

Fee Exempt per Utah Code
Annotated 1953 21-7-2

Recorded at the request of and return
to: Park City Municipal Corp.
Attn: City Recorder
P. O. Box 1480, Park City, UT 84060

Ordinance No. 07-10

AN ORDINANCE APPROVING THE UNITED PARK CITY MINES COMPANY AND ROYAL STREET LAND COMPANY ANNEXATION OF LANDS AT PCMR AND APPROVING AN AMENDMENT TO THE PARK CITY ZONING MAP TO PLACE THE LANDS AT PCMR INTO THE RECREATION OPEN SPACE (ROS) ZONING DISTRICT AND APPROVING AMENDMENTS TO THE FLAGSTAFF MOUNTAIN DEVELOPMENT AGREEMENT, PARK CITY, UTAH.

WHEREAS, the owners of 2,800 acres of property located in unincorporated Summit County have petitioned the City Council for approval of the Annexation of Lands at PCMR into the City limits, an amendment to the current City Zoning Map and an amendment to the Flagstaff Mountain Development Agreement; and

WHEREAS, the proposed annexation is approximately 2,800 acres in size; and

WHEREAS, the zoning for the 2,800 acres will be Recreation Open Space (ROS) and zoning for the 139 acres currently within the City will also be Recreation Open Space (ROS); and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on December 13, 2006, to receive input on the Annexation of Lands PCMR, the amendment to the Park City Zoning Map, and the amended Flagstaff Development Agreement; and

WHEREAS, the Planning Commission, on December 13, 2006, forwarded a positive recommendation to the City Council; and,

WHEREAS, on December 21, 2006, January 11 and February 1, 2007, the City Council held public hearings to receive input on the Annexation of Lands PCMR, the amendment to the Park City Zoning Map, and the amended Flagstaff Development Agreement; and

WHEREAS, on February 1, 2007, the City Council approved the Annexation of Lands at PCMR, an amendment to the Park City Zoning Map and amendments to the Flagstaff Mountain Development Agreement; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Annexation of Lands at PCMR, amendments to the Park City Zoning Map, and amendments to the Flagstaff Mountain Development Agreement.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as

RECORDER'S NOTE

LEGIBILITY OF WRITING, TYPING OR
PRINTING UNSATISFACTORY IN THIS
DOCUMENT WHEN RECEIVED.

ENTRY NO. 00806099

03/02/2007 02:42:50 PM B: 1850 P: 1794

Ordinance PAGE 1 / 103

ALAN SPRIGGS, SUMMIT COUNTY RECORDER

FEE \$ 0.00 BY PARK CITY MUNICIPAL CORP



follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Annexation of Lands at PCMR and amendment to the Park City Zoning Map as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located within unincorporated Summit County and contains approximately 2,800 acres to be annexed into Park City.
2. Royal Street Land Company owns a 236 acre parcel within the annexation area known as the Shadow Lake parcel. The rest of the annexation area is owned by United Park City Mines Company.
3. The current county zoning is Mountain Remote.
4. As part of the annexation petition the petitioner has requested Recreation Open Space (ROS) zoning for the entire 2,800 acre parcel and an additional 139 acre parcel currently within the City Limits and zoned Estate (E).
5. The proposed land uses are consistent with the purpose statements of the proposed zoning district. The applicants have volunteered to restrict all residential and commercial lodging by transferring all potential density to an existing development area within the Flagstaff Mountain annexation area. These restrictions are reflected in the annexation agreement.
6. Preliminary site analysis demonstrates existence of sensitive lands on the property. Therefore, the proposed SLO zoning is appropriate.
7. The proposed annexation meets the purposes stated in the Annexation Policy Plan, in that this annexation contributes to the achievement of the goals and policies of the Park City General Plan and further protects the general interests and character of Park City by including several historic mining era structures within the Park City boundary, and provides 2,800 acres of open space and ski resort related uses.
8. The annexation will bring the property into the Park City Municipal Corporation boundary and enable services to be provided to the Property, such as police and water, which are more easily accessible from the City than the County.
9. Annexation of this parcel will not create an island, peninsula, or irregular city boundary. The annexation is a logical extension of the City Boundary.
10. This property is located within the Park City Annexation Expansion Area, adopted by the City Council in 2003.
11. Provision of municipal services for this property is more efficiently provided by Park City than by Summit County.
12. Areas of wetlands, visible ridges, and steep slopes have been identified on the property. It is reasonable to include this property within the Sensitive Lands Overlay Zone.
13. It is reasonable and logical to provide municipal level services to this property adjacent to the western boundary of Park City. The annexation provides an open space buffer between Park City and the proposed boundary to the west.
14. The application is subject to the City's Affordable Housing Resolution 17-99 in

that residential density is being transferred to another location in the City. Affordable Housing is being provided under the current requirements of the Flagstaff Mountain Development Agreement, as amended.

15. The findings in the Analysis section of the staff report dated February 1, 2007, are incorporated herein.

Conclusions of Law:

1. The Zoning Map amendment is consistent with the Park City Land Management Code and General Plan.
2. Approval of the Annexation and Zoning Map amendment does not adversely affect the health, safety and welfare of the citizens of Park City.
3. This annexation meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code, the Park City General Plan, and Land Management Code--Chapter 8: Annexation.

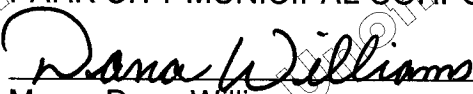
Conditions of Approval:

1. The Official Zoning Map shall be amended to include the UPCM Annexation of Lands at PCMR property within the Recreation Open Space (ROS) District and within the Sensitive Lands Overlay (SLO) Zone.
2. The Official Zoning Map shall be amended to change the 139 acre parcel within the Park City limits currently zoned Estate (E) to Recreation Open Space (ROS).
3. The annexation agreement shall be substantially the same as Exhibit B, in a form approved by the City Attorney, and fully executed and recorded with the Annexation Plat.
4. The Flagstaff Mountain Development Agreement shall be substantially the same as Exhibit C, in a form approved by the City Attorney, and fully executed and recorded with the Annexation Plat.
5. The Deed Restriction and Conservation Easement for the Annexed Lands shall be substantially the same as Exhibit D, in a form approved by the City Attorney, and fully executed and recorded with the Annexation Plat.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication and the Annexation shall be effective upon recordation and filing of this Ordinance and annexation plat pursuant to the Utah Code Annotated Section 10-2-425, and with the execution of the Amended Flagstaff Development Agreement and UPCM Lands at PCMR Annexation Agreement.

PASSED AND ADOPTED this 1st day of February, 2007.

PARK CITY MUNICIPAL CORPORATION

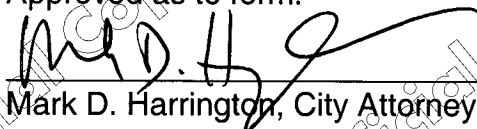


Mayor Dana Williams

Attest


Janet M. Scott, City Recorder

Approved as to form:


Mark D. Harrington, City Attorney

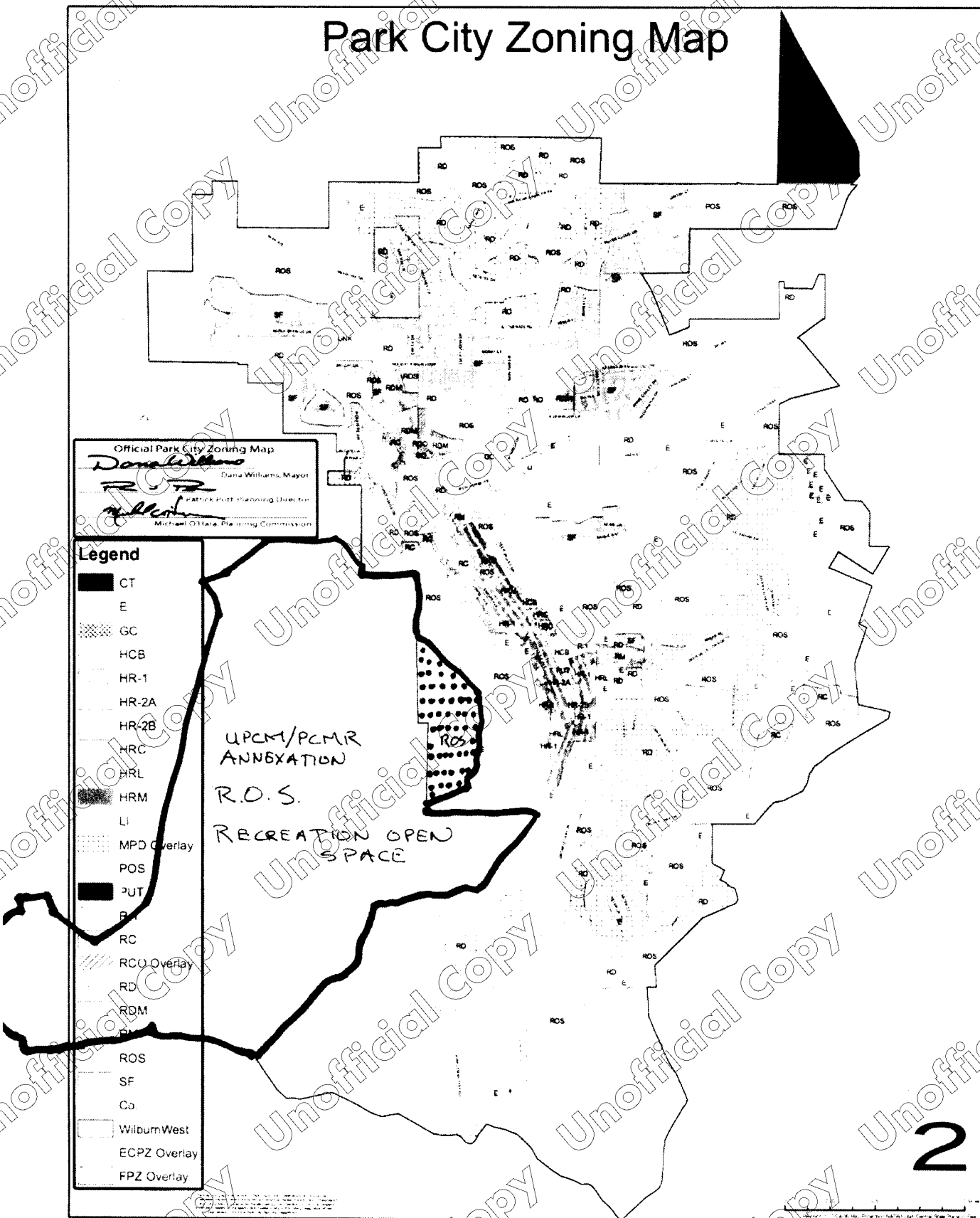


Park City Zoning Map

Official Park City Zoning Map
Dana Williams
 Dana Williams, Mayor
Michael O'Hara
 Michael O'Hara, Planning Director

- Legend**
- CT
 - E
 - GC
 - HCB
 - HR-1
 - HR-2A
 - HR-2B
 - HRC
 - HRL
 - HRM
 - LI
 - MPD Overlay
 - POS
 - PUT
 - R
 - RC
 - RCO Overlay
 - RD
 - RDM
 - ROS
 - SF
 - Co
 - WilburnWest
 - ECPZ Overlay
 - FPZ Overlay

UPCM/PCMR
ANNEXATION
R.O.S.
RECREATION OPEN
SPACE



2

When recorded, please return to:
PARK CITY MUNICIPAL CORPORATION
City Recorder
PO Box 1480
Park City UT 84060

**ANNEXATION AGREEMENT FOR THE
UNITED PARK CITY MINES COMPANY LANDS
AT PARK CITY MOUNTAIN RESORT**

This Annexation Agreement is made by and between Park City Municipal Corporation (Park City), Royal Street Land Company ("RSLC"), and the United Park City Mines Company, Owner (hereafter referred to as "Petitioner") to set forth the terms and conditions under which Park City will annex land owned by RSLC and Petitioner into the corporate limits of Park City and extend certain municipal services to that property. This Agreement is made under authority of 10-2-401 et. seq. of the Utah Code, Annotated 1953, as amended, and shall serve as a supplemental annexation policy declaration when executed by all parties. In consideration of Park City's agreement to annex RSLC and Petitioner's property and in consideration of the mutual promises contained herein, the parties agree that the terms and conditions of annexation shall be as follows:

1. Property. The property to be annexed is approximately 2,800 acres in size as depicted on the annexation plat, attached as Exhibit A, and as more fully described in the legal description, attached as Exhibit B, and the preliminary plat, attached as Exhibit C, and incorporated herein by reference (hereafter referred to as the "Property"). Park City Mountain Resort (hereafter referred to as PCMR) has rights in a ski lease over a substantial portion of the annexation property.

2. Zoning. Upon annexation, the entire Property will be zoned ROS, Recreation Open Space. The entire Property shall also be included within the Sensitive Lands Overlay District. A Deed Restriction prohibiting residential construction and uses, including hotel and lodging, applies over the PCMR ski lease lands and RSLC property, and a Conservation Easement applies to those areas within the annexation boundary but not subject to the PCMR ski lease and not owned by RSLC.

3. Master Plan and Subdivision Plat Approval. Due to the transfer of development capacity from this property to adjacent lands within the Flagstaff Mountain Resort Annexation, a Master Planned Development ("MPD") is not required. The next Development Activity application or amendment under the PCMR MPD must add the PCMR lease land annexed hereby to the PCMR MPD. Following completion of the annexation process, pursuant to Utah Code Annotated Section 10-2-425, development on the Property shall be governed by the zoning designation provided herein, this Agreement, and the Park City Land Management code in effect at the time complete subdivision and building permit applications are filed with Park City.

4. **Density.** The total density of the UPCM Lands and RSLC property upon PCMR Annexation is zero. No residential construction or uses, including hotel or lodging, are allowed. Limited ski area improvements may be permitted subject to the PCMR Master Planned Development and Park City Land Management Code.

5. **Trails.** Numerous trails exist on the annexation property. These trails will be available for public use subject to reasonable restrictions due to construction, maintenance, and environmental factors including wildlife and erosion. The existing and any newly required trails shall be added to the Park City Master Trails and as necessary dedicated to the City either on the Annexation plat or at the time of PCMR MPD amendment.

6. **Open Space.** The entirety of the Annexation will be dedicated open space.

7. **Affordable Housing.** The Petitioner shall comply with all applicable Affordable Housing requirements of Resolution 17-99, as part of the transfer of density to the Flagstaff Annexation area, as specified in the Amended and Restated Development Agreement For Flagstaff Mountain.

8. **Fire Prevention Measures.** Because of significant wild land interface issues on the Property, if required by Park City, the Petitioner agrees to implement a fire protection and emergency access plan, to be submitted prior to issuance of any building permits, and to be reviewed and approved by the Fire Marshall and Chief Building Official for compliance with applicable building and fire codes.

9. **Roads and Road Design.** No new public or private streets or roads are proposed as part of this annexation.

10. **Sanitary Sewer.** No new public or private sewer line is required or proposed with this annexation.

11. **Dedication of Water Rights.** A condition of the annexation approval is the satisfaction of the requirements of the Water Section of the Amended Development Agreement For Flagstaff Mountain.

12. **Water Infrastructure and Other Water System Costs.** A condition of the annexation approval is the satisfaction of the requirements of the Water Section of the Amended and Restated Development Agreement For Flagstaff Mountain.

13. **Sensitive Lands Review.** At the time of annexation the entire Property shall be included within the Sensitive Lands Overlay District (SLO). A sensitive lands analysis was submitted and reviewed by the Planning Commission during the annexation review for consideration of potential density available to be transferred.

14. **Planning, Building, and Inspection Fees.** Petitioner is responsible for all customary Development Activity fees, including all planning, building, subdivision, and construction inspection fees required by the City at the time of application and/or approvals.

15. Impact and Building Fees. Unless otherwise specified in the Amended Development Agreement For Flagstaff Mountain, Petitioner shall pay all generally applicable fees, such as development impact, park and recreation land acquisition, building permit, and plan check fees due for construction on the Property at the time of application for building permits.

16. Acceptance of Public Improvements. No public infrastructure is required or proposed with this annexation area, but the annexation is conditioned upon those improvements as specified in the Amended Development Agreement For Flagstaff Mountain.

