

## DEED OF ACCESS AND LANDSCAPE EASEMENTS

THIS DEED OF ACCESS AND LANDSCAPE EASEMENTS is made and entered into between MOUNTAIN MEADOW PRESERVE, LLC, A COLORADO LIMITED LIABILITY COMPANY (hereinafter "Meadow"), as grantor, and THE ROCKIES CONDOMINIUM ASSOCIATION, INC., A COLORADO NONPROFIT CORPORATION ("Rockies I"), and THE ROCKIES CONDOMINIUM ASSOCIATION II, INC., A COLORADO NONPROFIT CORPORATION ("Rockies II") (both of such Associations are sometimes hereinafter collectively called "Rockies"), as grantees.

### RECITALS:

Meadow is the owner of the property described as Blocks 2 and 3, Sky Harbor Subdivision, Steamboat Springs, Colorado (the "Property"). Rockies I is an association of condominium owners for the residential condominium project known as The Rockies Condominiums, according to the Condominium Declaration at Book 367, Page 449, as amended, and the Condominium Plat at File No. 7236, Routt County records ("Rockies I Plat and Declaration"). Rockies II is an association of condominium owners for the residential condominium project known as The Rockies Condominiums, Building D, according to the Condominium Declaration at Book 399, Page 616, and the Condominium Plat at File No. 7679, Routt County records ("Rockies II Plat and Declaration").

On March 21, 2000, the City of Steamboat Springs ("City") approved a major development permit for Mountain Meadows, Application No. 99-25, on certain conditions, as set forth in a letter dated March 22, 2000, from Kathleen Easley, City Planner, to Rex Weimer ("MDP"), for the development of 34 duplex lots on the Property. Meadow is the successor to Rex Weimer. Simultaneously with the recording of this Deed, Meadow is recording the final plat for the Property under the name "More's Corner" in File No. 13152 of the Routt County records ("More's Corner").

The MDP contained conditions. Pursuant to Condition No. 17 of the MDP, Meadow has agreed to grant to Rockies an easement for access on, over and across the area labeled "Rockies Access" on the Mountain Meadow Plat. Pursuant to Condition No. 18 of the MDP, Meadow has agreed to grant to Rockies a landscape easement for the landscaping required to be constructed by Meadow pursuant to such Condition No. 18. Further agreements are necessary with respect to Condition No. 19.

NOW, THEREFORE, in consideration of the foregoing recitals and the promises and agreements of the parties as herein contained, Meadow hereby sells, conveys, and grants unto Rockies I and Rockies II, as tenants in common, the easements described herein, and the parties hereby mutually agree as follows:





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Page: 2 of 7

09/23/2002 03:33

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### ROCKIES ACCESS

Meadow does hereby sell, convey, declare and grant unto Rockies I and Rockies II, as tenants in common, a perpetual and non-exclusive easement (the "Rockies Access Road Easement") on, over and across the real property shown and described as "Rockies Access Rd." on the More's Corner Plat, for pedestrian and vehicular access by members of Rockies I and Rockies II and their guests and invitees, and useable by buses operated by the City and lodge vans operated for the Rockies, to and from the Rockies property described in Rockies I Plat and Declaration and Rockies II Plat and Declaration (the "Rockies Property"), and for construction, repair, maintenance, and replacement of street improvements, and the use of such Rockies Access Road Easement is subject to the following terms and conditions:

1. The Rockies do not require that the cost and expense of constructing a private drive access within the easement be borne by Meadow. The Rockies do not assume any obligation or liability to pay any cost or expense of constructing a private drive access within the easement, subject to Paragraph 5 below.
2. All costs and expenses of maintaining, snowplowing, insuring, repairing and regulating the private drive improvements in the easement shall be the liability of and paid by Rockies, except to the extent any of such activities are performed by the City of Steamboat Springs.
3. Parking of motor vehicles within the easement by Rockies or others claiming rights under this easement is not a permitted use.
4. The easement shall connect from a dedicated public road to the Rockies Property.
5. In the event that the City of Steamboat Springs authorizes two-way vehicular traffic from Steamboat Boulevard over Rockies Way to the Rockies Property, and in the further event the City completes construction of the necessary road improvements to Rockies Way to accommodate two-way traffic pursuant to City road and street standards then for so long thereafter as such two-way traffic on Rockies Way remains authorized by the City, the Rockies Access Road Easement shall be suspended and held in abeyance, and shall not be usable in any manner by Rockies I and Rockies II. During such period of suspension and abeyance, the servient property owners may install landscaping, but no permanent structures, on the Rockies Access Road Easement. If such two-way traffic on Rockies Way is terminated by the City, then such suspension and abeyance shall terminate upon 30 days' written notice from Rockies I and Rockies II to the servient owners, and thereafter Rockies I and Rockies II to the servient owners, and thereafter Rockies I and Rockies II may re-establish at their cost the roadway on the Rockies Access Road Easement and use such Easement as above.
6. Except during any period of suspension and abeyance of the Rockies Access Road Easement pursuant to Paragraph 5 above, Rockies hereby indemnifies Meadow and its successors in the title to the property burdened by the Rockies Access Road Easement and agrees to hold them harmless from and against any liability or obligation for the cost



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Page: 3 of 7

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of maintenance and repair of roadway improvements within such Easement, but excluding from such indemnity the repair of any damages to such improvements caused by Meadow or any such successor or any of their officers, directors, employees, contractors, agents, guests or invitees.

