

FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS FOR  
THE BLACK BOULDER MESA

The undersigned, the Black Boulder Mesa Properties, LLC, a Utah limited liability company (the "Declarant"), hereby amends that certain Declaration of Covenants, Conditions, and Restrictions for the Black Boulder Mesa (the "Declaration") which was recorded on October 23, 1997, at 1:30 p.m., in the Garfield County Recorder's Office as Recorder's Entry No. 217211.

WITNESSETH

A. The Declaration was recorded by the Declarant as set forth above.

B. Section 14.01 and 14.02 of the Declaration authorize amendment by the Declarant and by the owners of lots to which at least 75 % of the votes in the association are allocated.

C. The Declarant still owns all of the lots and is entitled to 100% of the votes in the association.

NOW THEREFORE, in order to complete this amendment in the manner prescribed by Article 14 of the Declaration, the Declarant hereby amends the Declaration as follows:

1. Section 5.06 is hereby deleted and is replaced by the following:

Section 5.06. Lots Owned by Declarant. The Lots owned by the Declarant shall be assessed in the same manner as other lots, and Declarant shall pay said assessments without regard to its status as the Declarant.

2. The Declaration contains an error in the legal description of Exhibit B and C. Therefore, in Section 31, Township 33 South, Range 5 East, Salt Lake Base and Meridian, the Northeast 1/4 West 1/2 Northwest 1/4 Northeast 1/4 is changed to read as follows, in both Exhibit B and Exhibit C:

Northeast 1/2 West 1/2 Northwest 1/4 Northeast 1/4 in Section 31, Township 33 South,  
Range 5 East, Salt Lake Base and Meridian.

This amendment shall be fully effective as of the date of recording in the Garfield County Recorder's Office.

Dated this 19th day of December, 1997.

Black Boulder Mesa Properties, LLC

/S/

By: Curtis Oberhansly

It's Member, A Declarant and Co-Owner

Notary

SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE BLACK BOULDER MESA  
Recorded October 23, 1997

The undersigned, being the Declarant under the Restrictive Covenants for The Black Boulder Mesa Subdivision, hereby amends the Restrictive Covenants, as follows:

RECITALS

A. The property described in Exhibit A, attached hereto and incorporated herein by this reference, is governed by the Declaration of Covenants, Conditions, and Restrictions for Black Boulder Mesa recorded October 23, 1997 (the "Restrictive Covenants in Book 336 Page 544, Garfield County Records.

B. Section 14.01 of the Restrictive Covenants reserves to Declarant the right to amend the Restrictive Covenants in its sole and absolute discretion, prior, to the Transition Date.

C. The undersigned is the Declarant as defined in the Restrictive Covenants and desires to amend the Restrictive Covenants as herein set forth.

NOW THEREFORE, pursuant to the authority granted in said 14.01, the Declarant hereby amends the Restrictive Covenants as follows:

1. The portion of §4.03 which relates to Class B membership shall be amended to read as follows:

Class B. The class B Member shall be the Declarant. Declarant, as the Class B Member, shall have the right to control the Association to the extent of having the exclusive right (either directly or through a person designated by the Declarant) to elect, appoint and remove the members of the Board and the officers of the Association until the Transition Date (as hereinafter defined). The special control rights of the Declarant, as the Class B Member, shall cease and terminate only after the following three events have occurred, thereby comprising the transition Date:

(a) the completion by the Declarant of all the improvements, as set forth in Declarant's Public Offering Statement, to and including, in Declarant's sole discretion, the additional lands as defined hereunder.

(b) the date ninety (90) days after Declarant first assesses dues on behalf of the Property Owners Association to the Class A owners; which in no event shall be sooner twenty four months (24) from the date of this amendment to allow sufficient time for Declarant to ascertain that the improvements and all drainage systems have been correctly installed.

(c) the date ninety (90) days after Declarant relinquishes its Class B membership rights by giving written Notice to the Association and all owners.

Upon the Transition Date, Declarant shall retain the voting rights of a Class A Member, based upon the ownership of a Lot or or Lots, even though the special voting and control rights of the Class B Member have ceased and terminated.