17. Snow Removal and Storage. No snow removal or storage is required or proposed with this annexation.

18. Fiscal Impact Analysis. There is no proposed development within this annexation area that requires a fiscal impact analysis to be submitted with the petition. Fiscal analysis including costs and revenues relating to the density transferred to the Flagstaff Annexation area has been reviewed and accepted by the City.

19. Comprehensive Review and Analysis of Surrounding Property. The Petitioner submitted with the petition for annexation a comprehensive land use review and analysis of the surrounding properties.

20. Effective Date. Pursuant to Utah Code Section 10-3-712, the Annexation shall be effective upon recordation and filing of the Ordinance and annexation plat pursuant to the Utah Code Annotated Section 10-2-425.

21. Governing Law. The laws of the State of Utah shall govern this Agreement. Jurisdiction and venue are proper in Summit County.

22. Real Covenant, Equitable Servitude. This Agreement constitutes a real covenant and an equitable servitude on the Property. The terms of this Agreement touch and concern and both benefit and burden the Property. The benefits and burdens of this Agreement run with the land, and are intended to bind all successors in interest to any portion of the Property.

23. Assignment. This Agreement is also a personal obligation of the Petitioner. Petitioner may assign its obligations under this Agreement, only upon prior written consent of the City, upon demonstration that the City's rights are adequately secured by the assignment. Consent to assignment shall rest in the sole discretion of the City.

24. Compliance with City Code. Notwithstanding paragraph 20 herein, from the time of City Council approval of this agreement, Petitioner and its agents shall comply with all City Codes and Regulations pertaining to the subject Property.

25. Amending the Agreement. Only a written instrument signed by all parties hereto may amend this Agreement. No Third-party beneficiaries are intended or created by this agreement.

26. Additional Agreements. This Annexation is conditioned upon the Amended and Restated Development Agreement For Flagstaff Mountain, the Talisker Conservation Deed Restriction and the Conservation Easement executed and recorded concurrently herewith.

DATED this 2nd day of March, 2007.

PARK CITY MUNICIPAL CORPORATION, a municipality of the State of Utah

By: *Randy Williams*
Mayor

Attest: *Janet M. Scott*
Recorder



UNITED PARK CITY MINES COMPANY, a Delaware corporation authorized to do business in Utah

By: *[Signature]*
Authorized Signing Officer

Attest: *Janet M. Scott*


ROYAL STREET LAND COMPANY, a Utah corporation,


By: _____
Robert W. Wells, Vice President


26. Additional Agreements. This Annexation is conditioned upon the Amended and Restated Development Agreement For Flagstaff Mountain, the Talisker Conservation Deed Restriction and the Conservation Easement executed and recorded concurrently herewith.

DATED this 2nd day of March, 2007.

PARK CITY MUNICIPAL CORPORATION, a municipality of the State of Utah

By: 
Mayor

Attest: 
Recorder



UNITED PARK CITY MINES COMPANY, a Delaware corporation authorized to do business in Utah

By: 
Authorized Signing Officer

Attest: 

ROYAL STREET LAND COMPANY, a Utah corporation,


By: 
Robert W. Wells, Vice President

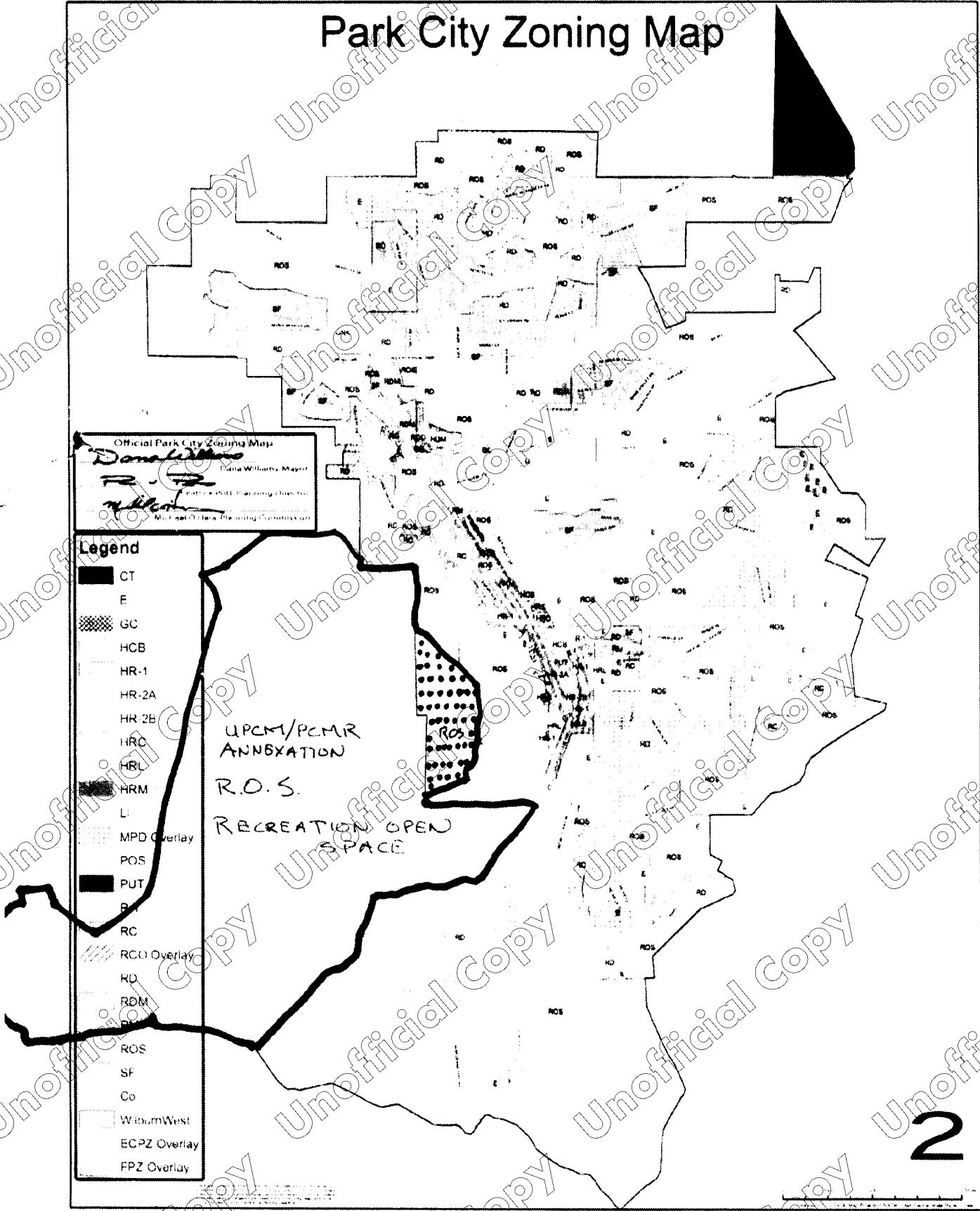
EXHIBIT "A"
Annexation and Zoning Plat

Park City Zoning Map

Official Park City Zoning Map
Dana Williams
 Dana Williams, Mayor
R. J. ...
 Park City Planning Commission
 Michael ...
 Michael ...

- Legend**
- CT
 - E
 - GC
 - HCB
 - HR-1
 - HR-2A
 - HR-2B
 - HRC
 - HRL
 - HRM
 - L
 - MPD Overlay
 - POS
 - PUT
 - R
 - RC
 - RCD Overlay
 - RD
 - RDM
 - RDM
 - ROS
 - SF
 - Co
 - WibumWest
 - EC-PZ Overlay
 - FPZ Overlay

UPCM/PCMR
 ANNEXATION
 R.O.S.
 RECREATION OPEN
 SPACE



2

EXHIBIT "B"
Legal Description

LEGAL DESCRIPTION
ANNEXATION LANDS AT PCMR
March 2, 2007

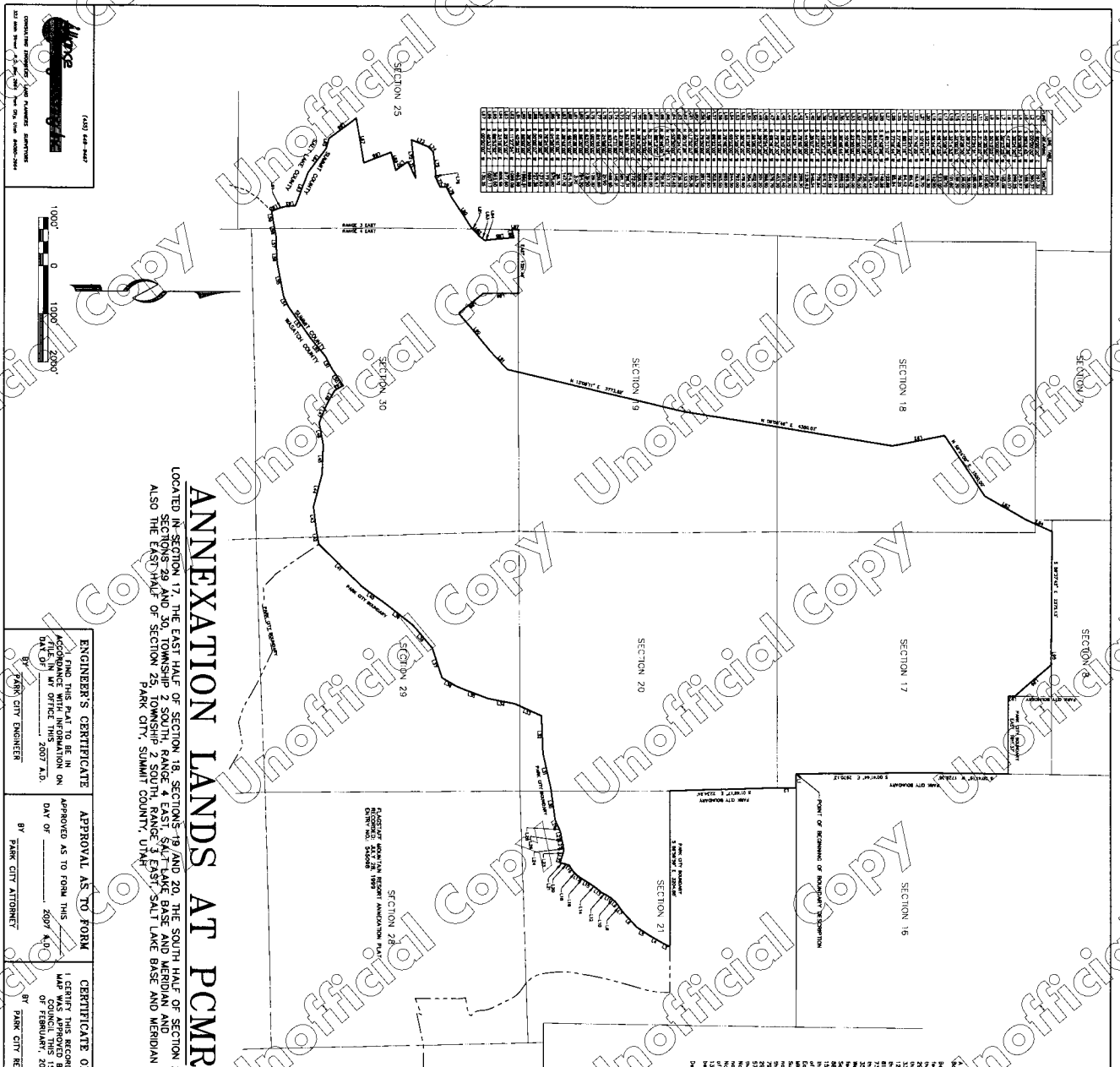
A parcel of land located in Section 17, the east half of Section 18, Sections 19 and 20, the south half of Section 21, Sections 29 and 30, Township 2 South, Range 4 East, Salt Lake Base and Meridian and the east half of Section 25, Township 2 South, Range 3 East, Salt Lake Base and Meridian, said parcel being more or less described as follows:

Beginning at the southwest corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence along the southerly line of Section 16 East 287.32 feet; thence along the westerly line of Section 21 South 390.37 feet; thence along the westerly line of Section 21 South 01°49'17" East 2234.94 feet; thence along the southerly line of the north half of Section 21 South 89°59'59" East 3204.88 feet; thence South 28°18'45" West 186.56 feet; thence South 29°09'57" West 315.97 feet; thence South 32°04'00" West 296.25 feet; thence South 47°29'30" West 405.07 feet; thence South 50°23'25" West 105.09 feet; thence South 56°00'00" West 94.90 feet; thence South 50°15'25" West 92.50 feet; thence South 40°35'50" West 110.80 feet; thence South 31°30'07" West 96.20 feet; thence South 27°54'51" West 126.00 feet; thence South 38°27'54" West 138.00 feet; thence South 33°26'55" West 136.00 feet; thence South 32°00'03" West 159.20 feet; thence South 32°14'53" West 101.60 feet; thence South 35°09'16" West 88.70 feet; thence South 46°47'25" West 123.00 feet; thence South 56°44'38" West 142.80 feet; thence South 15°21'41" West 116.30 feet; thence South 10°41'54" West 76.70 feet; thence North 71°42'35" West 163.49 feet; thence North 72°54'27" West 85.42 feet; thence South 86°11'16" West 94.42 feet; thence South 77°48'30" West 79.25 feet; thence South 77°19'44" West 85.84 feet; thence South 81°11'10" West 122.88 feet; thence South 67°45'58" West 149.28 feet; thence South 64°44'13" West 136.79 feet; thence South 82°14'00" West 672.44 feet; thence South 77°17'18" West 735.40 feet; thence South 87°35'00" West 778.00 feet; thence South 23°55'00" West 604.00 feet; thence South 10°48'36" West 569.75 feet; thence South 20°48'44" West 698.02 feet; thence South 30°09'00" West 354.14 feet; thence South 71°34'40" West 644.26 feet; thence South 49°33'13" West 616.72 feet; thence South 37°33'27" West 779.84 feet; thence South 35°07'44" West 548.54 feet; thence South 44°09'00" West 1236.63 feet; thence South 79°45'30" West 288.30 feet; thence South 83°01'30" West 494.40 feet; thence North 75°15'30" West 705.70 feet; thence North 88°10'30" West 612.40 feet; thence South 79°33'30" West 453.20 feet; thence North 68°16'30" West 378.70 feet; thence North 60°54'30" West 368.90 feet; thence North 29°57'30" West 201.20 feet; thence South 56°08'00" West 402.00 feet; thence South 61°28'00" West 304.10 feet; thence South 50°42'00" West 479.60 feet; thence South 54°28'00" West 792.00 feet; thence South 65°22'00" West 244.50 feet; thence South 78°48'00" West 685.80 feet; thence South 86°10'00" West 265.50 feet; thence South 88°22'00" West 302.90 feet; thence South 79°23'00" West 267.90 feet; thence South 79°50'00" West 261.50 feet; thence North 23°02'08" West 123.79 feet; thence North 17°52'03" West 155.35 feet; thence North 05°10'26" West 233.33 feet; thence North 69°34'42" West 736.28 feet; thence North 52°50'00" West 624.65 feet;

thence North 74°11'18" West 213.72 feet; thence North 36°49'35" West 701.84 feet; thence along the southerly line of the Matilda Lode, Mineral Survey No. 4959 North 80°12'00" East 936.47 feet; thence along the easterly line of the Matilda Lode, Mineral Survey No. 4959 North 21°36'00" West 612.00 feet; thence along the northerly line of the Fairbanks Fraction Lode, Mineral Survey No. 5364 North 75°31'00" East 388.60 feet; thence along the westerly line of the Indiana Lode, Mineral Survey No. 4760 North 35°42'00" West 308.10 feet; thence along the northerly line of the Indiana Lode, Mineral Survey No. 4760 North 63°32'00" East 372.80 feet; thence along the southerly line of the Malchite Lode, Lot 281 South 83°15'00" West 788.31 feet; thence along the Summit-Salt Lake County line North 21°28'07" East 381.77 feet; thence along the southerly line of the Augusta Lode, Lot 122 North 47°11'00" East 145.31 feet; thence along the northerly line of the R.K.D. Lode, Lot 287 North 83°15'00" East 489.90 feet; thence along the easterly line of the R.K.D. Lode, Lot 287 South 24°08'00" East 21.90 feet; thence along the northerly line of the Roscamp Lode, Lot 286 North 64°44'00" East 250.80 feet; thence North 129.30 feet; thence North 63°07'00" East 231.20 feet; thence North 56°30'00" East 794.20 feet; thence along the west line of Section 30 North 00°36'00" East 3.70 feet; thence North 45°41'00" East 214.75 feet; thence along the northerly line of the Hope Lode, Lot 299 North 36°45'00" East 147.10 feet; thence along the easterly line of the Pique No. 3 Lode, Mineral Survey No. 4742 North 44°41'00" West 26.10 feet; thence North 04°55'00" West 575.00 feet; thence along the southerly line of the Norma Lode, Mineral Survey No. 4177 South 76°24'00" West 177.28 feet; thence North 01°35'00" East 137.93 feet; thence East along the southerly line of Section 19 1321.46 feet; thence South 00°00'07" West 727.38 feet; thence South 39°30'00" East 659.89 feet; thence North 50°00'00" East 1050.51 feet; thence North 45°56'25" East 493.99 feet; thence North 13°09'11" East 3773.82 feet; thence North 09°05'46" East 4380.03 feet; thence North 11°27'54" West 1099.08 feet; thence along the northerly line of the Seldom Seen No. 4, Mineral Survey No. 5591 North 56°24'00" East 1500.00 feet; thence along the northerly line of the Seldom Seen No. 3, Mineral Survey 5591 North 29°33'00" East 977.60 feet; thence along the northerly line of the Seldom Seen No. 2, Mineral Survey No. 5591 North 24°18'00" East 609.56 feet; thence along the southerly line of Section 8 South 89°37'42" East 2375.13 feet; thence along the southerly line of Section 8 North 89°53'52" East 363.00 feet; thence South 40°33'27" East 1007.17 feet; thence South 130.35 feet; thence East 1611.37 feet; thence South 00°41'16" West 1728.36 feet; thence along the westerly line of Section 16 South 00°41'44" East 2670.13 feet to the point of beginning.

