

RESOLUTION NO. 2010-021

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
CONCERNING THE APPROVAL OF THE FOURTH AMENDMENT TO THE
CORNERSTONE MONTROSE, LLC AMENDED DEVELOPMENT AGREEMENT**

WHEREAS, Cornerstone Montrose, LLC, is the owner and developer of the Cornerstone Subdivision located in Ouray County, Colorado and Montrose County, Colorado; and

WHEREAS, Cornerstone Montrose LLC ("**Cornerstone**") and Ouray County, through its Board of County Commissioners ("**Board**"), previously executed and recorded a certain Amended Development Agreement ("**Development Agreement**") dated April 25, 2005 concerning the use and development of the portion of the Cornerstone subdivision located in Ouray County, Colorado. The Board approved the Development Agreement as reflected in Resolution No. 2005-020. Resolution No. 2005-020 and the Development Agreement were recorded on June 28, 2005 in Reception No. 188458 with the Clerk and Recorder for Ouray County, Colorado ("**Official Records**"); and

WHEREAS, Cornerstone presented to the Board a request to further amend the Amended Development Agreement to add certain definitions for "Club Member" and "Club Memberships" to recognize the possible sale of Club Memberships to persons or entities who may not own a Homestead or Lot in Cornerstone, all as more fully described in the Fourth Amendment to the Amended Development Agreement attached hereto and incorporated herein by this reference as Exhibit "A"; and

WHEREAS, the Board conducted a public hearing on June 14, 2010 to consider the Fourth Amendment to the Amended Development Agreement and notice of such public hearing was published in the *Ouray County Plaindealer* on May 28, 2010 and in *The Ridgway Sun* on June 2, 2010; and

WHEREAS, at the public hearing, the Board heard statements from representatives of Cornerstone, Ouray County staff and members of the public; and

WHEREAS, the Board determined that the Fourth Amendment was consistent with the terms and conditions set forth in the Development Agreement; and

WHEREAS, the Board determined that the Fourth Amendment was consistent with the spirit and intent of the Development Agreement; and

WHEREAS, the Board further determined that the request to sell Club Memberships to persons or entities that may not own property in the Cornerstone development does not fall within the definition of "commercial use" as set forth in the Ouray County Land Use Code or the Development Agreement and is further restricted by the limitations on the sale of such Club Memberships, including a limit of seventy-five (75) Club Memberships outstanding at any time; a "sunset" on the ability to sell such Club Memberships of December 31, 2015; annual reports to be provided to Ouray County by Cornerstone, and that marketing of such Club Memberships shall only be ancillary and incidental to the marketing of Homesteads and Lots in Cornerstone; and

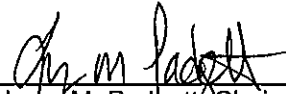
WHEREAS, the Board's determination on the sale of Club Memberships as set forth herein is limited in its application to the terms and conditions set forth herein and in the Fourth Amendment and shall not be construed to imply that the unfettered sale of Club Memberships would be consistent with the terms of the Development Agreement or its spirit and intent.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Board approves the Fourth Amendment to the Amended Development Agreement with Cornerstone Montrose, LLC, Exhibit "A", and authorizes the Chair to sign such Amendment.

APPROVED AND ADOPTED THIS 28th DAY OF JUNE, 2010, RATIFYING ACTION TAKEN ON JUNE 14, 2010.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO



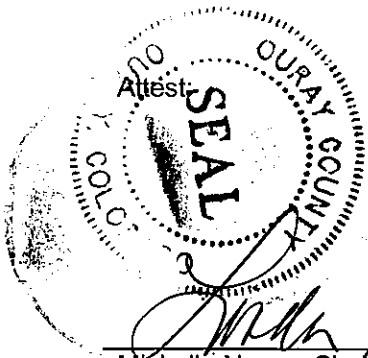
Lynn M. Padgett, Chair

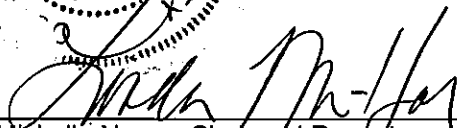


K. Keith Meinert, Vice Chair



Heidi M. Albritton, Commissioner Member





Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

Exhibit "A"