2. Section 7.19 is hereby amended by adding the following sentence at the end thereof:

Neither the Association, the Declarant nor any individual shall install street lighting or other lighting which impacts the roadways and other common areas.

3. Section 3.02(a) is hereby amended by adding the following at the end thereof:

Nothing herein shall be construed to authorize the installation of street lights, which is prohibited in § 7.19, below.

4. Section 2.12 is amended by adding the following at the end thereof:

Declarant will install adequate perimeter fencing on the west and the south side of the Property as needed. This and any other fencing subsequently installed and maintained by the Declarant or the Association shall be installed only as necessary to fence domestic stock out of the Property.

5. Section 2.09 is amended by adding the following at the end thereof:

Notwithstanding the foregoing, all the utilities shall, to the degree possible, be placed under and within the common roadway easement and under and within the private driveways. The Association may make exceptions for well heads, drainage features, emergency access turnarounds and similar improvements where no reasonable alternative exists. Any such exception shall be approved by the Association and the Architectural Committee complete with a plan to make full and complete restoration to the impacted ground.

This amendment shall be effective upon recording in the office of the Garfield County Recorder. Except to the extent specifically modified herein, the Restrictive Covenants, including the First Amendment thereto, shall remain in full force and effect.

DATED this 27th day of April, 1998.

STATE OF UTAH

COUNTY OF GARFIELD

BLACK BOULDER MESA PROPERTIES, LLC

/s/ CURTIS K. OBERHANSLY  
Its Member

/s/ MARK M. AUSTIN  
Its Member

225068  
ENTRY NO. \_\_\_\_\_ RECORDED 5-11, 20 00 AT 3:10  
AT REQUEST OF Security Title Company  
FEE 18.00  
RECORDER GARFIELD CO, UT  
DEPUTY Cindy Ballot

THIRD AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE BLACK BOULDER MESA

The undersigned, The Black Boulder Mesa Properties, LLC, a Utah limited liability company (the "Declarant"), formerly known as The Black Boulder Mesa, LLC, is the Declarant under that certain Declaration of Covenants, Conditions, and Restrictions for The Black Boulder Mesa (as amended from time to time, the "Declaration") which was recorded on October 23, 1997 as Entry No.217211 in Book 336 at Pages 544-586, in the records of the Garfield County Recorder.

WITNESSETH

A. Section 14.01 of the Declaration authorizes the Declarant to unilaterally amend the Declaration until the Transition Date (as defined in Section 4.03 of the Declaration, as amended) in any manner and for any reason Declarant shall determine to be reasonable and necessary in the exercise of Declarant's discretion.

B. The Transition Date has not yet occurred.

NOW THEREFORE, pursuant to the authority granted in Section 14.01 of the Declaration, the Declarant hereby amends the Declaration as follows:

1. Recital (B) is hereby deleted and is replaced by the following:

(B) Declarant desires to maintain the Property in a manner consistent with the conservation goals stated below and with a maximum allowable density of one single family dwelling per aliquot ten acre parcel of land, as defined herein;

2. Section 2.04(c) and (d) are hereby deleted and are replaced by the following:

2.04(c) Notwithstanding any other provision of this Declaration, neither the Association nor any Owner may take any action or fail to take any action the failure of which would impair, limit, restrict or modify the rights of the holder of the Conservation Easement, or alter, amend or modify those rights without the prior written permission of the record holder of the Conservation Easement.

2.04(d) Except with the prior written permission of the Association and the record holder of the Conservation Easement, a Lot Owner shall not build, construct or otherwise improve any area of the Conservation Easement nor remove any natural vegetation. If any Owner shall disturb the natural state of any portion of the Conservation Easement without written permission as specified above, the Association shall have the right to either force such Owner to restore that portion of the Conservation Easement to its state prior to any change or carry out the restoration through the Association or its agents or representatives, and cause the respective Owner to pay the Association for the cost of effecting such restoration, which cost shall be a lien against the Lot. Any willful or repeated breach of the Conservation Easement areas by an Owner could also lead to punitive sanctions as specified herein.