X:\Empire\Docs\Talisker\Desc\231-pcmr annexation.doc

EXHIBIT "C"
Preliminary Plat



ANNEXATION LANDS AT PCMR

LOCATED IN SECTION 17, THE EAST HALF OF SECTION 18, SECTIONS 19 AND 20, THE SOUTH HALF OF SECTION 21, SECTIONS 29 AND 30, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN AND ALSO THE EAST HALF OF SECTION 25, SOUTH, RANGE 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH

ENGINEER'S CERTIFICATE
I FIND THIS PLAN TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 2007 A.D.
BY PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS DAY OF 2007 A.D.
BY PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 2007 A.D.
BY PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVED AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 2007 A.D.
BY MAYOR

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF
DATE TIME BOOK PAGE
FEE RECORDING

SHEET 1 OF 2

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned corporate officer of United Park City, a duly organized and existing corporation under the laws of the State of Utah, and the undersigned Mayor of Park City, Utah, do hereby certify that the undersigned have read the foregoing Owners Dedication and Certificate of Consent to Record and signed and acknowledged the same for the purposes therein mentioned and that said Company executed the same.

ACKNOWLEDGMENT

State of Utah
County of Summit
I, _____ Mayor of Park City, Utah, do hereby certify that the undersigned have read the foregoing Owners Dedication and Certificate of Consent to Record and signed and acknowledged the same for the purposes therein mentioned and that said Company executed the same.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned corporate officer of United Park City, a duly organized and existing corporation under the laws of the State of Utah, do hereby certify that the undersigned have read the foregoing Owners Dedication and Certificate of Consent to Record and signed and acknowledged the same for the purposes therein mentioned and that said Company executed the same.



**EXHIBIT C - AMENDED AND RESTATED FLAGSTAFF DEVELOPMENT
AGREEMENT**

Unofficial copy

Recorded this ___ day of
_____, 2007
at Book # ___ Page # ____.

COPY

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT
FOR FLAGSTAFF MOUNTAIN,
BONANZA FLATS, RICHARDSON FLATS,
THE 20-Acre QUINN'S JUNCTION PARCEL
AND IRON MOUNTAIN**

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement") is entered into as of the 2nd day of March, 2007, by and between UNITED PARK CITY MINES COMPANY, ("UPCM" or "DEVELOPER"), DEER VALLEY RESORT COMPANY, ("DEER VALLEY"), and PARK CITY MUNICIPAL CORPORATION, a third class city of the State of Utah ("City") (collectively, the "Parties").

RECITALS

- A. WHEREAS, DEVELOPER and DEER VALLEY own approximately: 1,600 of 1,750 acres of patented mining claims located in the unincorporated Flagstaff Mountain area of Summit County, more particularly described and depicted in Exhibit A attached hereto (hereafter, "Flagstaff Mountain"); approximately 106 acres of patented mining claims located on Iron Mountain within an unincorporated area of Summit County more particularly described and depicted in Exhibit B attached hereto (hereafter, "the Iron Mountain Parcels"); approximately 1,500 acres of patented mining claims, constituting all of UPCM's land located in the unincorporated Bonanza Flats area of Wasatch County more particularly described and depicted in Exhibit C attached hereto (hereafter, "Bonanza Flats"); all of UPCM's land east of U.S. 40 and south of S.R. 248 constituting approximately 650 acres of real property owned in fee simple located immediately east of U.S. 40 and south of S.R. 248 within an unincorporated area

of Summit County more particularly described and depicted in Exhibit D attached hereto (hereafter, "Richardson Flats"); and approximately 20-Acres of real property owned in fee simple located west of U.S. 40 and south of S.R. 248 within an unincorporated area of Summit County more particularly described and depicted in Exhibit E attached hereto (hereafter, "the 20-Acre Quinn's Junction Parcel");

- B. WHEREAS, on May 17, 1994 DEVELOPER filed an application for annexation to Park City of Flagstaff Mountain, consisting of DEVELOPER's, DEER VALLEY's and Northside Neighborhood Property Owners' land, together totaling an area of approximately 1,750 acres;
- C. WHEREAS, on May 10, 1997 the Park City Council unanimously resolved by Resolution 10-97 to annex Flagstaff Mountain under certain Development Parameters;
- D. WHEREAS, on July 8, 1998 DEVELOPER requested reconsideration by the City of Resolution 10-97 and offered certain incentives for limiting development of the Bonanza Flats, Richardson Flats and the Iron Mountain Parcels;
- E. WHEREAS, on September 10, 1998 the Park City Council unanimously adopted a resolution to rescind Resolution No. 10-97 and to adopt new development parameters for Flagstaff Mountain, Bonanza Flats, Richardson Flats and the Iron Mountain Parcels, as set forth in this Agreement;
- F. WHEREAS, in the intervening months since the City Council adopted the September 10, 1998 development parameters, the DEVELOPER further refined its proposal by offering to move 16 single family homes from the sensitive Prospect Ridge area to the Mountain Village and to constrain development in the Northside Neighborhood to reduce site disturbance and to facilitate sale to a conservation buyer for a time certain;
- G. WHEREAS, the Parties intended to enter into the original Agreement to establish new development parameters for Flagstaff Mountain, Bonanza Flats, Richardson Flats, the 20-Acre Quinn's Junction Parcel, and the Iron Mountain Parcels and to establish a time certain for annexation of Flagstaff Mountain (now referred to generally as Empire Pass) into the City;

H. WHEREAS, the Parties in fact entered into the original Agreement on or about June 24, 1999; and

I. WHEREAS, the Parties desire to amend and restate the original Agreement in connection with the development of a project known as the Montage Resort & Spa which is presently planned to include 192 hotel rooms and suites, with spa, restaurant and conference facilities, and a residential component that consists of resort condominiums.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants hereafter set forth, the sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

SECTION I. DEFINITIONS

Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it by the Park City Land Management Code (LMC) in effect on the date of a complete application or, if different, by this Agreement. Certain such terms and phrases are referenced below; others are defined where they appear in the text of this Agreement.

1.1 **“Annexation Property”** means that approximately 1,750 acres of property known as Flagstaff Mountain, described and depicted on Exhibit A.

1.2 **“Bonanza Flats”** means that approximately 1,500 acres of UPCM property commonly referred to as Bonanza Flats, consisting all of UPCM’s holdings in Bonanza Flats and described and depicted on Exhibit C.

1.3 **“DEER VALLEY”** means the Deer Valley Resort Company, a Utah limited Partnership and each of its assigns, joint venture partners, and successors in interest, whether in whole or in part. DEER VALLEY shall cause its employees and agents to act in accordance with the terms of this Agreement.

1.4 **“DEVELOPER”** means United Park City Mines Company, a publicly traded Delaware corporation, and each of its assigns, joint venture partners, and successors in interest, whether in whole or in part. DEVELOPER shall cause its employees and agents to act in accordance

with the terms of this Agreement.

1.5 **"Inaction"** provisionally¹ means (a) DEVELOPER's failure to pursue a sequential permit (i.e. Small Scale MPD permit, conditional use permit, subdivision application, or building permit) by failing to submit a complete application for such a permit or by failing to respond to the City's written requests for information which the City deems is necessary to process the application; or (b) DEVELOPER's failure to sustain permitted construction such that the permit under which construction is allowed, expires or is otherwise suspended or revoked.

1.6 **"Meeting Accessory Uses"** provisionally² means uses normally associated and necessary to serve meeting and banquet space. Meeting Accessory Uses do not require the use of Unit Equivalents and include:

1.6.1 Administrative and Banquet Offices

1.6.2 Banquet Storage Areas

1.6.3 Banquet Prep Areas Storage Areas

1.6.4 Common A/V Storage Areas

1.6.5 Coat Check Areas

1.6.6 Public Restrooms

1.6.7 Public Telephone Areas

1.6.8 Public Hallways

1.6.9 Public Circulation Areas.

1.7 **"Mountain Village"** means that mixed-use portion of Flagstaff Mountain described and depicted as the Mountain Village in Exhibit A attached hereto and limited to a total of 87 acres, within three development Pods (A, B₁, and B₂) and maximum densities, unit equivalencies and configuration more fully described herein.

¹ This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superceded by an LMC definition of the term.

² This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superceded by an LMC definition of the term.

- 1.8 **“Northside Neighborhood”** means that 63-acre portion of Flagstaff Mountain described and depicted as the Northside Neighborhood in Exhibit A attached hereto and limited to the maximum density, unit equivalency, and configuration more fully described herein.
- 1.9 **“Northside Neighborhood Property Owners”** means, in addition to UPCM and DEER VALLEY, Park City Star Mining Company, Inc., a Utah corporation, Bransford Land Company, representing the interests of Anne Bransford Newhall, Mary Bransford Leader and Carolyn Bransford MacDonald, and Stichting Beheer Mayflower Project, a legal entity representing the interests of Stichting Mayflower Recreational Fonds and of Stichting Mayflower Mountain Fonds.
- 1.10 **“Pedestrian Village”** means an area configured within Pod A of the Mountain Village for the mixed use of residential, Residential Accessory, Resort Support Commercial, Resort Accessory, meeting and Meeting Accessory Uses within which at least fifty percent (50%) of the residential properties are clustered within walking distance (5 minutes) of a Transportation Hub for such residential properties, which can be directly accessed by pathways or sidewalks.
- 1.11 **“Planned Unit Development”** or **“PUD”** means a master planned development consisting of clustered, detached, single family or duplex units with common open space and coordinated architecture.
- 1.12 **“Pod Z”** means that area, depicted on Exhibit F that is limited for ski-related uses as further defined herein.
- 1.13 **“Project”** means the residential, recreational and commercial real estate development to be constructed within Flagstaff Mountain.
- 1.14 **“Residential Accessory Uses”** provisionally³ means uses that are for the benefit of the residents of a commercial residential use, such as a hotel or nightly rental condominium project. Residential Accessory Uses do not require the use of Unit Equivalents. Residential Accessory Uses include:

³ This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superceded by an LMC definition of the term.

- 1.14.1 Common Ski Lockers
- 1.14.2 Common Lobbies
- 1.14.3 Registration
- 1.14.4 Concierge
- 1.14.5 Bell Stand/Luggage Storage
- 1.14.6 Common Maintenance Areas
- 1.14.7 Mechanical Rooms
- 1.14.8 Common Laundry Facilities and Common Storage Areas
- 1.14.9 Employee Facilities
- 1.14.10 Common Pools, Saunas and Hot Tubs
- 1.14.11 Public Telephone Areas
- 1.14.12 Public Restrooms
- 1.14.13 Administrative Offices
- 1.14.14 Public Hallways and Circulation Areas

1.15 **“Resort Accessory Uses”** provisionally⁴ means uses that are clearly incidental to and customarily found in connection with the principal resort building or use and are operated for the convenience of the owners, occupants, employees, customers or visitors to the principal resort use. Resort Accessory Uses do not require the use of Unit Equivalents. They include such uses as:

- 1.15.1 Information
- 1.15.2 Lost and Found
- 1.15.3 Mountain Patrol
- 1.15.4 Mountain Administration
- 1.15.5 Mountain Maintenance and Storage Facilities
- 1.15.6 Mountain Patrol and Emergency Medical Facilities
- 1.15.7 Public Lockers
- 1.15.8 Public Restrooms
- 1.15.9 Employee Lockers
- 1.15.10 Ski School/Day Care

⁴This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superseded by an LMC definition of the term.

1.15.11 Ticket Sales Areas

1.15.12 Ski Check Areas

1.15.13 Public Circulation Areas and Hallways

1.16 **“Richardson Flats”** means all of UPCM’s property at the southeast corner of U.S. 40 and S.R. 248, more fully described and depicted on Exhibit D.

1.17 **“Transportation Hub”** means the terminus of a public and/or private transportation system that is located at a convenient location within the Mountain Village.

1.18 **“Unit Equivalent,”** with respect to commercial structures and multifamily and PUD structures, has the meaning set forth in the EMC.⁵ Each single family residential structure (excluding PUDs) approved by the City pursuant to this Agreement for construction within the Project shall have a Unit Equivalent of 1.00, regardless of the size or the location of the single family residential structure. Each commercial structure or portion thereof (as such may be determined in applicable MPD approvals) shall consume 1 Unit Equivalent for each 1000 square feet. Each multifamily and PUD residential structure shall consume 1 Unit Equivalent for each 2000 square feet.

SECTION II. LARGE SCALE MPD—FLAGSTAFF MOUNTAIN

2.1. DEVELOPER is hereby granted the equivalent of a Large Scale Master Planned Development (Large Scale MPD) for Flagstaff Mountain. This Large Scale MPD sets forth maximum densities, location of densities and DEVELOPER-offered amenities and is subject to all normally-applicable City processes, and in addition thereto, such processes defined below, including DEVELOPER’s responsibility, prior to or concurrent with the Small Scale MPD process, to submit and ultimately to obtain (upon modification, if necessary) City approval, of satisfactory plans detailed below:

⁵ Hotel rooms of 500 square feet or less constitute ¼ Unit Equivalent.

- 2.1.1. Mine/Soil Hazard Mitigation Plan--which plan shall include an inventory of all mine sites, potential sources of release of hazardous materials into the environment, and a plan and schedule for their remediation;
- 2.1.2. Detailed Design Guidelines, with strong architectural themes, for the entire Flagstaff Mountain Project.
- 2.1.3. Specific Transit Plan;
- 2.1.4. Parking Management Plan;
- 2.1.5. Detailed Open Space Management Plan;
- 2.1.6. Historic Preservation Plan;
- 2.1.7. Emergency Response Plan, including DEVELOPER's commitments to provide infrastructure necessary to serve the Project and Bonanza Flats and phasing therefor;
- 2.1.8. Trails Master Plan setting forth trail locations, specifications, phasing and timing of public easements;
- 2.1.9. Private Road Access Limitation Procedures;
- 2.1.10. Construction Phasing Plan—including construction milestones for project amenities, including Richardson Flats development;
- 2.1.11. General Infrastructure and Public Improvements Design and Phasing Plan, which calls for the efficient extension of services, concentrating initial infrastructure development in the Mountain Village, and secondarily in the Northside Neighborhood. Such plan shall allow for the construction of a variety of housing types in each phase;
- 2.1.12. Utilities Master Plan—including the timing, alignment and service strategy for water and sewer service, as well as storm water management throughout the Project and Bonanza Flats;
- 2.1.13. Wildlife Management Plan; and
- 2.1.14. Affordable Housing Plan, including phasing.