**Fourth Amendment
to the
Cornerstone Montrose LLC Amended Development Agreement**

FOURTH AMENDMENT TO THE AMENDED DEVELOPMENT AGREEMENT

THIS FOURTH AMENDMENT TO THE AMENDED DEVELOPMENT AGREEMENT (“Amendment”), made effective as of June 17, 2010 (“Effective Date”), is made by and between The County of Ouray, State of Colorado acting by and through its Board of County Commissioners (“County”) and Cornerstone Montrose LLC, a Delaware limited liability company (“Owner”). County and Owner are sometimes referred to herein as the “Parties”. The Parties agree as follows:

1. The Parties entered into that certain Amended Development Agreement (“Development Agreement”) dated April 25, 2005 concerning the use and development of the portion of the Cornerstone subdivision located in Ouray County, Colorado. The BOCC approved the Development Agreement as reflected in Resolution No. 2005-020. Resolution No. 2005-020 and the Development Agreement were recorded on June 28, 2005 in Reception No. 188458 with the Clerk and Recorder for Ouray County, Colorado (“Official Records”). The Development Agreement was further amended by the First Amendment recorded on December 5, 2006 in Reception No. 193553, the Amendment recorded on July 24, 2007 in Reception No. 195556, the Second Amendment recorded on November 6, 2007 in Reception No. 196466, the Third Amendment recorded on February 23, 2009 in Reception No. 200103, all recorded in the Official Records.

2. The Parties wish to modify portions of the Development Agreement in the manner provided for in this Amendment.

3. Section 1.1 of the Development Agreement is amended and restated to read as follows

“1.1 “Commercial” and “Commercial Use” as used in this Development Agreement means any activity or use that involves the offering and sale of merchandise or services to the general public on a cash or credit card basis. The Parties reiterate their intention that the sale of goods or services within the Project is limited to Lot Owners, including Owner, Club Members, or Guests and not the general public. The Parties agree that as used in the Development Agreement, the term “Commercial Use” does not include:...”

4. Section 1.1.1 of the Development Agreement is amended and restated to read as follows

“1.1.1 The offering of goods and services by the Project Owners’ Association or the Project Club to either: (A) Lot Owners which would be paid for through the Lot Owners’ accounts; (B) Club Members which would be paid for through the Club Members’ accounts; (C) a Guest of a Lot Owner or Club Member, which would be paid for through Lot Owners’ or Club Members’ accounts and/or by a credit card payment transacted by the Guest, Lot Owner or Club Members; (D) the Owner; or (E) the Owner’s Authorized Designees or Guests, which would be paid for through Owners’ accounts and/or by a credit card payment transacted by Owner or Owner’s Authorized Designees or Guests. Any such payment made against the Lot Owner account, Club Member account or a Guest’s credit card payment is referred to herein as “Non-Commercial”.”

5. The Development Agreement is amended to add a new Section 1.1.4 which will read as follows:

1.1.4. The issuance, sale, transfer and conveyance of a Club Membership to an individual or entity consistent with the governing documents for the Project Club, subject to the following limitations, except as may otherwise be approved by the County:

A. No more than 75 non-resident Club Memberships will be outstanding at any given time;

B. Non-resident Club Memberships may be issued through December 31, 2015 or such later date as may be approved by the County;

C. Marketing of non-resident Club Memberships shall only be ancillary and incidental to the marketing of Homesteads and Lots in Cornerstone; and

D. On an annual basis, beginning January 15, 2011, and on each January 15 thereafter, Owner shall submit a written report to the Ouray County Land Use Administrator detailing the number of non-resident Club Memberships outstanding at the end of the prior year. If County reasonably determines that the sale and marketing of non-resident Club Memberships violate the terms of this Agreement or the provisions of Section 25.5 of the Ouray County Land Use Code relating to Commercial Use, the Owner's right to market and sell non-resident Club Memberships may be terminated or suspended. In such event County shall supply written notice to Owner of the County's intent to suspend or terminate Owner's ability to market and sell non-resident Club Memberships and Owner shall immediately terminate or suspend all such activity. Owner shall be entitled to request an opportunity to appeal such determination by the County by filing a written request with the Ouray County Land Use Administrator within fourteen days of any such written notice from County. County shall then schedule time to address Owner's appeal on the County's next available agenda. Any resulting termination or suspension shall not invalidate or otherwise affect the rights and interests of any Club Member who acquired a non-resident Club Membership prior to the date of such termination or suspension.

