

**DECLARATION OF PRIVATE DRIVEWAY EASEMENT
(PRIVATE DRIVE D)**

MOUNTAIN MEADOW PRESERVE LLC, A COLORADO LIMITED LIABILITY COMPANY ("Grantor") hereby declares and establishes a perpetual and non-exclusive easement ("Easement") for the purposes and terms and conditions specified in this instrument. The Easement is located in the area designated "Private Drive D (the "Easement Area") on the plat of More's Corner in File No. 13152 of the Routt County, Colorado real estate records (the "Plat"). The purposes of the Easement are (i) the construction, maintenance, repair and use of a private driveway for pedestrian and vehicular access within the Easement Area; (ii) the removal and storage of snow which may fall or accumulate on such private driveway; (iii) the maintenance and landscaping of the uphill and downhill slopes, barrow pits and culverts adjacent to such private driveway; and (iv) the location, construction and maintenance, repair and replacement of private or public underground utilities, including water, sewer, telecommunications, electricity, gas and cable television. The Easement shall benefit Lots 20 and 21 as shown on the Plat (the "Benefitted Lots"). The Easement is intended to provide access via a private driveway from Turning Leaf Court as shown on the Plat to the Benefitted Lots. The Easement shall burden Lots 20 and 21 as shown on the Plat (the "Burdened Lots"). Except as set forth herein, on the Plat or in the Covenants, the Easement may be used and enjoyed only by the occupants of Benefitted Lots and their respective guests and invitees. The Easement shall be appurtenant to the Benefitted Lots, shall run with the land and shall be a perpetual benefit to the Benefitted Lots and perpetual burden on the Burdened Lots. The Easement is subject to all the terms and conditions of this instrument, including the following:

- a) The Easement may not be revoked, terminated, vacated, released, relocated, enlarged or amended at any time, except by a recorded written instrument(s) (which may be signed in counterparts) executed and acknowledged by (i) the More's Corner Homeowners Association or its successor (the "Association"), (ii) by all of the persons or entities who, at the time of recording of such written instrument(s) in the office of the Clerk and Recorder of Routt County, Colorado, are all the record owners of the Benefitted Lots and the Burdened Lots (hereinafter referred to singularly as "Owner" and collectively as "Owners"), and (iii) by all the persons or entities who at such time are mortgagees or beneficiaries of recorded mortgages or deeds of trust encumbering any of the Benefitted Lots or the Burdened Lots (hereinafter referred to singularly as "Mortgagee" and collectively as "Mortgagees"). The consent of any person or entity holding or claiming an interest in any Benefitted Lots or Burdened Lots other than the Association and the Owners and Mortgagees of such Lots or Parcel shall not be necessary to effect the revocation, termination, vacation, release, relocation, enlargement or amendment of the Easement, but any such action shall be binding upon all such persons or entities.

- b) The Easement shall be subject to easements and other documents shown on or referenced in the Plat and to the Declaration of Covenants, Conditions, Restrictions and Easements for ~~Mountain Meadow Preserve~~ (the "Covenants") recorded in Reception No. 570048 of the Routt County records, as any of the same may be amended from time to time

(6/3/02)

More's Corner

-1-



570052

Page: 1 of 6
09/23/2002 03:59

Key Weiland Routt County, CO EASEMENT R 31.00 0 0.00

which are not inconsistent with or conflict with the provisions of this Agreement; and shall also include the reservation to the Grantor, its successors and assigns, of a perpetual non-exclusive easement of ingress and egress, and for the installation, repair, replacement and maintenance of utility facilities, including without limitation, storm drainage facilities, ditches and irrigation facilities, sanitary sewer lines and facilities, water lines and facilities, electric lines and facilities, gas lines and facilities, telephone and other communication lines and facilities, cable television lines and facilities and the drainage of water from other lands.

- c) To the extent the private driveway and adjacent slopes, barrow pits, culverts and landscaping are not constructed by Grantor within the Easement Area, and subject to obtaining the prior approval of the Executive Board of the Association as provided in the Covenants and any other required governmental permits or approvals, the Owner of any Benefitted Lot may, at such Owner's sole expense, construct private driveway improvements and/or adjacent landscaping, slope maintenance or culvert improvements within the Easement Area, and there shall be no obligation for or reimbursement of the costs of such improvements from the Owners of the Burdened Lot to the Owner of the Benefitted Lot. All improvements shall be constructed and installed in accordance with applicable plans, specifications and approvals.
- d) The Easement Area shall not be obstructed except on a temporary basis as reasonably necessary for approved construction and maintenance. No parking of vehicles or equipment or storage of materials shall occur within the private driveway or any adjacent slopes, barrow pits, culverts and landscaping except on a temporary basis as reasonably necessary for approved construction and maintenance.
- e) The Easement shall be used only in a safe, courteous and lawful manner and only in accordance with all applicable laws, ordinances and orders. No person using the Easement shall engage in any unlawful or hazardous activity or create a nuisance. Without limiting the foregoing, the law of trespass shall apply with respect to activities outside the scope of the Easement, and the law of negligence shall apply to actions within the Easement. The Easement shall be limited exclusively to the purposes set forth herein, and except as otherwise set forth herein, no Owner shall have by virtue of this instrument any easement or other right to use any portion of another Owner's property.
- f) Except as otherwise provided in this paragraph f), the Easement, including the private driveway and any adjacent slopes, barrow pits, culverts and landscaping and utilities located or to be located within the Easement Area, shall be maintained by the Association. The private driveway and adjacent slopes, barrow pits, culverts, landscaping and utilities shall be paved and/or maintained in a safe, neat, attractive and functional condition which allows reasonable year-round access to the Benefitted Lots on which a dwelling has been constructed or is under construction. Snow shall be plowed each time it accumulates to a depth of four inches or more and the surface of the private driveway shall be maintained in a neat, safe and attractive condition, free of potholes, substantial cracks and areas of surface deterioration.

(6/3/02)



570052

Page: 2 of 8

09/23/2002 03:59

Key Westland Reutil County. CO EASEMENT R 31.00

D 0.00