2.2. **Maximum Development Parameters--Flagstaff Mountain.** Flagstaff Mountain is composed of the Mountain Village, the Northside

Neighborhood; various ski related improvements, and the Silver Mine Adventure. Upon annexation, Flagstaff Mountain will be zoned as shown on the zoning map attached hereto as Exhibit P. The following maximum development parameters apply to Flagstaff Mountain:

2.2.1 Mountain Village: The Mountain Village is constrained as follows:

2.2.1.1 Small Scale MPD. Site specific volumetrics and configuration will be established in the Small Scale MPD process.

2.2.1.2. Maximum Development Area. In the Small Scale MPD process, the entire Mountain Village development shall be constrained within a total of 87 acres.

2.2.1.3. Maximum Density. The maximum density within the Mountain Village is 785 Unit Equivalents configured in no more than 550 dwelling units.⁶ Such density shall be configured as multi-family, hotel, or PUD units, provided the PUD units do not exceed 60. PUD units consume Unit Equivalents in the same respect as multifamily units. Additionally, the Mountain Village may contain up to 16 detached single family home sites.

2.2.1.4. Pedestrian Village. At least 50% of the residential units within the Mountain Village must be clustered within the primary development pod (Pod A), and must be located within a five-minute walk of the Transportation Hub. All three development pods (Pods A, B₁, and B₂) within the Mountain Village must be linked by transit.

2.2.1.5. Commercial. The Mountain Village may additionally include up to 75,000-sq. ft. of Resort Support Commercial uses, which shall include Neighborhood

⁶ Hotel rooms of 500 square feet or less constitute ¼ Unit Equivalent. In the case of the Montage, the 192 Montage hotel rooms shall count as Unit Equivalents at the rate of 1 Unit Equivalent per 2,000 square feet of hotel rooms, but such hotel rooms shall not have kitchens and shall not count as dwelling units.

Convenience Commercial uses for residents and visitors such as groceries and sundries.

2.2.1.6. **Mine Site Reclamation.** To the greatest extent possible, DEVELOPER shall locate density in disturbed areas. This provision applies primarily to potential density at the Daly West site. Additionally, DEVELOPER shall reclaim⁷ all mining and mining overburden sites within Flagstaff Mountain in accordance with state and federal regulatory agency review.

2.2.1.7. **Public Trails.** DEVELOPER shall construct and dedicate public trails designated on an accepted Trails Master Plan. Many trails will be constructed on land ultimately owned by DEER VALLEY. In those areas, DEER VALLEY shall be responsible for trail maintenance and for enforcing reasonable rules and regulations for public trail use. Such rules may not exclude free public access to the public trail systems identified on the Trails Master Plan.

2.2.1.8. **Deed Restricted Open Space.** Within 30 days of issuance of a Small Scale MPD, DEVELOPER and/or DEER VALLEY shall execute for the benefit of the City perpetual covenants and restrictions with respect to all designated open space associated with the Small Scale MPD and which, at a minimum, shall prevent the construction thereon of residential, commercial and retail structures but shall provide for ski-related uses consistent with paragraph 2.5 herein.

2.2.1.9. **Parking.** Each Small Scale MPD submittal shall include a parking management plan with respect to the portion of the property covered by such Small Scale MPD submittal.

⁷ Reclamation shall include, at a minimum, revegetation of exposed areas.

The goal of the plan is to design the Mountain Village in such a way as to reduce parking demand by 25%. DEVELOPER shall plan and encourage within the Mountain Village portion of the Project programs such as parking management, paid parking for commercial uses, shuttles and other programs designed to reduce the demand for private vehicles and parking. DEVELOPER shall provide for shared parking in all commercial, short-term residential and mixed-use buildings. Assigned or reserved spaces within commercial, short-term residential and mixed-use buildings are prohibited except that in the case of the Montage, one parking space may be assigned for each dwelling unit (excluding the 192 hotel rooms). The majority of the required parking areas will be fully enclosed and/or constructed underground.

2.3 **Prospect Ridge.** DEVELOPER considers the Prospect Ridge area depicted in Exhibit K to be a critical viewshed area for Old Town.

2.3.1 **Public Trails.** Consistent with the Trails Mater Plan, DEVELOPER shall construct and dedicate to the City public trails designated within the Prospect Ridge area.

2.3.2 **Deed Restricted Open Space.** Within 30 days of issuance of the first Small Scale MPD, DEVELOPER shall cause to be recorded a document, approved by the City, which shall impose perpetual covenants and use restrictions for that portion of Prospect Ridge depicted as "Recreation Open Space Dedication" on Exhibit K which shall prevent the construction thereon of residential, commercial and/or retail structures, ski lifts, and developed alpine ski runs.

2.4 **Northside Neighborhood.** The Northside Neighborhood is composed of property owned by five separate Northside Neighborhood Property Owners and, upon their written acceptance of the terms of this Agreement,

may contain a maximum of 38 homes, the size and location of which shall be determined at Small Scale MPD/subdivision review. The Northside Neighborhood may also contain a 1000 sq. ft. non-denominational Chapel, that will remain open and reasonably available to the public.⁸

2.4.1 Small Scale MPD. The Small Scale MPD must include all Northside Neighborhood Property Owners to achieve the maximum density of 38 detached single-family homes. Absent participation by all Northside Neighborhood Property Owners, DEVELOPER and DEER VALLEY may apply for a Small Scale MPD for a maximum of 30 single-family homes on the portion of the Northside Neighborhood owned by DEVELOPER and DEER VALLEY.⁹ In all circumstances, DEVELOPER and DEER VALLEY shall limit development in the Northside Neighborhood as follows:

2.4.1.1. Meadow Restriction. Homes shall not be in the meadow area generally designated on Exhibit A and further defined in the Small Scale MPD process.

2.4.1.2. Ski Run Separation. Limits of disturbance for each site shall be a minimum of 50 feet from any ski run, except where existing ski runs conflict with platted ski easements or platted lots, in which event the City shall have the discretion and authority to approve case-by-case exceptions to the foregoing distance limitation.

2.4.1.3. Viewpoint Restrictions. Structures and roads must be configured to minimize road and utility impacts and to

⁸ No utility extension will be allowed for the Chapel. Power may be allowed if it is readily accessible. Location of the Chapel cannot cause the extension of an improved road. Siting and construction must comply with all Code provisions.

⁹ If Park City Star, Bransford or Mayflower do not reach an agreement with DEVELOPER and DEER VALLEY with respect to the joint development of the detached single family homes within the Northside Neighborhood, then DEVELOPER and DEER VALLEY shall grant to the City the right to connect to the utility lines and to grant limited access to roads within the Northside Neighborhood without cost to serve the remaining property owners.

minimize wintertime visual impacts¹⁰ from ski runs and designated viewpoints, including but not limited to the knoll behind the terminus of what is presently known as the Northside chairlift.

2.4.1.4. **Public Trails.** Consistent with the Trails Master Plan, DEVELOPER, DEER VALLEY, and Northside Neighborhood Property Owners shall dedicate to the City improved public trails and trail easements that connect to the surrounding trail system. Where trails pass through the Deer Valley Ski Area, DEER VALLEY shall be responsible for trail maintenance and for enforcing reasonable rules and regulations. Such rules may not exclude free public access to the public trail systems identified on the Trails Master Plan.

2.4.1.5. **Enchanted Forest.** No development shall occur in the “Enchanted Forest” area generally designated on Exhibit A and further defined in the Small Scale MPD process.

2.4.1.6. **Deed Restricted Open Space.** Within 30 days of issuance of a Small Scale MPD, DEVELOPER shall record perpetual covenants and restrictions with respect to all designated open space associated with the Small Scale MPD and which shall prevent the construction thereon of residential, commercial and retail structures but shall allow ski-related uses.

2.4.2. **Northside Neighborhood Conservation Plan.** DEVELOPER and DEER VALLEY agree to refrain from transferring, improving or developing the Northside Neighborhood for 3 years, from the date of this Agreement to facilitate the potential of (a) the fee simple sale of the Northside Neighborhood, or (b) the sale and transfer of the development rights from the Northside

¹⁰ As well as summertime visual impacts.

Neighborhood. In either case, the sale would be completed within said time period and would be to a conservation buyer or buyers at fair market value at the date of purchase. Fair market value in this context shall reflect the entitlement for single family detached units set forth in the Large Scale Master Plan and this Agreement or, if the Small Scale Master Plan has been issued, as reflected in the Small Scale Master Plan for the Northside Neighborhood. The three-year period noted above shall not limit the Planning Commission's authority in connection with approval of the phasing plans required in sections 2.1.10 and 2.1.11.

2.5. **Ski-Related Development.** Subject to conditional use review, DEER VALLEY may construct a skier day lodge of a maximum of 35,000 square feet, in the approximate location depicted on Exhibit A. The day lodge shall have no day skier parking, and must have adequate emergency vehicle access. Any parking lot for the lodge shall be for the purpose of meeting temporary events, intermittent seasonal dining, and service and administrative requirements, and shall be reviewed by the planning commission as a Conditional Use. Such Conditional Uses will have a traffic mitigation plan that may include the number of events, hours of operation, shuttle bus requirements and/or a limit to the number of guests. Pursuant to a Conditional Use Permit, said temporary parking area may be located on adjacent properties. Permanent non-skier parking for the Empire Day Lodge will be considered as part of the POD B-2 Master Plan Development. Such parking shall consist of not more than 75 spaces. These parking spaces are in addition to those otherwise required or allowed under this Agreement and the LMC. DEER VALLEY shall provide deed-restricted employee/affordable housing units as defined by the City's affordable housing policy in an amount equal to 20% of the commercial Unit Equivalents approved by the City for the day lodge prior to issuance of a Certificate of Occupancy for the day lodge.

2.5.1 **Conditional Use (Administrative).** Ski terrain and ski-related development is an administrative conditional use within the Project, consistent with the Deer Valley Ski Area Master Plan depicted in Exhibit F attached hereto, provided that only two graded runs shall be allowed in ski Pod Z, with thinning and other limited vegetation removal in the balance of Pod Z for skier safety and glade skiing. Review of ski terrain and ski-related development shall include, but shall not be limited to consideration of the following:

2.5.1.1 Openings for ski trails and lifts with straight edges and uniform widths will be minimized to the greatest extent possible.

2.5.1.2 Trails that are designed for base area return or circulation between fall line areas shall be designed for appropriate grades and widths consistent with minimizing visual impact.

2.5.1.3 Lift towers shall be painted or otherwise treated to blend with the natural surroundings.

2.5.1.4 Vegetation management, re-vegetation and erosion control techniques shall be designed in accordance with the "Deer Valley Resort Company Ski Run Construction and Revegetation Standards" attached hereto as Exhibit G. The objective shall be to achieve a vegetative condition that enhances the skier experience and long term forest health. Re-vegetation shall be designed to control erosion and to restore ground cover as quickly as possible after ground disturbing activities.

2.6 Beano's Style Private Club. DEVELOPER may construct a private restaurant (Beano's Cabin at Beaver Creek-style¹¹), at a location to be determined at the CUP phase. No private parking areas or vehicular

¹¹ Beano's is a 10,000 square foot private restaurant at Beaver Creek, Colorado.

access will be allowed except (i) access and space for patron drop-off's and pick-up's, and (ii) access, loading areas and circulation for emergency, delivery and service vehicles. The size of the private restarurant shall be determined by the Planning Commission at the CUP review phase, and shall be between 7,000 and 10,000 square feet.

2.7 Silver Mine Adventure. DEVELOPER may continue to operate the Silver Mine Adventure on the Ontario Mine Site as a valid, non-conforming use. Any change or expansion of use shall be processed in accordance with the LMC in effect at the time of the DEVELOPER's submission of a complete application for the proposed expansion.

2.8 Access and Alignment of S.R. 224. DEVELOPER shall access Flagstaff Mountain by means of S.R. 224, and a private road system. DEVELOPER shall realign a portion of S.R. 224 in the approximate location set forth on Exhibit H attached hereto, and shall construct a private road system for Flagstaff Mountain in the approximate location depicted on Exhibit H. The Parties agree to the following access and alignment of the road systems within Flagstaff Mountain.

2.8.1 Alignment. Upon Planning Commission approval of the first Small Scale MPD for Flagstaff Mountain, DEVELOPER shall petition to vacate the existing S.R. 224 alignment and, if granted, shall realign and dedicate the relocated S.R. 224 right of way to a standard similar to the existing S.R. 224 (with an asphalt surface for dust control). Such alignment shall be as generally depicted on Exhibit H. DEVELOPER shall block and prohibit vehicular access over the discontinued historic alignment of S.R. 224. Access over the realigned S.R. 224 shall remain seasonal (warm weather only). Upon completion of construction thereof, to the reasonable satisfaction of the City Engineer, the City shall accept the dedication of public roads under its jurisdiction identified on Exhibit H, or as determined by the Council, upon

recommendation of the Planning Commission through the Small Scale MPD and subdivision processes.

2.8.2 **Private Road.** Upon Small Scale MPD approval, and only to the extent of the Small Scale MPD approval, DEVELOPER shall construct a private road system within Flagstaff Mountain, as depicted in Exhibit H, over which DEVELOPER shall maintain all-season access throughout the year. Said private road, from its point of departure from S.R. 224 to the Summit/Wasatch County line, may be converted to a public road, in which event existing S.R. 224 from said point of departure to the county line shall no longer be used as a public road.

2.8.3 **Seasonal, Controlled Automobile Access.** DEVELOPER shall support and shall not undermine seasonal closure of realigned S.R. 224 and shall control motorized vehicular access from S.R. 224 to the private road system to prevent vehicular through traffic.

2.8.4 **Emergency Deer Valley Access.** The Project's seasonal emergency secondary access is through the Deer Valley Ski Area generally as depicted on Exhibit P and crash-gated in the approximate locations shown on Exhibit I. DEER VALLEY shall provide the City and the Park City Fire Service District with keys and/or combinations to the gates. The emergency access is necessary as a controlled evacuation route and as an emergency access for fire and safety personnel and equipment only. The secondary access route is an important ski run to the Deer Valley Ski Area that, in all but the most exceptional circumstances, will be used by skiers and over-the-snow vehicles. The Park City Fire Marshall may cause the access to be plowed and placed into winter service for emergency and evacuation purposes in that

exceptional emergency situation when normal road access to Flagstaff Mountain is interrupted for an extended period.¹²

2.8.5 Controlled Snowmobile Access. Winter snowmobile access to Brighton Estates and to Bonanza Flats is presently available over portions of S.R. 224. DEVELOPER and DEER VALLEY shall allow seasonal snowmobile access to property owners and renters in Brighton Estates over those portions of S.R. 224 within the Project that are presently used or alternatively over similar portions of S.R. 224 as may be relocated. DEVELOPER and DEER VALLEY shall otherwise prevent wintertime motorized vehicular access to the extent such action is consistent with the policy of the public entity that owns S.R. 224. The current recreational snowmobile concession in Flagstaff Mountain shall be eliminated with the relocation of S.R. 224.

2.8.6 DEVELOPER's Consent to Transfer. DEVELOPER consents to cooperate with the City in any state transfer of any portion of S.R. 224.

2.9 Flagstaff Mountain Mitigation/Amenities. At the City's request, the DEVELOPER shall deliver the following mitigation and amenities as an inducement to execute this Development Agreement:

2.9.1 Trails. DEVELOPER shall construct, maintain and commit to free public use, an improved public trail system as set forth in an approved Trails Master Plan. The construction of the trails shall be phased with the progress of the development of the Project. Existing trails shall remain open to the public until provisional or final trails have been constructed. Final trail locations may vary due to field conditions and season. Relocation of any trails shall be identified in the Trails Master Plan. Where the trails pass through the Deer Valley Ski Area, or are located on non-development lands owned or controlled by Deer Valley, Deer

¹² The Park City Fire Marshall may not cause the access to be plowed simply for public convenience.