6. The Development Agreement is amended to add a new Section 1.15 which will read as follows:

1.15. **"Club Member"** means a person or entity that owns a Club Membership in the Project Club. A Club Member may, but need not, own a Homestead or Lot in Cornerstone.

7. The Development Agreement is amended to add a new Section 1.16 which will read as follows:

1.16. **"Club Memberships"** means a membership in the Project Club that has been duly purchased from, issued and conveyed to a Club Member consistent with the governing documents for the Project Club.

8. Section 30 of the Development Agreement is amended and restated to read as follows:

30. **RECREATIONAL AMENITIES.** Recreational amenities may or may not be constructed as authorized by this Agreement by the Landowner at the Landowner's discretion. Nothing included herein shall diminish the requirements of this Agreement, including specifically the requirements of paragraph 17.2 that all Preliminary and Final plans and plats be in conformance with the provisions of this Development Agreement and Sketch Plan. Any recreational amenities which may be located within the Ouray County portion of the Project, including golf, equestrian, and fishing facilities, shall be non-commercial, private and available for use only by Lot Owners, Club Members, Guests and/or Owner's Authorized Designees, except for special events as may be permitted or otherwise approved by Ouray County.

9. In the event that any terms, conditions and provisions contained in this Amendment are inconsistent with or otherwise in conflict with any terms, conditions and provisions contained in the Development Agreement and/or any amendments thereto, the terms, conditions and provisions contained in this Amendment shall control.

10. No other amendments, modifications or alterations to the Development Agreement, other than the amendments specifically stated herein, are contemplated or made by the execution of this Amendment. All other terms, conditions, provisions, rights, duties and benefits stated in the Development Agreement shall continue in full force and effect.

11. This Amendment may be executed in multiple counterparts or by legible facsimile copy, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same instrument. The facsimile transmission of a signed copy of this Amendment shall be considered valid and constitute a signed original.

AGREED TO AND MADE EFFECTIVE BY THE PARTIES AS OF THE EFFECTIVE DATE.

OWNER:

Cornerstone Montrose LLC,
a Delaware limited liability company

By: HRC-Montrose Development, L.P.,
Its managing member

By: HRC-Montrose GP, LLC,
Its general partner

By: Brian Wallin

Date: 6.17.10

Name: BRIAN WALLIN
Title: VICE PRESIDENT

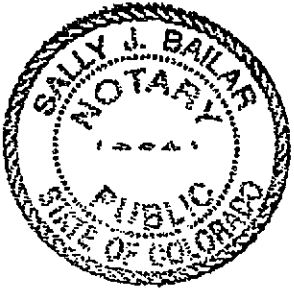
STATE OF (COLORADO)
) ss.
COUNTY OF OURAY

Acknowledged and subscribed to before me this 17th day of JUNE, 2010 by
BRIAN WALLIN, the VICE PRESIDENT of HRC-Montrose GP, LLC,
in its capacity as the general partner of HRC-Montrose Development, L.P., in its capacity as managing
member of Cornerstone Montrose LLC.

Witness my hand and official seal.
Sally J. Bailar
Notary Public

My Commission Expires 01/30/2014

My commission expires: _____.



COUNTY:

OURAY COUNTY, COLORADO, ACTING BY AND THROUGH
THE BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

By: Lynn M Padgett

Date: 6/17/2010

Printed Name: Lynn M Padgett
Title: Chair BOCC

STATE OF COLORADO)
) ss.
COUNTY OF OURAY)

Acknowledged, subscribed and sworn to before me this 17th day of JUNE, 2010 by LYNN PADGETT, who acknowledged herself/himself to be the CHAIR of the Board of County Commissioners.

Witness my hand and official seal.

Sally J. Bailar
Notary Public

My Commission Expires 01/30/2014

My commission expires: _____.

