norwood, Co 8142

- EXHIBIT A Map of Owner's Property
- EXHIBIT B-1 Lawson Hill Project "Services Area Map"
- EXHIBIT B-2 Lawson Hill Project "Services Area - Legal"
- EXHIBIT C Lawson Hill Project Equivalent Residential Units
- EXHIBIT D Omitted Intentionally
- EXHIBIT E Limited Power of Attorney
- EXHIBIT F Land Use Limitations
- EXHIBIT G Omitted Intentionally
- EXHIBIT H Hydro Power Lease Agreement

EXHIBIT B-2

LAWSON HILL SERVICE AREA - LEGAL

A tract of land situated in San Miguel County, Colorado including the following described mining claims located in the Upper San Miguel Mining District, USMMD, of San Miguel County, Colorado, to wit:

That portion of the Keystone Placer, Mineral Survey No. 244, as recorded in Patented Claims Book 21, at Page 449, lying south of the Highway 145 right-of-way along Keystone Hill;

and that portion of the Boston Placer, Mineral Survey No. 2019, as recorded in Patented Claims Book 52, at Page 129, lying to the north of the Highway 145 right-of-way along Lawson Hill.

EXHIBIT C

Lawson Hill Service Area

Equivalent-Residential Units (EQR) Calculation
(Based upon anticipated Sewage Flows)

	<u>No. Units</u>	<u>Type Unit</u>	<u>Pers/SF Per Unit</u>	<u>Usage Per Pers/SF (gpd)</u>	<u>Total Ant. Usage</u>
Phase I	94	Res.	2.35	100 -	22,090
	1	Trades	60,000	133.3	7,980
	1	Com/DaCr	5,000	150	<u>750</u>
				Sub-total	30,820
Phase II	112	Res.*	2.35	100	26,320
	40	Hosp.	1.0	200	8,000
	1	Cl. Ind.	30,000	133.3	3,999
	1	Medical	10,000	150	1,500
	1	Shop. Ctr.	50,000	150	7,500
	1	Misc.	10,000	133.3	1,333
	20	Motel	2.0	100	<u>4,000</u>
				Total	83,472 GPD

One EQR = 2.35 persons/unit X 100 GPD/person = 235 GPD

30,820 GPD ÷ 235 GPD/EQR = 131 EQR

83,472 GPD ÷ 235 GPD/EQR = 355 EQR

Definitions:

EQR	Equivalent residential units
GPD	Gallons per day
Pers/SF Per Unit	Persons or square feet per unit
Total Ant. Usage	Total anticipated usage
Res.*	Residential unit (includes all senior citizen units)
Trades	Building trades center
Com/DaCr	Community Center and Day Care facility
Hosp/Jus	Hospital and Justice Center
Cl. Ind.	Clean Industrial

EXHIBIT E

LIMITED POWER OF ATTORNEY

Telecam Partnership II Limited ("Telecam"), is the owner of real property situated in San Miguel County, State of Colorado, and described as:

See Exhibit B-2

which property is not presently eligible for annexation to the Town of Telluride, Colorado, but which requires water and/or sanitary sewer service from the Town and connection to the Town's water and/or sewer systems.

In consideration for permission to connect to the Town's water and/or sewer systems and the Town's agreement herein to supply potable water and/or sewer service to Telecam's property,

Telecam does hereby designate and irrevocably appoint the Town Clerk of the Town of Telluride, Colorado as its attorney-in-fact to sign any petition for annexation, or petition for an annexation election, of the above-described real property to the Town when eligible, whether solely for the above-described real property or in conjunction with other lands. Such authority shall be a perpetual covenant running with the land, shall be binding upon Telecam's successors-in-interest and assigns, and shall not cease upon its demise.

As a further covenant to run with the land, Telecam agrees that in the event of a counter-petition or objection to proposed annexation of the property is filed, any signature on such petition or objection purporting to be the owner of the above-referenced real property may be disregarded by the Town, and shall be of no force and effect under any state or local annexation laws and requirements.

IN WITNESS WHEREOF, Telecam does hereunto set its hand and seal this 7TH day of June, 1991.

TELECAM PARTNERSHIP II LIMITED

BY:

Henson L. Jones Date: June 7, 1991
By its General Partner, Telecam Partnership I Limited, by its General Partner, Henson L. Jones.

STATE OF COLORADO)
) ss
County of San Miguel)

subscribed, sworn to and acknowledged before me this 7th day of June, 1991 by Henson L. Jones, General Partner of Telecam Partnership I Limited, the General Partner of Telecam Partnership II Limited. Witness my hand and official seal.

My Commission expires 3-26-94

Elizabeth G. Newman
Notary Public

Address: P.O. Box 301
Placeville, CO 81430

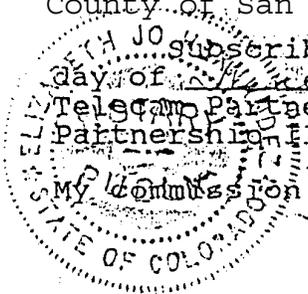


EXHIBIT B-2

LAWSON HILL SERVICE AREA - LEGAL

A tract of land situated in San Miguel County, Colorado including the following described mining claims located in the Upper San Miguel Mining District, USMMD, of San Miguel County, Colorado, to wit:

That portion of the Keystone Placer, Mineral Survey No. 244, as recorded in Patented Claims Book 21, at Page 449, lying south of the Highway 145 right-of-way along Keystone Hill;

and that portion of the Boston Placer, Mineral Survey No. 2019, as recorded in Patented Claims Book 52, at Page 129, lying to the north of the Highway 145 right-of-way along Lawson Hill.

EXHIBIT F
 APPROVED LAND USE LIMITATIONS
 (LAWSON HILL PROJECT)

I. Maximum, Non-Residential Floor Area¹

	TOTAL	TOWN SERVICED
Illium Valley Industrial 400 series lots	125,000	-0-
Town Hydro Lot T	1,800	-0-
Service Area industries Lots A-1, A-2, B, D, E., F, G, J,	160,000	160,000
Community Center Lot N	5,000	5,000
Park Buildings Miscellaneous	2,000	2,000
Work Camp Lots Q and Q-1	20,000	-0-
Live-Work Lots L and O	48,000	48,000
Sports Lodge 503 & K	14,800	14,800
Public it & I	30,000	30,000
	406,600	259,800

II. Maximum Number of Residential Units¹

Free Market Mt. Village Lots	25 units	-0
Mid-Site Affordable	206 units	206
200 Series -----	62	
300' Series -----	79	
Retirement -----	25	
Live/Work -----	60	
Community Center -	1	
Sports Lodge -----	2	
	229	
Sports Lodge	20 bedrooms	20 bedrooms
Illium Valley Affordable	10 units	0
75 Illium Valley residents	35 units	0
TOTAL	296 units	206 (+20)
	(plus 20 sports lodge B.R.)	

1. Per P.U.D. Agreement between Telecam and San Miguel County