3. Section 2.06 is hereby deleted and is replaced by the following:

Section 2.06. Maintenance of Drainage. As required by the regulations of the Garfield County Flood Control District and the Association Rules, each Lot Owner is primarily responsible for periodic maintenance to remove accumulations of earth or vegetation from drainage areas that build up on the respective Owner's Lot. Any significant changes beyond mere maintenance of existing drainage features must be first approved by the Association and the Architectural Committee as provided herein.

4. Section 3.01(c) is hereby deleted and is replaced by the following:

Section 3.01(c) the maintenance of the natural habitat on that portion of the Conservation Easement located on such Owner's Lot, except that the manner and type of maintenance in the Conservation Easement must be approved by the Association and the record holder of the Conservation Easement.

5. Section 7.01 is hereby deleted and is replaced by the following:

Section 7.01. Single Family Occupancy. The use of each Lot is restricted to single family occupancy and accessory uses as permitted herein. Except for those activities conducted as part of the marketing and development program for the Property by Declarant, no industry, business, trade or commercial activities that cater to the public onsite is allowed on any Lot, nor shall any Lot be used or rented for transient, hotel, or motel purposes. Nothing herein prohibits home professional pursuits. Employees on site shall be limited to domestic help, caretaking and clerical or other assistance for home professional pursuits. The Association may further refine the rules governing employees and shall use the impact on other Owners, particularly impacts over the common roadways, as a primary test. Single family occupancy is defined as a single housekeeping unit, operated on a nonprofit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area, where all residents are members of a family related by blood, adoption, or marriage, except for not more than two (2) additional persons not so related may reside in a Lot. The words "by blood" shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, nephews, parents, aunts, uncles, and first cousins, and no other degree of kinship. For purposes of the Declaration, "occupancy" shall be

defined as staying overnight in a dwelling on a Lot for a total of more than thirty (30) days, either consecutive or non-consecutive, in any year. No improvements or structure whatsoever, other than a high quality private single family dwelling, patio, walls, swimming pool, guest house, appropriate animal shelter, or customary outbuildings including garage, may be erected, placed or maintained on any Lot. Prior to the commencement of construction on any Lot, the plans, specifications, and colors therefore must be approved by the Architectural Committee as provided in ARTICLE VIII of this Declaration. The separate rental of any guest house on any Lot is prohibited, and neither the main dwelling nor guest house may be used for any time-share or bed and breakfast or similar commercial or quasi-commercial operation.

6. Section 7.05 is hereby deleted and is replaced by the following:

Section 7.05. Setback Lines and Height Limitation. No building, structure, fence, hedge, outbuilding, or appurtenance of any nature other than the driveway providing access to the residence on each Lot shall be located closer to any Lot boundary than as restricted by the Development Envelope as shown on the Plat, except that the Architectural Committee may, in its discretion and for good cause shown, mitigate this requirement by allowing some intrusion into the Transition Zone where said intrusion does not significantly increase the visibility of the structure to the other Lot Owners or off-site. In no case shall this apply to above ground structures of any sort in the Conservation Easement area. The only allowable exception in the Conservation Easement area would be for a septic and drainfield underground where suitable alternatives do not exist and with full restoration of the site to its previous natural condition and then only with the written permission addressed to the Association by the record holder of said Conservation Easement. The building height restrictions for residences and all other structures (exclusive of chimneys or other protrusions approved by the Architectural Committee) is as follows: (a) shall generally not exceed one story; (b) shall in no event be required to be less than fourteen (14) feet above the natural grade over which the wall or roof element in question is sited; and (c) shall not exceed a height of twenty (20) feet above the natural grade. The Architectural Committee shall have some discretion in mitigating the foregoing height requirement depending upon slope and site requirements, vegetation and tree crown height, visibility of the structure off-site, amount and type of wall massing, and other sound design criteria appropriate to any given site within the following limitation, it cannot mitigate or allow a wall or roof to exceed the specified fourteen (14) feet where that feature of the building fronts onto and faces off the predominant rim feature of The Black Boulder Mesa without a correlative increase in the setback distance from the rim which it fronts.