Valley shall be responsible for trail maintenance and for enforcing reasonable rules and regulations for trail use, including reasonable rules and regulations intended to prevent or minimize conflict between potential trail uses. Pedestrian and bicycle uses of the trail system shall not be prohibited or restricted without being so identified in the Trails Master Plan.

2.9.2 No Gondola Alternative. DEVELOPER shall contribute \$1,000,000 in cash to the City to be used specifically for other traffic mitigation projects in the City related to the Project. Additionally, the DEVELOPER shall (i) contribute \$10,000 toward the cost of a feasibility study, when commissioned by the City, to evaluate a potential ski amenity gondola, and (ii) contribute toward the construction of the Richardson Flats parking improvements described in the last paragraph of Section 3.1 of this Agreement, which shall be constructed in accordance with the specifications and conditions attached hereto as Schedule 3.1. The parking improvements shall be constructed in phases as established during the MPD for those improvements in cooperation with Summit County. Construction of the parking improvements will be assured through a form of completion bonding consisting of a draw-down letter of credit or other similar instrument in an amount equal to the good faith estimated cost to construct the parking improvements, but in an amount not to exceed \$1,800,000. In the event any permit application is denied such that the parking improvements cannot be constructed, the City shall be entitled to draw the entire amount of the completion bond, letter of credit or similar instrument (as the case may be), and DEVELOPER shall have no further obligation to construct the parking improvements.

2.9.3 Historic Preservation. The Historic Preservation Plan, at a minimum, shall contain an inventory of historically significant

structures located within the Project and shall set forth a preservation and restoration plan, including a commitment to dedicating preservation easements to the City, with respect to any such historically significant structures. The head frame at the Daly West site is historically significant.

2.9.4 **Enhanced Environmental Protection.** DEVELOPER shall limit the construction or installation of wood-burning devices to one wood-burning device in each of the 54 single-family homes in the Project. DEVELOPER shall not request approval from the City for wood-burning devices in any other attached, or detached, residential uses. Within each lodge, or hotel constructed within the Project, DEVELOPER shall have the right to construct one wood-burning device in each such lodge or hotel, except the Montage which may have three.

2.9.5 **Lady Morgan Springs Open Space (Passive Use).** The Lady Morgan Springs Area¹⁵, shall be restricted, by conservation easements acceptable to the City, and signs and monitoring, if necessary, to limit use of the area to skiing (without cutting runs, glading, or thinning trees) and daytime recreational hiking. Neither construction activity nor motorized vehicular use of any kind shall be allowed in the Lady Morgan Springs Area, except as allowed, with City staff approval, for forestry and wetlands management.

2.9.6 **Open Space (Active).** All land outside of the development areas (ski terrain and open space designated on Exhibit A) will be zoned as Recreation Open Space (ROS-MPD). Upon issuance of the first Small Scale MPD for any portion of the Project, DEVELOPER and DEER VALLEY shall execute a conservation easement, for the benefit of the City and a third party conservation trust (or similar entity), to limit their use of the

¹⁵ Described and depicted on Exhibit J, and as further defined in the Small Scale MPD process.

Flagstaff Mountain ski terrain to construction, development and operation of ski and mountain bike lifts, ski and mountain bike runs, one skier day lodge, and other similar winter and summer recreational uses and services. Such conservation easements shall prohibit any hotel, lodging, residential or commercial construction or use on ROS-zoned land in Flagstaff Mountain. Such conservation easement shall be to the reasonable satisfaction of the City and shall be first in priority in title.

2.9.7 **Open Space (Prospect Ridge).** Within 30 days of issuance of a Small Scale MPD, DEVELOPER shall grant to the City a conservation easement, with free public trail access, without encumbrances, over acreage located on Prospect Ridge, contiguous with City-owned open space. The conservation easement area on Prospect Ridge is identified on Exhibit K attached hereto. Such conservation easement shall be to the reasonable satisfaction of the City and shall be first in priority in title.

2.9.8 **Open Space (Iron Mountain).** Upon the issuance of any Small Scale MPD, for any portion of the Project, DEVELOPER shall deed restrict or transfer to Park City, the Iron Mountain Parcels with City-approved encumbrances. In connection with such dedication, DEVELOPER shall reserve to DEVELOPER the right to lease to third parties the Iron Mountain Parcels for ski and other environmentally sensitive recreational uses. Such reservation shall not include the right to cut runs, glade, or thin trees, or construct or install ski lifts or developed alpine ski runs. DEVELOPER shall also reserve the right to retain all rent, proceeds and other consideration resulting from or generated by DEVELOPER leasing the Iron Mountain Parcels to third parties for ski and recreation-related uses. DEVELOPER shall indemnify, defend and hold the City harmless from any claim

arising from DEVELOPER's or a third party lessee's use of the Iron Mountain Parcels. Nothing herein should be construed to limit or waive governmental immunity with respect to claims made against the City.

2.9.9 Neighborhood-Specific Design Guidelines. DEVELOPER shall incorporate a Master Resort Association for Flagstaff Mountain and a Project-specific Property Owners' Association for the Mountain Village and Northside Neighborhood areas to cooperatively manage certain aspects of the Project. The Design Guidelines for both the Project and Bonanza Flats must emphasize a strong, common architectural theme, and shall be enforceable by one or more of the above-mentioned Associations.

2.9.10 Public Safety. A comprehensive emergency response plan will be required. The proposal includes a public safety site, at a minimum. The final public safety and emergency access plan must be determined prior to any permit issuance and only after coordination with the affected entities, such as the Park City Fire Service District. To the extent the Montage hotel structure requires additional safety equipment or infrastructure to achieve a minimum standard that will not result in a degradation of the Park City Fire District's I.S.O. rating, and to the extent ongoing tax revenues and impact fees generated by the Montage are insufficient to cover the costs of such additional equipment and infrastructure, any such shortfall shall be paid by DEVELOPER. Changes to any applicable Technical Report must be approved by the Park City Fire Marshall.

2.9.11 Sandridge Parking Lots. Prior to the issuance of a Small Scale MPD for any portion of Flagstaff Mountain, DEVELOPER shall irrevocably offer to dedicate to the City a conservation easement, or deed, satisfactory to the City to preserve the Sandridge

Parking Lots, described in Exhibit L as a public parking facility. Such interest shall be offered with no outstanding monetary encumbrances.

2.9.12 **Sandridge Heights Property.** Developer further agrees to limit its use of its Sandridge Heights property, described in Exhibit L, to either affordable housing or open space.

2.10 FLAGSTAFF MOUNTAIN MITIGATION MEASURES:

2.10.1 **Water System.** DEVELOPER shall build and dedicate to the Park City Water Service District an adequate water delivery system within Flagstaff Mountain to serve the Project, including all fire flow and irrigation needs.

2.10.1.1 **Withdrawal of Water Protests.** DEVELOPER shall immediately withdraw its protests to the City's pending water change application(s) before the State Engineer and agrees not to protest future City applications before the State Engineer.

2.10.1.2 **Water Source.** DEVELOPER shall design and construct a water source and delivery system to transport water from the water source to Flagstaff Mountain and to dedicate that system to the City. DEVELOPER and the City anticipate that such delivery system will include the development of a well of sufficient capacity to serve the Project.

2.10.1.3 **Group II Rights.** The City and DEVELOPER agree to file a joint application with the State Engineer to convert to municipal use within the boundaries of the Park City Water Service District all "Group II" water rights owned by both parties. The joint application will list all mutual points of diversion, all of the City's municipal sources, and all of DEVELOPER's sources including the proposed Ontario and Empire Canyon

Wells. DEVELOPER and the City shall divide the Group II rights approved for municipal use evenly, with DEVELOPER and the City each taking ownership of one-half of the total approved rights. DEVELOPER agrees to sell exclusively to the City its portion of the approved Group II water rights and DEVELOPER's interest in its Theriot Springs and Haueter Springs water rights (Weber Decree Award #456, #467 and #468) collectively referred to herein as the "Committed Water."

2.10.1.4 **Committed Water.** Once approved for municipal use, all Committed Water shall be leased to the City at a nominal cost and will therefore be unavailable for sale to others. DEVELOPER shall dedicate the Committed Water to the City, and the City shall pay to DEVELOPER from time to time an amount equal to the water development impact fees actually collected by the Park City Water Service District from the development of Flagstaff Mountain. Each such payment from the City to DEVELOPER shall be paid within 30 days following the receipt by the Park City Water Service District of each such water development impact fee.

2.10.1.5 **Excess Water Rights.** If after ten (10) years or 90% buildout of Flagstaff Mountain and Bonanza Flats, whichever last occurs, DEVELOPER retains water rights in excess of the water demand for both projects, the City may purchase the excess water rights from DEVELOPER at fair market value based on an appraisal from a mutually agreed upon appraiser or the City may relinquish its interest in the excess water rights. The City shall elect to either purchase (some or all of the

excess water rights) or relinquish its interest in the excess water rights within 180 days of written notice of the expiration of 10 years or 90% buildout of both projects, whichever last occurs. If the City takes no action within the 180 days, City will be deemed to have relinquished its interest in the excess water rights.

2.10.1.6 Impact Fees and Water Rates. The City will charge water development and connection impact fees and water rates within the Project in an amount equal to the water development and connection impact fees and water rates charged to other water users within the Park City Water Service District, unless extraordinary costs can be identified by the City and fairly assigned to the water users within the Project.

2.10.2 Subsequent Agreements. Since the time the original Agreement was adopted and executed, the City and DEVELOPER have entered into agreements that impact, implement and/or clarify certain provisions of the original Agreement including (i) An Agreement For A Joint Well Development Program dated January 14, 2000, (ii) a Memorandum of Understanding, dated January 14, 2000, Between Park City Municipal Corporation and United Park City Mines Company Clarifying and Implementing the Water Service and Water Source Development Provisions of the Development Agreement of June 24, 1999, and (iii) the Water Agreement dated effective as of March 2, 2007 (collectively, the Subsequent Agreements). The fact that this Agreement is styled as an amended and restated agreement shall not operate or be deemed to supersede, contravene, or amend the terms, conditions or provisions of the Subsequent Agreements.

2.10.3 Transportation and Traffic Mitigation. DEVELOPER has agreed to provide the following transportation and traffic mitigation measures.¹⁴ Prior to the issuance of a Certificate of Occupancy within the Mountain Village,¹⁵ the DEVELOPER shall provide the following to reduce the traffic anticipated by the Project.

2.10.3.1 Van and Shuttle Service. DEVELOPER shall provide for its owners, employees and guests, van and shuttle service alternatives consisting of regular circulator service within the Mountain Village and service from the Mountain Village to key destinations such as the Salt Lake International Airport, Main Street, Silver Lake, golf courses, and recreational trail heads.

2.10.3.2 Road and Intersection Improvements. Attached hereto as Exhibit M is a map and a more detailed list of improvements, which shall be constructed by DEVELOPER in satisfaction of this obligation. Prior to the construction of any of the improvements described below, the City shall review and approve or reject with suggested changes all plans, drawings and specifications with respect to the alignment and construction of such road and intersection improvements. Following DEVELOPER's completion of the construction of such improvements, DEVELOPER shall offer to dedicate such improvements to the appropriate governmental entity.

¹⁴ However, within the Small Scale MPD process, the City may conclude that these transportation and traffic measures should be reduced, and will modify DEVELOPER's obligations accordingly.

¹⁵ Except for DEER VALLEY's day lodge pursuant to paragraph 2.5 herein.

2.10.3.3

Contribution to Marsac Roundabout.

DEVELOPER shall financially participate in the reconstruction of the intersection of Marsac Avenue and Deer Valley Drive. DEVELOPER is responsible for paying its proportionate share (determined by projected traffic generation) of the City's cost of such reconstruction to mitigate the impact of the Flagstaff Mountain and Bonanza Flats projects on the intersection.

2.10.3.4

Runaway Truck Lane. DEVELOPER, or an affiliate of DEVELOPER, shall construct a runaway truck lane on the Mine Road section of S.R. 224, as described on Exhibit N attached hereto. DEVELOPER expects to dedicate the Runaway Truck Lane to UDOT.

2.10.3.5

Mine Road Widening. Upon Planning Commission recommendation, DEVELOPER shall widen the Mine Road section of S.R. 224 as described on Exhibit M attached hereto.

2.10.3.6

Mine Road Passing Lane. Upon Planning Commission recommendation, DEVELOPER shall create and dedicate a passing lane on the Mine Road section of S.R. 224 as described on Exhibit M attached hereto.

2.10.3.7

Drainage Improvements. DEVELOPER shall improve drainage to S.R. 224 as described on Exhibit M attached hereto.

2.10.3.8

Landscaping. Upon Planning Commission approval, DEVELOPER may construct and create, at DEVELOPER'S sole cost and expense, landscape improvements in the area depicted on

Exhibit M, uphill from the intersection of S.R. 224 with Hillside to act as a Project entry statement.

2.10.4 **Construction Mitigation.** DEVELOPER shall provide the following measures, all to the reasonable satisfaction of the City's Chief Building Official, to mitigate the impact of construction within Flagstaff Mountain. DEVELOPER shall also adhere to the usual construction impact mitigation measures required by the City. Additional reasonable site-specific mitigation measures may be required at the Small Scale MPD phase. These measures will be permanently reflected in Covenants, Conditions and Restrictions of each development parcel. The Detailed Construction Phasing Plan to be submitted by DEVELOPER to the City shall include, without limitation, provisions pertaining to:

2.10.4.1 Limits of Disturbance and Vegetation Protection for all construction, including construction of public improvements.

2.10.4.2 Construction staging, on-site batch plants, and materials stockpiling¹⁶ and recycling in the Daly West area to keep all excavated materials on site during the Project infrastructure and construction phases.

2.10.4.3 Construction traffic routing plan to minimize traffic impacts on Old Town and residential areas, by only allowing construction traffic to use current state roads, unless otherwise directed by the City.

2.10.4.4 Dust and soils monitoring and containment, along with remediation of contaminated mining waste within the areas that are disturbed during the construction of the improvements within the Project and erosion and runoff controls for the entire Project

¹⁶ Developer shall stockpile all earthen material on site.

2.10.4.5 Temporary public access trails throughout construction.

2.10.4.6 Tools and equipment storage on-site adequate to serve all construction.

2.10.5 **Employee/Affordable Housing.** DEVELOPER shall provide deed-restricted employee/affordable housing units (“Affordable Unit Equivalents” or “AUEs”) as defined by the City’s affordable housing policy in an amount equal to 10% of the residential Unit Equivalents and 20% of the commercial Unit Equivalents approved by the City for the Project (collectively, the “Base AUEs”). The employee/affordable housing requirement for the Project, including the Montage, is 98.9 Base AUEs. One AUE equals 800 square feet. In addition to the Base AUEs, DEVELOPER has committed to construct, off-site, 20 additional AUEs (the “Additional AUEs”) as an additional community benefit for the Project. Within 24 months from the effective date of this Agreement, the DEVELOPER (or any assignee thereof) shall either (i) begin construction of the 20 Additional AUEs, or (ii) post a financial guarantee in a form acceptable to the City Attorney in favor of the City equal to 10 percent of the estimated construction costs of the Additional AUEs. Each Additional AUE shall be sold or rented at prices and terms consistent with the City’s affordable housing guidelines in effect at the time a Certificate of Occupancy is issued for the AUE. The calculation of total AUEs is detailed in the following table:

<u>Type of Use</u>	<u>Unit Equivalents</u>	<u>Mitigation Rate</u>	<u>AUEs Required</u>
Residential			
Residential Units	785	0.1	78.50
Single Family Home Sites	54	0.1	5.40
Subtotal Residential	839		83.90
<u>Type of Use</u>	<u>Square Footage / 1,000 SF</u>	<u>Mitigation Rate</u>	<u>AUEs Required</u>
Commercial			
Commercial Unit Equivalents	75	0.2	15.00
Subtotal Commercial	75		15.00
Base AUEs On-Site (25%): 24.725			
Base AUEs Off-Site (75%): 74.175 *			
Total Base AUEs			98.90
Additional AUEs Contributed by Developer (located Quinns Junction)			20.00
TOTAL AUEs			118.00

*May be located at Quinns Junction, consistent with the City's approved employee/affordable housing plan.