**LANDSCAPE EASEMENT**

Meadow does hereby sell, convey, declare and grant unto Rockies I and Rockies II, as tenants in common, a perpetual and nonexclusive easement for the installation, replacement, repair, and maintenance of landscaping, landscape irrigation system, and landscaped berms within the property identified as "Rockies Landscape Area" on the More's Corner Plat. Meadow agrees to construct the berm within the Rockies Landscape Area at its cost by June 1, 2002 and in accordance with the requirements and specifications of the Landscape Plan prepared by Highland Designs & Consulting dated March 8, 2000 (the "Highland Plan"). The berm should be flowing with height variance, and should not be a straight line, even-height berm. Hence, the location and design and height of such berm in the field is to be mutually agreed between Meadow and Kathy Connell of CRS, agent for the Rockies.

Rockies agrees to install the landscaping within the Rockies Landscape Easement, after the berm is constructed, in accordance with the Highland Plan, as the same may be revised with the approval of the City and Meadow. If Rockies desire to revise the Highland Plan, Rockies shall submit revisions to Meadow for approval no later than June 1, 2002, whose approval shall not be unreasonably withheld by Meadow. When the parties have agreed on the proposed revisions to the Highland Plan, Meadow, with the cooperation of Rockies, shall submit the revisions to the City for approval. If, notwithstanding the best faith efforts of Rockies, the City refuses to approve any part of such proposed revisions, then the original Highland Plan, with such revisions as are approved by Meadow and the City, shall be in effect, and the revisions not approved by City shall be void. Subject to completion of the berm by Meadow, Rockies agrees to plant and install at its cost trees required under the Highland Plan, as revised with City and Meadow approval, by no later than August 1, 2002, and to complete the remainder of the landscaping required under the Highland Plan or as revised with City and Meadow approval, by no later than October 1, 2002. Rockies shall be responsible, at its cost, for the maintenance, irrigation and replacement of the landscaping and the berm within the Rockies Landscape Area from and after the date of installation of the landscaping, and such maintenance may include additions or changes to landscaping and installation of irrigation systems.

**DRAINAGE EASEMENTS**

Meadow does hereby sell, convey, declare and grant unto Rockies I and Rockies II, as tenants in common, a perpetual and non-exclusive drainage easement within the Property for the carriage of water from drainage of the Rockies Property as now improved through the Property, in the quantities historically drained from the Rockies Property as now improved, such easement being as shown, described and limited to the area labeled as "Rockies Drainage Easements" on the More's Corner Plat. The drainage plan for the Property as prepared and implemented by Meadow shall provide for such carriage of historical drainage from the Rockies Property through the Property, pursuant to Condition No. 19 of the MDP. Rockies I and Rockies II have not

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Page: 4 of 7  
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designed any drainage easement for the Property and do not warrant or represent that the Rockies Drainage Easements will contain such historic drainage. The Rockies are not liable or responsible to Meadow or its successors in ownership of the Property if such drainage is not contained within such Rockies Drainage Easement, so long as the Rockies and their members and agents have not taken any action on Rockies Property to significantly alter historic drainage patterns within the Rockies Property. Rockies I and Rockies II are not responsible for construction of any drainage relocation features within the Rockies Drainage Easement which may be constructed by meadow or its successors, provided that Rockies I and Rockies II shall pay to Meadows the sum of \$5,000.00 after construction of such drainage improvements by Meadows and thereafter shall maintain the drainage facilities within the Rockies Drainage Easement at their expense, except to the extent damage to such drainage facilities is caused by Meadow or any lot owner in More's Corner.