7. Section 7.09 is hereby deleted and is replaced by the following:

Section 7.09. Driveway Surfaces. All driveways and parking areas shall be surfaced with the same color of material as the color of material use in the Common Roadway Easement.

8. Section 7.16 is hereby deleted and is replaced by the following:

**Section 7.16. Parking and Use of Garages/Visitor Parking.** Unless otherwise permitted by the Association, and except for customary parking and temporary parking, as permitted by this Section, no automobiles or other vehicles of any type (including, without limitation, motorcycles, trailers, campers, vans, recreational vehicles or boats) shall be parked, stored, or located within any portion of any Lot on the Property. "Customary parking" shall mean the parking of automobiles, motorcycles, small trucks, and vans (each of which must not exceed one (1) ton in size) within the garages or carports on the Lots. The garages shall be used only for parking customary automobiles, motorcycles, small trucks, and vans as permitted above (and necessary storage) and shall not be converted for living or recreational activities. Garages sized to accommodate a motor home would be an exception hereto granted by the Architectural Committee depending upon the site, the visibility of such enhanced structure and the ability to lower its roofline and integrate same with the rest of the structure. "Customary parking" shall also allow the storage of one boat for recreational use in an appropriate way during the boating season as approved by the Architectural Committee. No Owner or Occupant or other visitor or invitee shall use the Common Roadway Easement for parking of vehicles, including the parking of delivery trucks, service vehicles, and other commercial vehicles. Notwithstanding that the Association may adopt Association Rules relating to the admission and temporary parking of vehicles within the Property. Nothing herein shall be construed to prevent Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Property. In all instances, all vehicles must be driven or parked only on the established surface of the Common Roadway Easement or on the established driveway surface of an Owner's respective Lot.

9. Section 7.24 is hereby deleted and is replaced by the following:

**Section 7.24. Animals and Fowl.** The Association recognizes the rural nature of the Boulder area, however, it reserves the right to promulgate rules for the keeping of animals based upon a consensus of the homeowners. The Association shall promulgate its rules within the following guidelines: (a) the keeping of livestock or other animals for commercial purposes is prohibited; (b) the keeping of small domestic pets and birds is generally acceptable; (c) nothing herein shall allow for the keeping of any animal or fowl in the Conservation Easement areas; (d) any animals or fowl kept on any Lot shall be kept in a clean and orderly manner and shall not constitute a health hazard or nuisance to anyone; and (e) the size of the animal or fowl, the size and nature of the required enclosure to house or contain same and all other logistical considerations shall be valid criteria for the Association to consider. The Association has the right to assess Owners for violation of its rules.

10. Section 7.30 is hereby deleted and is replaced by the following:

**Section 7.30. Horses and Other Large Animals.** The Association shall have the power to promulgate rules regarding the keeping of horses. Generally, and due to space constraints within the Development Envelope, horses can be corralled on the Lot from time to time as a convenience to the Owner, but the Association preference is for horses to have a permanent off-site location

also available. Nothing herein allows for the keeping of horses in the Conservation Easement areas.

This amendment shall be effective upon recording in the office of the Garfield County Recorder. Except to the extent specifically modified herein, the Declaration, including the First Amendment and the Second Amendment thereto, shall remain in full force and effect.

DATED this 5 day of May, 2000.

THE BLACK BOULDER MESA  
PROPERTIES, LLC

By [Signature]  
Curtis K. Oberhansly, Its Member

By [Signature]  
Mark M. Austin, Its Member

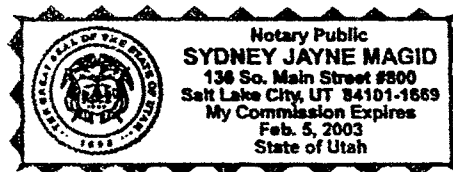
STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

On May 5, 2000, personally appeared before me Curtis K. Oberhansly, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]  
NOTARY PUBLIC

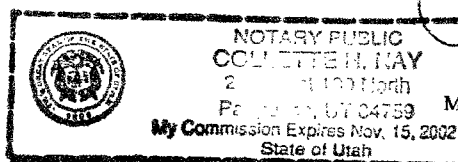
STATE OF UTAH                    )  
  ) ss.  
COUNTY OF GARFIELD         )