A minimum of 25% of the Base AUEs shall be located on-site within the Project; however, at DEVELOPER'S option, any such on-site Base AUEs not actually constructed on-site or contractually committed to be constructed on-site may be constructed off-site on a 1.5-for-1 basis. DEVELOPER and the City shall consult with Mountainlands Housing Trust, or its equivalent (if any), to determine the type and location of employee/affordable housing which would be most effective in offsetting the demand generated from the Project. DEVELOPER shall provide the remaining 75% of the Base AUEs consistent with the City's approved employee/affordable housing plan. The employee/affordable housing will be phased with the Project in accordance with the approved Phasing Plan. Upon Planning Commission recommendation, the Housing Authority may direct DEVELOPER to:

2.10.5.1 Develop, subject to deed restrictions some of the remaining units on the 20-Acre Quinn's Junction Parcel; or

2.10.5.2 Donate in a form satisfactory to the City, without restrictions or encumbrances, the 20-Acre Quinn's Junction Parcel to the City in lieu of some or all of the remaining portion of DEVELOPER's affordable housing obligation; or

2.10.5.3 Build the units on an alternate parcel provided to DEVELOPER by the City. DEVELOPER must donate the 20-Acre Quinn's Junction Parcel to the City if the City offers to donate otherwise suitable land to DEVELOPER. If the City and DEVELOPER exchange parcels with respect to the new employee/affordable housing units, then DEVELOPER shall construct on such alternate parcel such number of new employee/affordable housing units, up to the required number of units, for which DEVELOPER is able to obtain approval. In no event shall the cost incurred by DEVELOPER to construct the new employee/affordable housing units on an alternate parcel provided by the City exceed the cost which DEVELOPER would have incurred to construct such new employee/affordable housing units on the 20-Acre Quinn's Junction Parcel; or

2.10.5.4 If mutually acceptable to DEVELOPER and the City, pay to the City a fee in lieu of constructing employee/affordable housing, consistent with the City's affordable housing policy, if such payment in lieu of constructing employee/affordable housing results in the construction or dedication of actual units for affordable /employee housing; or

2.10.5.5 Satisfy its obligation in a manner otherwise consistent with the City's affordable housing policy.

2.10.6

5-Year Irrevocable Offer to Annex the 20-Acre

Quinn's Junction Parcel. For the next five years from the date of this Amended and Restated Agreement, DEVELOPER hereby irrevocably offers to annex the 20-Acre Quinn's Junction Parcel to the City.

SECTION III. ADDITIONAL PUBLIC BENEFITS

In addition to the foregoing, DEVELOPER offers the following inducements to contract:

3.1 **Richardson Flats.** DEVELOPER unconditionally offers to annex Richardson Flats to the City and, regardless of the annexation of Richardson Flats, to restrict development of Richardson Flats to one of the following options to be selected by DEVELOPER, at DEVELOPER'S sole discretion:

Option 1. Under Option one DEVELOPER must limit the use of Richardson Flats to golf (with the requisite clubhouse, maintenance buildings and other related improvements), equestrian uses (including the construction of an arena or indoor equestrian center), and/or such other public recreational opportunities or special events as the City may deem proper. In the event DEVELOPER is able to obtain necessary approvals from EPA and/or DEQ, then DEVELOPER must construct on Richardson Flats a golf course, clubhouse, and driving range with adequate¹⁷ provisions for defined public access.

Option 2. Under Option two, DEVELOPER must limit the use of Richardson Flats to an 18-hole golf course (with the requisite clubhouse, maintenance buildings and other related improvements)¹⁸ and would make available to the City a site for a second 18-hole golf course. The site to be donated to the City would not include land in need of environmental remediation. If a second golf course is constructed under Option two, then the City and DEVELOPER shall work cooperatively to develop shared facilities such as a driving range and golf maintenance shops.

Option 3. If, after diligent efforts, DEVELOPER cannot receive EPA or DEQ approval of the aforementioned recreational

¹⁷ The course must be operated to maximize play.

¹⁸ Under Option 2 DEVELOPER may in the City's sole discretion be afforded the right to use Richardson Flats for such other public recreational opportunities or special events as the City may deem proper.

improvements, DEVELOPER will perpetually deed restrict Richardson Flats to prevent further development.¹⁹

In addition to the foregoing provisions, DEVELOPER shall, in part as an additional public benefit and in part as a traffic mitigation measure, provide the City with fee title (unless the City otherwise agrees to a long term lease) to 30 acres at Richardson Flats. Such acreage will be used only for ball fields or similar recreational spaces, and improvements related thereto, and parking. On this acreage, DEVELOPER will provide a parking area which may be paved and which will accommodate segregated Montage and Empire Pass parking (up to 100 spaces), and parking for the City (up to 650 spaces), for a total of up to 750 spaces. This parking area will also serve as the location for Montage construction parking, and DEVELOPER or Montage shall be responsible for providing or arranging construction parking shuttles. The parking improvements may be constructed in phases. DEVELOPER will have naming rights for the ball fields or similar recreational spaces, and will not select a name that is inappropriate. The parking improvements (excluding the 100 dedicated Montage spaces and spaces required for construction parking and other operational needs) may be used by the City for reasonable ancillary uses such as special events.

3.2 **Open Space/Transit Management Fund.** DEVELOPER shall pay on each transfer of DEVELOPER's land, and shall separately covenant with all successors in interest in a manner which runs with the land, to assess a 1% Open Space/Transit Management Fee on the gross sales price of all real property within the Project. 50% of the Open Space/Transit Management Fee shall belong to the Flagstaff Mountain Master Resort

¹⁹ The timing of Richardson Flats development shall be addressed in the Construction Phasing and General Infrastructure Phasing Plans required in Sections 2.1.10 and 2.1.11 with development commencing as early as possible.

Association to reduce Master Resort Association dues associated with obligations assumed herein or to enhance the Master Resort Association's service to its members. 50% of the Open Space/Transit Management Fee shall be paid to the City to assist in funding the costs and expenses for enhanced transportation to the Project, recreation improvements and/or open space acquisition, maintenance or preservation. This Open Space/Transit Management Fee shall not apply to the transfer of real property within the Project either solely as security for financing (e.g. mortgage) or for nominal consideration solely to initially capitalize the development entity. DEVELOPER acknowledges that the Project requires an open space management fee to mitigate the adverse effects of the Project. As such, DEVELOPER covenants that it will pay this fee as a contractual obligation, and not as a regulated entity. DEVELOPER shall vigorously defend the imposition of such fees. DEVELOPER shall not take any action (contractually, judicially, or legislatively) to challenge or otherwise adversely affect the enforceability of the Open Space/Transit Management Fee as a valid and enforceable real covenant.

SECTION IV. IMPACT FEES/PLAN CHECK FEES

4.1 **Conditions of Approval and Impact Fees.** With respect to the development of Flagstaff Mountain, DEVELOPER accepts and agrees to comply with the impact, connection and building fees of the City currently in effect, or as amended, to the extent the amended fees are applied uniformly within an impact fee district. DEVELOPER acknowledges that the Project requires infrastructure supported by impact fees and finds the fees currently imposed to be a reasonable monetary expression of exactions that would otherwise be required at this time. As such, DEVELOPER covenants that it will pay impact fees as a contractual obligation, and not exclusively as a regulated entity. If the state legislature disallows the imposition of a regulatory impact fee, DEVELOPER will pay those impact fees in effect at the time of such change in state law throughout the remaining buildout of the Project. Further DEVELOPER

agrees to pay plan check fees in the amount of 65% of the building permit fee.

SECTION V. BONANZA FLATS DEVELOPMENT PARAMETERS

5.1 **Restrictions on Bonanza Flats Development.** DEVELOPER covenants that it will never apply, nor assist in any application, to the City or to Wasatch County for the development of Bonanza Flats in excess of the following maximum densities. Further, DEVELOPER shall amend its development application with Wasatch County, and shall restrict development in Bonanza Flats to the following maximum densities:

5.1.1 A maximum of 260 residential units (280 Unit Equivalents), of which no more than 160 units shall be Bonanza Flats single family home sites.

5.1.2 An 18-hole golf course, including the construction of no larger than a 20,000 sq. ft club house and other golf-related facilities, with Nordic skiing thereon during the winter, all as generally depicted on Exhibit O.

5.1.3 75,000 square feet of resort-related commercial uses.

5.1.4 Alpine and Nordic ski terrain, ski runs, ski lifts and other ski-related improvements, all as depicted on Exhibit O.

5.2 **Wasatch County Approval of Bonanza Flats Development Proposal.**

DEVELOPER has a pending application in Wasatch County, with respect to Bonanza Flats, requesting density far in excess of that which the City regards as appropriate. As an inducement for the City to enter into this Agreement, DEVELOPER agrees to amend its development application with Wasatch County in order to reflect the terms and conditions of this Agreement regarding the development of Bonanza Flats. City's contractual restrictions on Bonanza Flats development are in no respect an endorsement of development on Bonanza Flats. DEVELOPER agrees that the portions of Bonanza Flats, as described on Exhibit C attached hereto, which are not to be developed shall be subjected to restrictive covenants or conservation easements, dedicated to a third party conservation trust (or

similar entity), in a form acceptable to the City, so that the real property which is not to be developed shall be limited in perpetuity to recreational and open-space uses. DEVELOPER and the City acknowledge that the annexation of Bonanza Flats to the City is not being considered at this time by either the City or by DEVELOPER.

5.3 **Snyderville Basin Sewer Improvement District Annexation.**

Snyderville Basin Sewer Improvement District (“SBSID”) must agree to annex Bonanza Flats and agree to provide sewer service within Bonanza Flats if Park City is to provide water service to the area. SBSID capacity shall be restricted in size to accommodate no more than the restricted densities agreed to herein. If Wasatch County approves the use of Park City water for culinary use in Bonanza Flats, then DEVELOPER must apply for and pursue annexation to SBSID.

5.4 **Annexation.** If Wasatch County recommends that DEVELOPER seek annexation to the City of Bonanza Flats, then DEVELOPER shall request that the City annex Bonanza Flats. In the event that DEVELOPER requests that the City annex Bonanza Flats, the City anticipates the execution of an interlocal agreement with Wasatch County to address fiscal issues in connection with the City’s annexation of Bonanza Flats.

5.5 **Request for Transfer of Bonanza Flats Density to Flagstaff Mountain.**

DEVELOPER may seek approval from the City of additional density within Flagstaff Mountain in exchange for DEVELOPER transferring approved density from Bonanza Flats and deed restricting such land as open space. City’s contractual restrictions on development in Bonanza Flats in no way shall be construed as an endorsement of such densities either in Bonanza Flats nor transferred to the Mountain Village. Upon DEVELOPER’s request, the City would consider such transfer. If favorably inclined to entertain such density transfer, the City would attempt in good faith to negotiate an interlocal agreement with Wasatch County to address fiscal issues associated with such action. In connection with any such request by DEVELOPER, the City may give higher priority

to the transfer of multifamily or lodging units and may consider many factors, including but not limited to the following:

- 5.5.1 The location and quality of open space within the Bonanza Flats property that would occur as a result of the transfer;
- 5.5.2 The suitability of increased density in the Mountain Village;
- 5.5.3 The potential reduction of traffic;
- 5.5.4 The potential positive impacts on the transportation system;
- 5.5.5 The visual and other impacts to the Mountain Village; and
- 5.5.6 The positive and negative impacts to the Bonanza Flats Property.

5.6 **Private Road.** Consistent with an approved phasing plan for Flagstaff Mountain, DEVELOPER may construct a private controlled access road between the Flagstaff Mountain and the Bonanza Flats development areas, provided that such private road is properly controlled to prevent through access to adjacent properties and deed restricted to prevent its extension beyond the terminus depicted in Exhibit C.

5.7 **Water Service.** DEVELOPER and the City acknowledge and agree that water service and sewer service to Bonanza Flats should be provided from the same basin in order to avoid any trans-basin transfer issues. Inasmuch as the City shall be providing water service to the Project, the City and DEVELOPER desire that the City provide water service to Bonanza Flats as well. If Wasatch County: 1) approves DEVELOPER's amended proposal for the limited development of Bonanza Flats detailed herein, and 2) approves DEVELOPER's proposal that the City provide water service to Bonanza Flats, then, subject to a City-approved infrastructure phasing plan, DEVELOPER shall build and dedicate to the Park City Water Service District an adequate water delivery system, to service Bonanza Flats, including all fire flow and irrigation needs. DEVELOPER shall work cooperatively with the City to develop a water source or sources, including, but not limited to, making well sites, water rights and easements available to the City. The City shall provide culinary water to Bonanza Flats according to the terms of this Agreement. DEVELOPER will

construct all infrastructure, including a source of water necessary to provide water service to Bonanza Flats. City water development and connection fees, as well as water rates, shall be the same as those imposed in the Project, unless the City can identify and fairly assign extraordinary costs to end users within Bonanza Flats. No water from a Weber Drainage Basin source shall be used for outdoor uses in Bonanza Flats.

5.8 **No Annexation Alternative.** If Bonanza Flats is not annexed into the City, and if the requirements described in Sections 5.3, 5.6 and 5.7 are satisfied, then DEVELOPER shall not build within Bonanza Flats more than the units described in Section 5.1 above.

5.9 **Conditions of Development of Bonanza Flats.** Regardless of the annexation of Bonanza Flats to the City, DEVELOPER agrees to the following:

5.9.1 The residential and commercial units constructed within Bonanza Flats shall not be located adjacent to the lakes within the Bonanza Flats property.

5.9.2 If Bonanza Flats is developed, but is not annexed DEVELOPER agrees to provide employee/affordable housing units consistent with its obligations in the Flagstaff Mountain annexation.

5.9.3 Within Bonanza Flats, DEVELOPER shall limit the construction of wood-burning devices to one wood-burning device per single family unit. DEVELOPER shall not request approval from Wasatch County or from the City for wood-burning devices in any other attached, or detached, residential uses. Within each lodge, or hotel constructed within Bonanza Flats, DEVELOPER may construct one wood-burning device in each such lodge or hotel.

5.9.4 DEVELOPER shall pursue an interlocal agreement with Wasatch County whereby the Park City Fire Protection District will provide fire protection services within Bonanza Flats.

5.9.5 Upon realignment of S.R. 224, DEVELOPER shall prohibit

commercial snowmobile use within Bonanza Flats.

SECTION VI. AMENDMENT OF AGREEMENT AND DEVELOPMENT PLAN

- 6.1 This Agreement may be amended from time to time by mutual written consent of the Parties.

SECTION VII. IMPLEMENTATION OF THIS AGREEMENT

- 7.1 **Processing and Approvals.** Site specific plans shall be deemed proposed Small Scale Master Plans and shall be subject to the process and limitations set forth in the Park City Municipal Corporation Land Management Code that is in effect when the DEVELOPER submits a complete application for a Small Scale MPD.

- 7.2 **Cooperation in the Event of Legal Challenge.** If any third party challenges the validity, or any provision, of this Agreement, (1) the Parties shall cooperate in defending such action or proceeding, and (2) DEVELOPER shall hold harmless, and shall indemnify the City for all costs (including attorneys' fees) associated with defending this Agreement. Nothing herein shall be construed as a waiver of governmental immunity, as applicable.

- 7.3 **Impossibility of Performance.** If this Agreement is delayed in its effect by actions beyond the control of City or DEVELOPER, this Agreement shall remain in full force and effect during such delay. If such delay in the effect of this Agreement extends for a period of more than one year, this Agreement shall be terminable by DEVELOPER or the City upon written notice to the other at any time after such initial one-year period. In the event of termination, all rights and obligations hereunder shall be deemed terminated, provided, however, that the parties shall cooperate to return to the status quo ante.

Section VIII. GENERAL PROVISIONS

- 8.1 **Covenants Running with the Land.** The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits hereof shall bind and inure to the benefit of each

of the Parties hereto and all successors in interest to the Parties hereto. All successors in interest shall succeed only to those benefits and burdens of this Agreement which pertain to the portion of the Project to which the successor holds title. Such titleholder is not a third party beneficiary of the remainder of this Agreement or to zoning classifications and benefits relating to other portions of the Project.

