

HAC

**FIRST AMENDMENT TO THE  
DEED RESTRICTION AGREEMENT FOR THE  
OCCUPANCY AND RESALE OF MILLER RANCH HOUSING**

THIS FIRST AMENDMENT (hereinafter "First Amendment") to the Deed Restriction Agreement for the Occupancy and Resale of Miller Ranch Housing is made this 12 day of December, 2004, by and between the **Berry Creek Limited Liability Company** (hereinafter "Berry Creek, LLC") and **Eagle County, Colorado**, a body corporate and politic (hereinafter "County").

**WITNESSETH:**

**WHEREAS**, Berry Creek, LLC and County entered into a Deed Restriction Agreement for the Occupancy and Resale of Miller Ranch Housing dated September 30, 2003 which is recorded at Reception No. 855028 in the records of the Eagle County Clerk and Recorder (hereinafter "Deed Restriction Agreement").

**WHEREAS**, Paragraph 36 of the Deed Restriction Agreement provides that any modifications to the Deed Restriction Agreement "shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of Eagle County, Colorado. Notwithstanding the foregoing, the County reserves the right to amend this Agreement unilaterally where deemed necessary to effectuate the purpose and intent of this Agreement, and where such unilateral action does not materially impair the Owner's rights nor any lender's rights under this Agreement."

**WHEREAS**, Berry Creek, LLC and County desire to amend the Deed Restriction Agreement for the sole purpose of restating and supplementing the legal description to reflect re-subdivisions and amended plats which are now of record with the Eagle County Clerk and Recorder.

**AGREEMENT:**

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein and in the Deed Restriction Agreement, the parties agree to restate and supplement the legal description to the Deed Restriction Agreement as follows:

1. The legal description attached to the Deed Restriction Agreement is hereby restated and supplemented as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.
2. Such restated and supplemental legal description does not alter any substantive rights of owners or lenders under the Deed Restriction Agreement.
3. The property identified on Exhibit "A" to this First Amendment to the







**EXHIBIT A**  
**To First Amendment to Deed Restriction Agreement for the Occupancy  
and Resale of Miller Ranch Housing**

**LEGAL DESCRIPTION**

**THE FOLLOWING REAL PROPERTY SHALL BE SUBJECT TO THE DEED RESTRICTION AGREEMENT FOR THE OCCUPANCY AND RESALE OF MILLER RANCH HOUSING RECORDED AT RECEPTION NUMBER 855028 IN THE REAL PROPERTY RECORDS OF THE CLERK AND RECORDER OF EAGLE COUNTY, COLORADO**

A parcel of land situated in Section 4, Township 5 South, Range 82 West, of the Sixth Principal Meridian, County of Eagle, State of Colorado, being more particularly described as follows:

All that portion of Miller Ranch, A Resubdivision of Tract D, Berry Creek/Miller Ranch PUD as recorded in the Office of the Clerk and Recorder at Reception No. 820378, excepting the following ten parcels; 1.) Parcel 1, 2.) Parcel 2, 3.) Parcel 3, 4.) Parcel 5, 5.) Parcel 6, 6.) Parcel 11, 7.) Parcel 12, 8.) Parcel 14, 9.) Tract A, 10.) All Road Right-of-Ways.

Including all that portion of Miller Ranch Filing 2, A Resubdivision of Tract A, and Parcel 14, Miller Ranch as recorded in the Office of the Clerk and Recorder at Reception No. 854785, excepting the following six parcels; 1.) Parcel 4, 2.) Parcel 7, 3.) Parcel 8, 4.) Parcel 13, 5.) Parcel 14, 6.) All Road Right-of-Ways.

Including all that portion of Miller Ranch Parcel 10, A Re-Plat of Parcel 10, Miller Ranch as recorded in the Office of the Clerk and Recorder at Reception No. 834260.

Including all that portion of Miller Ranch Parcel 10A and Parcel 10B, A Resubdivision of Miller Ranch Parcel 10 as recorded in the Office of the Clerk and Recorder at Reception No. 878613.

Including all that portion of Miller Ranch Mill Lofts-Phase 1, Parcel 10A, Miller Ranch as recorded in the Office of the Clerk and Recorder at Reception No. 878617.

Including all that portion of Miller Ranch Filing 2 as shown on the Amended Final Plat Miller Ranch Filing 2, A Resubdivision of Miller Ranch Filing 2 as recorded in the Office of the Clerk and Recorder at Reception No. 888021, excepting the following six parcels; 1.) Parcel 4, 2.) Parcel 7, 3.) Parcel 8, 4.) Parcel 13, 5.) Parcel 14, 6.) All Road Right-of-Ways.

Including all that portion of Miller Ranch Mill Lofts-Phase 2, Parcel 10B, Miller Ranch Parcel 10A and Parcel 10B as recorded in the Office of the Clerk and Recorder at Reception No. 889083.