On May 10, 2000, personally appeared before me Mark M. Austin, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]  
NOTARY PUBLIC





FOURTH AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE BLACK BOULDER MESA

The undersigned, The Black Boulder Mesa Properties, LLC, a Utah limited liability company (the "Declarant"), formerly known as The Black Boulder Mesa, LLC, is the Declarant under that certain Declaration of Covenants, Conditions, and Restrictions for The Black Boulder Mesa (as amended from time to time, the "Declaration") which was recorded on October 23, 1997 as Entry No.217211 in Book 336 at Pages 544-586, in the records of the Garfield County Recorder.

WITNESSETH

A. Section 14.01 of the Declaration authorizes the Declarant to unilaterally amend the Declaration until the Transition Date (as defined in Section 4.03 of the Declaration, as amended) in any manner and for any reason Declarant shall determine to be reasonable and necessary in the exercise of Declarant's discretion.

B. The Transition Date has not yet occurred.

NOW THEREFORE, pursuant to the authority granted in Section 14.01 of the Declaration, the Declarant hereby amends the Declaration as follows:

1. Section 7.05 is hereby deleted and is replaced by the following:

Section 7.05. Setback Lines and Height Limitations. No building, structure, fence, hedge, outbuilding, or appurtenance of any nature other than the driveway providing access to the residence on each Lot shall be located closer to any Lot boundary than as restricted by the Development Envelope as shown on the Plat, except that the Architectural Committee may, in its discretion and for good cause shown, mitigate this requirement by allowing some intrusion into the Transition Zone where said intrusion does not significantly increase the visibility of the structure to the other Lot Owners or off-site. In no case shall this apply to above ground structures of any sort in the Conservation Easement or where the Transition Zone directly fronts the rim of the upper Mesa. The only allowable exception in the Conservation Easement area would be for a septic and drain field underground where suitable alternatives do not exist and with full restoration of the site to its previous natural condition and then only with the written permission addressed to the Association by the record holder of said Conservation Easement. The building height for residences and all other structures (exclusive of chimneys or other protrusions approved by the Architectural Committee) is as follows: (a) shall generally not exceed one story; (b) shall not exceed fourteen (14) feet above the natural grade. The Architectural Committee shall have some discretion in granting a variance upon request to the foregoing height requirement depending upon slope and site requirements, vegetation and tree crown height, visibility of the structure off-site, amount and type of wall massing, and other sound design and siting criteria appropriate to any given site within the following limitation--it cannot mitigate or allow a wall or roof to exceed the specified fourteen (14) feet where that element of the building fronts onto and faces off the upper predominant rim feature of the Black Boulder Mesa without a correlative increase in the setback distance from the rim which it fronts.

2. Section 7.06 is hereby deleted and is replaced by the following:

Section 7.06. Storage Tanks and Exterior Fixtures. No storage tanks of any kind shall be erected, placed or permitted on any Lot, except for propane tanks, which must be buried in a location and as specifically approved by the Architectural Committee. All clothes lines, garbage cans, air conditioning equipment, tools, wood piles, or storage piles of any kind shall be enclosed to conceal such fixtures and items from view of the neighboring Lots or the roadway easements. Plans for all enclosures of this nature must be approved by the Architectural Committee prior to construction.

This amendment shall be effective upon recording in the office of the Garfield County Recorder. Except to the extent specifically modified herein, the Declaration, including the First Amendment, the Second Amendment and the Third Amendment thereto, shall remain in full force and effect.

DATED: February \_\_\_\_, 2005.

THE BLACK BOULDER MESA PROPERTIES, LLC

By \_\_\_\_\_  
Curtis K. Oberhansly, Its Member

By \_\_\_\_\_  
Mark M. Austin, Its Member

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

On February \_\_\_\_, 2005, personally appeared before me Curtis K. Oberhansly, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal. \_\_\_\_\_  
NOTARY PUBLIC

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF GARFIELD        )

On February \_\_\_\_, 2005, personally appeared before me Mark M. Austin, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal. \_\_\_\_\_  
NOTARY PUBLIC