8.2 **Transfer of Property.** DEVELOPER and DEER VALLEY shall have the right, without obtaining the City's consent or approval, to assign or transfer all or any portion of its rights, but not its obligations, under this Agreement to any party acquiring an interest or estate in the Project, or any portion thereof. Third party assumption of DEVELOPER's or DEER VALLEY's obligations under this Agreement shall not relieve DEVELOPER or DEER VALLEY of any responsibility or liability with respect to the expressly assumed obligation, unless the City expressly agrees in writing to the reduction or elimination of DEVELOPER's or DEER VALLEY's responsibility or liability. DEVELOPER and DEER VALLEY shall provide notice of any proposed or completed assignment or transfer. If DEVELOPER or DEER VALLEY transfers all or any portion of the property comprising Flagstaff Mountain, Richardson Flats, Sandridge or Bonanza Flats, the transferee shall succeed to all of DEVELOPER's or DEER VALLEY's rights under this Agreement. To the extent the City believes (in its sole discretion, considering the totality of the DEVELOPER's and/or DEER VALLEY's obligations) that the successor in interest has ample resources to secure the City's rights under this Agreement, the City may release DEVELOPER and/or DEER VALLEY from its proportionate liability under this Agreement.

8.3 **No Agency, Joint Venture or Partnership.** It is specifically understood and agreed to by and among the Parties that: (1) the subject development is a private development; (2) City, DEER VALLEY and DEVELOPER hereby renounce the existence of any form of agency relationship, joint venture or partnership among City, DEER VALLEY and DEVELOPER;

and (3) nothing contained herein shall be construed as creating any such relationship among City, DEER VALLEY and DEVELOPER.

SECTION IX. MISCELLANEOUS

9.1 **Incorporation of Recitals and Introductory Paragraphs.** The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

9.2 **Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

9.3 **Severability.** If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

9.4 **Construction.** This Agreement has been reviewed and revised by legal counsel for DEVELOPER, DEER VALLEY and the City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. Since the time the original Agreement was adopted and executed, many of the DEVELOPER'S obligations hereunder have been satisfied. The fact that this Agreement is styled as an amended and restated agreement shall not be deemed or construed to reinstate the DEVELOPER obligations that have been satisfied as of the date hereof.

9.5 **Notices.** Any notice or communication required hereunder between the Parties must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States

mail. If personally delivered, a notice is given when delivered to the Party to whom it is addressed. Any Party hereto may at any time, by giving ten (10) days written notice to the other Parties hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at the address set forth below.

If to City to:

City Manager
445 Marsac Ave.
P.O. Box 1480
Park City, UT 84060

Copy to:

City Attorney
445 Marsac Ave.
P.O. Box 1480
Park City, UT 84060

If to DEVELOPER to:

United Park City Mines Company
c/o David J. Smith
P.O. Box 1450
Park City, UT 84060

Copy to:

Clark K. Taylor
VanCott Bagley Cornwall & McCarthy
P. O. Box 45340
Salt Lake City, Utah 84145

If to DEER VALLEY:

Deer Valley Resort Company
Attn: Bob Wheaton, President
2250 Deer Valley Drive South
P.O. Box 889
Park City, Utah 84060

Copy to:

General Counsel
Royal Street Corporation
7620 Royal Street East, Suite 205
P.O. Box 3179
Park City, Utah 84060

9.6 **No Third Party Beneficiary.** This Agreement is made and entered into for the sole protection and benefit of the Parties and their assigns. No other party shall have any right of action based upon any provision of this Agreement whether as third party beneficiary or otherwise.

9.7 **Counterparts and Exhibits.** This Agreement is executed in four (4) duplicate counterparts, each of which is deemed to be an original. This Agreement consists of forty-two (42) pages, including notary acknowledgment forms, and in addition, sixteen (16) exhibits, which constitute the entire understanding and agreement of the Parties to this Agreement. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

- Exhibit A Map and Legal description of Flagstaff Mountain
- Exhibit B Map and Legal description of the Iron Mountain
Parcels
- Exhibit C Map and Legal description of Bonanza Flats
- Exhibit D Map and Legal description of Richardson Flats
- Exhibit E Map and Legal description of 20-Acre Quinn's
Junction Parcel
- Exhibit F Deer Valley Ski Area Master Plan
- Exhibit G Deer Valley Resort Company Ski Run Construction
and Revegetation Standards
- Exhibit H Guardsman Realignment
- Exhibit I Emergency Access
- Exhibit J Lady Morgan Springs Open Space Area
- Exhibit K Approximate Location of Prospect Ridge Open
Space
- Exhibit L Map and Legal description of Sandridge Parking
Lots and Sandridge Heights parcels
- Exhibit M Road and Intersection Improvements Detail
- Exhibit N Runaway Truck Lane
- Exhibit O Bonanza Flats golf course and ski improvements

Exhibit P Zoning Map for Flagstaff Mountain

9.8 **Attorneys' Fees.** In the event of a dispute between any of the Parties arising under this Agreement, the prevailing Party shall be awarded its attorneys' fees and costs to enforce the terms of this Agreement.

9.9 **Duration.** This Agreement shall continue in force and effect until all obligations hereto have been satisfied. DEVELOPER shall record the approved annexation plat for Flagstaff Mountain within 30 days of the City's adoption of an annexation ordinance to annex Flagstaff Mountain. The Large Scale Master Plan for Flagstaff Mountain granted herein shall continue in force and effect for a minimum of four years from its issuance and shall be effective so long as construction is proceeding in accordance with the approved phasing plan. Upon expiration of the minimum four-year period, approval will lapse after two additional years of Inaction following the expiration of such four-year period, unless extended for up to two years by the Planning Commission.

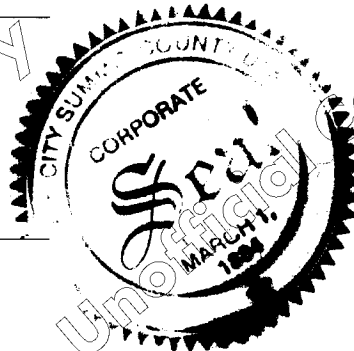
IN WITNESS WHEREOF, this Agreement has been executed by UPCM and by DEER VALLEY by persons duly authorized to execute the same and by the City of Park City, acting by and through its City Council effective as of the 2nd day of March, 2007.

PARK CITY MUNICIPAL CORPORATION

By: *Dana Williams*
Dana Williams, Mayor

ATTEST: City Clerk

By: *Jarret Scott*
Jarret Scott, City Recorder



APPROVED AS TO FORM:

Mark D. Harrington
Mark D. Harrington, City Attorney

DEVELOPER:

United Park City Mines Company,
a Delaware corporation



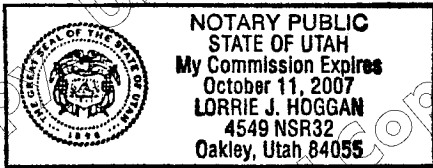
David J. Smith, Authorized Signing Officer

STATE OF UTAH)

: ss

COUNTY OF SUMMIT)

On this 28th ^{February} day of ~~March~~, 2007 before me, Lorrie J. Hoggan, the undersigned Notary Public, personally appeared David J. Smith, personally known to me to be the Authorized Signing Officer of United Park City Mines Company, on behalf of the corporation named herein, and acknowledged to me that the corporation executed it. Witness my hand and official seal.





Notary Public, State of Utah
Residing in Cable, Utah

DEER VALLEY RESORT COMPANY,

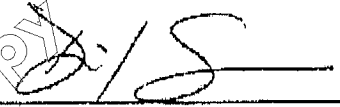
a Utah limited partnership

By: Royal Street of Utah, a Utah corporation,
General Partner

By: _____
Robert Wells, Vice President

DEVELOPER:

United Park City Mines Company,
a Delaware corporation



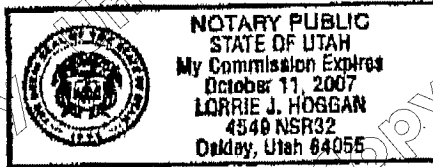
David J. Smith, Authorized Signing Officer

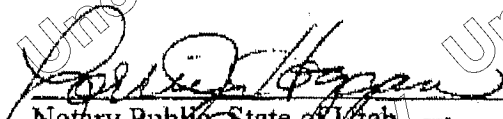
STATE OF UTAH)

: ss

COUNTY OF SUMMIT)

On this 28th day of ^{February} ~~March~~, 2007 before me, Lorrie J. Hoggan, the undersigned Notary Public, personally appeared David J. Smith, personally known to me to be the Authorized Signing Officer of United Park City Mines Company, on behalf of the corporation named herein, and acknowledged to me that the corporation executed it. Witness my hand and official seal.

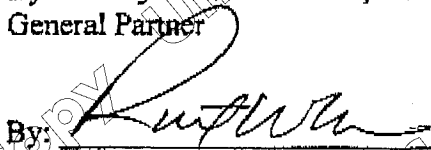



Notary Public, State of Utah
Residing in Ordley, Utah

DEER VALLEY RESORT COMPANY,

a Utah limited partnership

By: Royal Street of Utah, a Utah corporation,
General Partner



By: Robert Wells, Vice President

ARIZONA
STATE OF UTAH)
MARICOPA : SS
COUNTY OF SUMMIT)

On this 1 day of MARCH, 2007 before me, Constance M Richards, the undersigned Notary Public, personally appeared **Robert Wells**, personally known to me to be the Vice President of Royal Street of Utah, on behalf of the corporation named herein, and acknowledged to me that the corporation executed it. Witness my hand and official seal.



Constance M Richards
Notary Public, State of Utah, AZ
Residing in Maricopa County, AZ

SCHEDULE 3.1

RICHARDSON FLATS PARKING AREA SPECIFICATIONS

Talisker or United Park City Mines Company will provide the City with fee title (unless the City otherwise agrees to a long term lease) to 30 acres at Richardson Flats (map attached). The use of this land is provided on the basis that it will be only for ball fields or similar recreational spaces (and related improvements) and parking. On this acreage, Talisker will provide a paved area which will accommodate segregated Montage and Empire Pass parking (up to 100 spaces) and parking for the City (up to 650 spaces) for a total of up to 750 spaces. The cost of improving the existing County road leading to the site shall be paid for by the Developer, and shall be subject to a late comer's agreement. The parking improvements shall be constructed in phases as established during the MPD for those improvements in cooperation with Summit County. The parking improvements (excluding the 100 dedicated Montage spaces and spaces required for construction parking and other operational needs) may be used by the City for reasonable ancillary uses such as special events. Construction of the parking improvements will be assured through a form of completion bonding consisting of a draw-down letter of credit or other similar instrument in an amount equivalent to the good faith estimated cost to construct the parking improvements, but in an amount not to exceed \$1,800,000. In the event any permit application is denied such that the parking improvements cannot be constructed, the City shall be entitled to draw the entire amount of the completion bond, letter of credit or similar instrument (as the case may be), and DEVELOPER shall have no further obligation to construct the parking improvements.

Additional specifications are as follows:

1. Adequate space will be provided for drainage & snow storage.
2. The area will have reasonably flat terrain.
3. The parking lot will allow adequate bus travel through the parking area.
4. An allowance for signs and street lights is included.
5. The lot will be paved to accommodate the weight of City busses, in accordance with applicable Summit County construction standards and/or the Park City Construction Specifications and Standard Drawings as reasonably applied by the City engineer and the DEVELOPER'S design engineer.

The precise layout and cost of the ball fields or similar recreational spaces within the 30 acre parcel, and improvements related thereto, are the City's responsibility.

**EXHIBIT A
TO
GRANT OF TALISKER CONSERVATION DEED RESTRICTION**

[Insert Legal Description of the Property]

WHEN RECORDED, MAIL TO:

Mark D. Harrington, City Attorney
Park City Municipal Corporation
445 Marsac Avenue
Park City, Utah 84060

COPY

TALISKER CONSERVATION DEED RESTRICTION

THIS GRANT OF CONSERVATION DEED RESTRICTION ("Deed Restriction") is made effective as of the 2nd day of March, 2007, by UNITED PARK CITY MINES COMPANY, a Delaware corporation ("UPMC"), its subsidiary, TALISKER LAND HOLDINGS, LLC ("TLH"), and Royal Street Land Company ("RSLC"), which contribute, grant and convey the rights described hereafter to PARK CITY MUNICIPAL CORPORATION, a city and political subdivision of the STATE OF UTAH located in Summit County, Utah ("City"). UPMC, TLH and RSLC are collectively referred to herein as "Grantor" and City is referred to herein as "Grantee". Grantor and Grantee are sometimes collectively referred to herein as the "Parties".

WITNESSETH:

WHEREAS, Grantor owns certain real property located in Park City and Summit County, Utah (the "Property") more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the Property possesses natural, scenic, open space, public recreation, wildlife and wetland values described in Section 170(h)(4)(A) of the Internal Revenue Code of 1986 (the "Code") (collectively referred to herein as "Conservation Values"); and

WHEREAS, the specific Conservation Values of the Property are documented in materials sometimes referred to as the "Baseline Documentation," which consists of reports, maps, photographs and other documentation intended to provide the Parties with an accurate representation of the Property at the time of the granting of the Deed Restriction as defined below; and

WHEREAS, the Property is appropriate for substantial and regular skiing, year-round recreational and other uses as hereinafter described as the Reserved Use Rights, and the Property is necessary to the operation of the Park City Mountain Resort; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by the continuation of land use patterns, including, without limitation, those existing at the time of the recording of this Deed Restriction, subject to the Reserved Use Rights; and

WHEREAS, Grantor further intends, as owner of the Property, to preserve and protect the conservation values of the Property in perpetuity, subject to the Reserved Use Rights; and

WHEREAS, GRANTEE is a political subdivision of the State of Utah described in Code Section 170(b)(1)(A)(v), (c)(1) and (h)(3)(A); and

WHEREAS, Grantee agrees by accepting this grant that the Deed Restriction contained herein significantly furthers a clearly delineated local governmental policy of Grantee, and that Grantee will honor the intentions of Grantor stated herein to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and the generations to come;

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Utah and in particular U.C.A. Title 57, Chapter 18, Grantor hereby contributes, grants and conveys to Grantee a conservation Deed Restriction in perpetuity over the Property of the nature and character and to the extent set forth herein (the "Deed Restriction").

1. Purpose. It is the purpose of the Deed Restriction to prevent residential development on the Property and, subject to the Reserved Use Rights described in Section 3 of this Deed Restriction, to assure that the Property will be retained forever in its open, generally undeveloped condition as provided herein and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that the Deed Restriction will confine the use of the Property to those activities, including without limitation the Reserved Use Rights, that are consistent with the terms of this Deed Restriction.

2. Rights of Grantee. To accomplish the purpose of this Deed Restriction, the following rights are conveyed to Grantee by this Deed Restriction, subject at all times to the Reserved Use Rights:

- (a) The right to preserve and protect the Conservation Values of the Property;
- (b) The right to enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Deed Restriction; provided that such entry shall be upon prior reasonable notice to Grantor and to Grantor's tenants and subtenants, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property, whether directly or through tenants or subtenants;
- (c) The right to prevent any activity on or use of the Property that is inconsistent with the terms of this Deed Restriction and to enforce the restoration of such areas or features of the Property that may be damaged by inconsistent activity or use, pursuant to Section 7 hereof; and
- (d) The right to enforce this Deed Restriction by appropriate legal proceedings, after providing Grantor with reasonable notice and opportunity to cure, as provided in section 7 herein.

3. Reserved Use Rights. The following uses and practices (collectively referred to herein as the "Reserved Use Rights"), while not an exhaustive recital of permitted uses and practices, are consistent with the purpose of the Deed Restriction, and the following purposes:

and practices shall not be precluded or prevented by this Deed Restriction to the extent they are not inconsistent with Conservation Values:

(a) Until the expiration or earlier termination of that certain Lease dated as of January 1, 1971, by and between HPCMC and Treasure Mountain Resort Company ("Current Lessee"), as now amended, as the term may be extended from time to time (the "Lease"), all uses, practices and activities permitted under the Lease. The Parties agree that all permitted uses under the Lease are consistent with Conservation Values. Future amendments to or replacements of said Lease shall also be permitted, provided that such are consistent with applicable zoning requirements and this Deed Restriction.

(b) Upon and after the expiration or earlier termination of the Lease:

(i) Recreational, entertainment, and retail usages not inconsistent with Conservation Values.

(ii) All uses, practices and activities incident to the operation, maintenance, repair and replacement of the Park City Mountain Resort and related facilities when done in a manner not inconsistent with Conservation Values.