MISCELLANEOUS

- 1. Whenever notice is given pursuant hereto, said notice shall be in writing and shall be given by mailing the same to the party entitled thereto, said mailing to be satisfied by certified US Mail, return receipt requested, postage prepaid, such notice to be deemed effective two days after the date mailed until changed by notice given in the manner herein provided for, any such notice shall be given as follows:

If to Meadow: Mountain Meadow Preserve, LLP  
4185 County Road 154  
Glenwood Springs, CO 81601

If to Rockies: The Rockies Condominium Association, Inc.  
The Rockies Condominium Association II, Inc.  
P.O. Box 881120  
Steamboat Plaza, CO 80488

- 2. This Deed and the terms and provisions herein shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns to any part of the Property or Rockies Property. The easements granted run with the Rockies Property and all condominium and real property interests therein to the current and successive owners thereof.
- 3. All easements granted by this instrument are granted and conveyed free and clear of reservations, restrictions, covenants, and agreements of record, except for those in existence at the time of acquisition of the Property by Meadow, and are free and clear of monetary encumbrances. If the Property is subject to any mortgage or deed of trust, the mortgagee or beneficiary of trust deed will subordinate its lien to the grants and terms of this instrument.
- 4. If either party shall default in the performance of an affirmative obligation, contained in this instrument, then the party not in default shall be entitled to all remedies in equity and law, including, but not limited to, suit for specific performance or damages, or both, and

for injunctive relief, and in any such suit, reasonable attorneys' fees and costs of suit shall be recovered by the prevailing party; provided, however, that rescission of this instrument shall not be decreed nor allowed.

- 5. This instrument may not be altered or amended, and no right under this instrument may be waived, except by a written instrument executed by the parties (or, in the case of a waiver, by a written instrument executed by the party granting the waiver) to this instrument or except as otherwise provided in this instrument. No waiver of any breach of any agreement or provision contained in this instrument shall be deemed a waiver of any preceding or succeeding breach of this instrument. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.
  
- 6. This instrument may be executed in counterparts, each of which (or any combination of which, when signed by all of the parties) shall be deemed an original, but all of which when taken together shall constitute one instrument.

IN WITNESS WHEREOF, this instrument has been executed and acknowledged by the parties hereto on the respective dates set forth below.

MOUNTAIN MEADOW PRESERVE, LLC, A  
COLORADO LIMITED LIABILITY COMPANY

By: [Signature]  
Name: Brian E. Shupert  
Title: Manager

Date: April 13, 2002

STATE OF COLORADO )  
                                          ss.  
County of ~~Row~~ )  
                                      *Garfield*

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of April, 2002, by Brian Shupert as Manager for MOUNTAIN MEADOW PRESERVE, LLC, A COLORADO LIMITED LIABILITY COMPANY. WITNESS my hand and official seal.

[Signature]  
Notary Public  
My commission expires: 12/27/03



THE ROCKIES CONDOMINIUM ASSOCIATION, INC.,  
A COLORADO NONPROFIT CORPORATION

By: [Signature]  
Name: Sharon E.F. Petersen  
Title: President, Rockies Condominium Assn.

Date: 13 April, 2002

STATE OF COLORADO )  
 )  
 ss.  
County of Routt )

The foregoing instrument was acknowledged before me this 15th day of April, 2002, by MARVIN F. HENSON as PRESIDENT of for THE ROCKIES CONDOMINIUM ASSOCIATION, INC., A COLORADO NONPROFIT CORPORATION. WITNESS my hand and official seal.



[Signature]

Notary Public  
My commission expires: 10/4/03

**THE ROCKIES CONDOMINIUM ASSOCIATION II, INC., A COLORADO NONPROFIT CORPORATION**

Date: \_\_\_\_\_, 2002

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO )  
 )  
 ss.  
County of Routt )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_ as \_\_\_\_\_ of for THE ROCKIES CONDOMINIUM ASSOCIATION II, INC., A COLORADO NONPROFIT CORPORATION. WITNESS my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

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Page: 6 of 7  
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STATE OF COLORADO )  
 )  
 ss.  
County of Routt )

The foregoing instrument was acknowledged before me this 19th day of April, 2002, by HAROLD E. HESTERSON as PRESIDENT of for THE ROCKIES CONDOMINIUM ASSOCIATION, INC., A COLORADO NONPROFIT CORPORATION. WITNESS my hand and official seal.

(SEAL)

[Signature]  
Notary Public  
My commission expires: 10/4/03

**THE ROCKIES CONDOMINIUM ASSOCIATION II, INC., A COLORADO NONPROFIT CORPORATION**

Date: April 29, 2002

By: [Signature]  
Name: Philip A. Clump  
Title: PRESIDENT

STATE OF COLORADO )  
 )  
 ss.  
County of Routt )

The foregoing instrument was acknowledged before me this 29th day of April, 2002, by Philip Clump as President of for THE ROCKIES CONDOMINIUM ASSOCIATION II, INC., A COLORADO NONPROFIT CORPORATION. WITNESS my hand and official seal.

(SEAL)

[Signature]  
Notary Public  
My commission expires: \_\_\_\_\_

SHIRLEY SICILIANO  
NOTARY PUBLIC, STATE OF CO  
MY COMMISSION EXPIRES MARCH 27, 2003



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Page: 7 of 7  
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