(iii) Substantial and regular skiing uses consisting of ski lifts, ski runs, and other winter and summer recreational and resort facilities and uses incident or related thereto, such facilities and uses to include (i) fuel storage and dispensing, (ii) bomb caches for avalanche control, (iii) maintenance facilities, (iv) vehicle fleet maintenance and operations, (v) bike trails, (vi) avalanche hazard reduction, (vii) forestry management, (viii) night skiing operations and related lighting, (ix) day lodges and restaurants, (x) yurts, (xi) mobile or modular units for security personnel, (xii) culinary water lines, pump stations and storage tanks, and (xiii) snowmaking water lines, pump stations, storage tanks and storage ponds, all of which are to be implemented in a manner not inconsistent with Conservation Values;

(iv) The construction, development and operation of ski-related development and other allowed uses as provided by the PCMR Development Agreement dated on or about June 25, 1998 (as amended from time to time in a manner not inconsistent with Conservation Values), including activities conducted under Master Festival Licenses, and recreational, entertainment, and retail usages that are not inconsistent with the Development Agreement, underlying zoning or with Conservation Values;

(v) The construction, installation, use, maintenance, repair, replacement and relocation of water wells, water lines, sanitary sewer lines, storm sewer lines and the right to discharge their flows, natural gas lines, electric power lines, cable television lines, telephone lines, and other utility lines, together with the right to temporarily stockpile construction materials and equipment as approved by the Grantee, so long as such uses are necessary for the Reserved Use Rights, are located in disturbed areas such as ski runs or existing utility corridors

(unless otherwise approved by the Grantee) and are not inconsistent with Conservation Values;

(vi) The construction, installation, use, maintenance, repair, replacement and relocation of secondary access roads provided all applicable land use approvals are obtained from Grantee (nothing herein shall be deemed as such approval) and such are done in a manner not inconsistent with Conservation Values;

(vii) All activities on the Property that are necessary to perform investigation, remediation, closure and/or reclamation work consistent with or required by law with respect to any portion of the Property that has been used previously for mining activities or mining operations;

(viii) The right to access all subsurface oil, gas or other minerals by subsurface techniques to the maximum extent permitted by a "Qualified Mineral Interest" within the meaning of Section 170(h)(6) of the Code provided that such rights are exercised only without use of any surface mining method and only in a manner which is not inconsistent with the Conservation Values.

(ix) Passive uses otherwise allowed by the Park City Land Management Code in the ROS District intended to preserve and protect the Conservation Values.

4. Prohibited Uses and Practices. Any activity on or use of the Property inconsistent with the purpose of the Deed Restriction is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(a) Any residential construction or use including hotels and lodging, and any surface mining, use of surface mining methods or mining by any method inconsistent with Conservation Values; and

(b) Hunting or trapping for any purpose other than predatory or problem animal control.

The foregoing prohibited activities and uses may be amended by the express written agreement of the Grantee and Grantor, provided such amendment is not inconsistent with either Section 170(h) of the Code or Conservation Values.

5. Existing Liens. The Property is subject to all existing easements and other liens and encumbrances of record.

6. Reserved Rights. Grantor reserves to Grantor and to Grantor's successors and assigns as the owner of the Property all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are consistent with the purpose of the Deed Restriction and that are not expressly prohibited herein, including without limitation the right to engage in or permit others to engage in Reserved Use Rights.

6.1 Minor Boundary Adjustments. Grantor reserves the right to make reasonable and minor boundary line adjustments in the legal description of the Property, provided that any such adjustments are consistent with the Reserved Use Rights and provided that the total area of the Property that is subject to the Deed Restriction shall not be reduced as the result of any such boundary line adjustments. The Grantee shall execute, acknowledge and record in the Office of the Recorder of Summit County, Utah any amendments to this Deed Restriction proposed by Grantor for such purpose so long as such adjustments are not inconsistent with Conservation Values.

6.2 Notice of New Uses. Grantor agrees to notify Grantee in writing at least 30 days in advance of any change in use or exercise of any Reserved Use Right which may have an adverse impact on any Conservation Value.

7. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Deed Restriction or that a violation is threatened, Grantee shall give written notice to both Grantor and Current Lessee of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the terms of this Deed Restriction, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Deed Restriction, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Deed Restriction or injury to any Conservation Values protected by the Deed Restriction, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Section without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Deed Restriction, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Deed Restriction are inadequate and that Grantee shall be entitled to the injunctive relief described in this Section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Deed Restriction, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Current Lessee shall, with at least simultaneous notice to Grantor, have the right, but not the duty, to undertake any above described cures on behalf of Grantor if Grantor has not commenced such cure at least five days before the end of the cure period described herein.

7.1 Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Deed Restriction against Grantor, including, without limitation, costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Deed Restriction shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Deed Restriction, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

7.2 Grantee's Enforcement. Failure by Grantee to immediately enforce this Deed Restriction in the event of any breach of any term of this Deed Restriction by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Deed Restriction.

7.3 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

7.4 Acts Beyond Grantor's Control. Nothing contained in this Deed Restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

8. Access. No specific right of access by the general public to any specific portion of the Property is conveyed by this Deed Restriction, but the overall operation of the Property shall be such as to provide the Public substantial and regular access for recreational and scenic uses.

9. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

9.1 Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, the Deed Restriction, and shall furnish Grantee with satisfactory evidence of payment upon request.

9.2 Hold Harmless. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees arising from or in any connection with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (b) the obligations specified in Sections 9 and 9.1; and (c) the existence or administration of this Deed Restriction.

10. Property Interest; Condemnation or Extinguishment. The Deed Restriction constitutes a real property interest immediately vested in Grantee, which the Parties agree can not be extinguished except by (i) a super majority vote by at least 80% of the City Council and a vote of the City residents, and (ii) a judicial action as permitted under Treas. Reg. 1.170A-14(g)(6)(i), and which, for the purposes of this Deed Restriction, the Parties stipulate to have a fair market value determined in accordance with the requirements of the Code and Treas. Reg. 1.170A-14(g)(6)(ii), as applicable to conservation contributions. Grantee acknowledges that Grantor is making a bargain contribution as described in the eighth sentence of Treas. Reg. 1.170A-14(h)(3)(i), but makes no representation as to the tax consequences of the transaction contemplated by this Deed Restriction. Grantor will obtain independent tax counsel and be solely responsible for compliance requirements of the Code. The values as of the date of this Deed Restriction shall be those values used to calculate the deduction, if any, for federal income tax purposes allowable by reason of this Deed Restriction, pursuant to Section 170(h) of the Code. If the Deed Restriction is taken, in whole or in part, by exercise of the power of eminent domain or by an extinguishment by judicial proceeding permitted under Treas. Reg. 1.170A-14(g)(6)(i), Grantee shall be entitled to compensation in accordance with applicable law (but in no event less than the amount required to be received under Treas. Reg. 1.170A-14(g)(6)(ii)) and such proceeds shall be used in solely in accordance with Treas. Reg. 1.170A-14(c)(2).

11. Transfer, Assignment and Substitution of Conservation Easement. The Deed Restriction is not transferable by Grantee so long as the Lease is in effect. Grantor agrees (to the extent it can be done in compliance with all provisions of the Code and Treasury Regulations then in effect) that, upon Grantee's request after the Lease is no longer in effect, Grantor will cooperate with the City and will take all reasonable steps necessary to substitute for this Deed Restriction a Conservation Easement having identical substantive terms. Further, within a reasonable time after the expiration or other termination of the Lease, the Grantee shall, to the extent permitted by the Code and Treasury Regulations then in effect, transfer the Deed Restriction (or Conservation Easement, if substituted as provided above) to a non-governmental eligible donee within the meaning of Treas. Reg. 1.170A-14(c)(1) in a properly documented transfer complying with all requirements of law including, without limit, Treas. Reg. 1.170A-14(c)(2).

12. Estoppel Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Deed Restriction and otherwise evidences the status of this Deed Restriction as may be requested by Grantor.

13. Baseline Documentation. The Parties acknowledge that an inventory of Baseline Documentation relating to the Property has been completed based upon information available to Grantor on the date hereof and which has been provided by Grantor to Grantee. Copies of this inventory of Baseline Documentation are on file in Grantee's offices and in Grantor's offices. The Parties acknowledge that this collection of Baseline Documentation contains an accurate representation of the condition of the Property subject to the Deed Restriction and the natural

resources associated with the Property as of the date of the execution of this Deed Restriction in accordance with Treasury Regulation § 1.170A-14(g)(5)(i). Notwithstanding the foregoing, in the event of a controversy arising with respect to the nature of the biological and/or physical condition of the Property, the Parties shall not be foreclosed from using any and all other relevant or material documents, surveys, reports and other information to assist in the resolution of that controversy.

14. Notices. Any notice, demand, request, consent, approval, or communication that any Party to this Deed Restriction desires or is required to give to the other Parties shall be in writing and shall be served either personally or sent by first class mail, postage prepaid, addressed as follows:

To United Park City Mines
Company, Grantor:

United Park City Mines Company
Attn.: David J. Smith
900 Main Street, Suite 6107
P. O. Box 1450
Park City, UT 84060

To Talisker Land Holdings,
LLC, Grantor:

Talisker Land Holdings, LLC
Attn.: David J. Smith
900 Main Street, Suite 6111
P. O. Box 4349
Park City, Utah 84060

To Royal Street Land
Company, Grantor:

Royal Street Land Company
Attn: Robert W. Wells
7620 Royal Street East
P. O. Box 3179
Park City, UT 84060

To Park City Municipal
Corporation, Grantee:

Office of the Mayor
445 Marsac Avenue
Park City, UT 84060

or to such other address as any Party to this Agreement from time to time shall designate by written notice to the other Party.

15. Recordation. Grantee shall record this Deed Restriction in a timely fashion in the Office of the Recorder of Summit County, Utah, and Grantee may re-record it at any time as may be required to preserve Grantee's rights in the Deed Restriction.

16. General Provisions.

(a) Controlling Law. The Code, Treasury Regulations and laws of the State of Utah shall govern the interpretation and performance of this Deed Restriction.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Deed Restriction shall be liberally construed in favor of preserving Conservation Values and to effect the purpose of the Deed Restriction and the policy and purposes of both Utah statute and Section 170(h) of the Code. If any provision in this Deed Restriction is found to be ambiguous, an interpretation consistent with Conservation Values and the purpose of the Deed Restriction that would render the provision valid shall be favored over any such interpretation that would render it invalid.

(c) Severability. If any provision of this Deed Restriction, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Deed Restriction, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This Deed Restriction sets forth the entire agreement of the Parties hereto with respect to the Deed Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Deed Restriction, all of which are merged herein.

(e) Amendments. Any amendments to this Deed Restriction must be in writing and must be executed by all Parties hereto.

(f) No Forfeiture. Nothing contained herein will result in the forfeiture or reversion of Grantor's title in any respect.

(g) Successors. The covenants, terms, conditions, and restrictions of this Deed Restriction shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

(h) Termination of Rights and Obligations. A Party's rights and obligations under this Deed Restriction (but no part of the Deed Restriction itself) shall terminate upon transfer of the Party's interest in the Deed Restriction or the Property, as the case may be, except that responsibility for acts or omissions occurring prior to transfer shall survive transfer.

(i) Captions. The captions in this Deed Restriction have been inserted solely for convenience of reference and are not a part of this Deed Restriction and shall have no effect upon the construction or interpretation hereof.

IN WITNESS WHEREOF Grantor and Grantee have caused this Deed Restriction to be executed by persons duly authorized to execute the same as of the day and year first above written.

[signatures follow on next pages]

GRANTOR:

UNITED PARK CITY MINES COMPANY, a
Delaware corporation

By: *[Signature]*
David J. Smith, Authorized Signing Officer

TALISKER LAND HOLDINGS, LLC, a Delaware
limited liability company

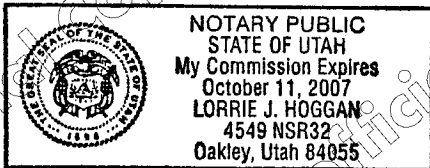
By: *[Signature]*
David J. Smith, Authorized Signing Officer

STATE OF UTAH

: ss.

COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 1st day of March, 2007 by David J. Smith in his capacity as the Authorized Signing Officer of United Park City Mines Company, a Delaware corporation.



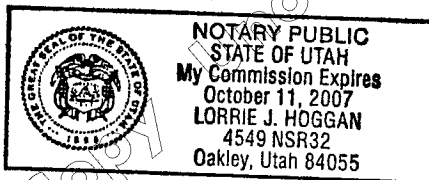
[Signature]
NOTARY PUBLIC
Residing at: Oakley, Utah

STATE OF UTAH)

: ss.

COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 1st day of March, 2007 by David J. Smith in his capacity as the Authorized Signing Officer of Talisker Land Holdings, LLC, a Delaware limited liability company.



[Signature]
NOTARY PUBLIC
Residing at: Oakley, Utah

ROYAL STREET LAND COMPANY, a
Utah corporation

By: *Robert W. Wells*
Robert W. Wells, Vice President

ARIZONA
STATE OF ~~UTAH~~)
MARICOPA : ss.
COUNTY OF ~~SUMMIT~~)

The foregoing instrument was acknowledged before me this 7 day of March, 2007 by Robert W. Wells in his capacity as Vice President of Royal Street Land Company, a Utah corporation.



Constance M Richards
NOTARY PUBLIC
Residing at: *Maricopa County, AZ*

GRANTEE:

PARK CITY MUNICIPAL CORPORATION,
a Utah city and political subdivision.

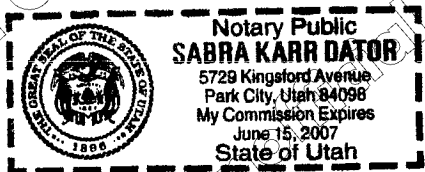
By: Dana Williams

STATE OF UTAH)

§§.

COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 2nd day of March, 2007 by Dana Williams, as the Mayor of Park City Municipal Corporation, a Utah city and political subdivision.



Sabra Karr Dator
 NOTARY PUBLIC
 Residing at: Summit Co.

LEGAL DESCRIPTION
PCMR LANDS DEED RESTRICTION
March 2, 2007

A parcel of land located in the southwest quarter of Section 16, Section 17, the east half of Section 18, Sections 19 and 20, the south half of Section 21, Sections 29 and 30, Township 2 South, Range 4 East, Salt Lake Base and Meridian and the east half of Section 25, Township 2 South, Range 3 East, Salt Lake Base and Meridian, said parcel being more or less described as follows:

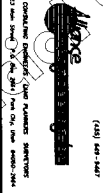
Beginning at point is that North 00°30'11" West 934.67 feet along section line and West 3404.71 feet from the southeast corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point also being the northernmost corner of King Road Estate, recorded February 26, 2002 as entry no. 612078, according to the official plat thereof on file and of record in the office of the recorder, Summit County, Utah; and running thence along the westerly boundary of said King Road Estate the following sixteen (16) courses: 1) South 11°44'40" West 75.86 feet; thence 2) South 08°16'31" East 93.02 feet; thence 3) South 03°34'29" West 97.70 feet; thence 4) South 11°54'04" West 151.80 feet; thence 5) South 03°04'59" West 97.45 feet; thence 6) South 16°59'41" East 157.20 feet; thence 7) South 11°10'49" East 123.76 feet; thence 8) South 19°07'06" West 182.56 feet; thence 9) South 17°58'26" East 97.99 feet; thence 10) South 08°24'14" West 124.71 feet; thence 11) South 14°01'12" West 102.12 feet; thence 12) South 21°15'12" West 223.98 feet; thence 13) South 00°02'02" West 420.00 feet; thence 14) South 09°57'58" East 290.00 feet; thence 15) South 38°02'02" West 601.95 feet; thence 16) South 21°27'58" East 195.08 feet to the northerly boundary of the Silver King Mining Reservation; thence along the northerly boundary of the Silver King Mining Reservation the following three (3) courses: 1) South 68°24'45" West 1065.03 feet; thence 2) South 61°30'44" West 93.44 feet; thence 3) South 67°30'00" West 25.28 feet to the westerly line of Section 21; thence along the westerly line of Section 21 South 01°49'17" East 266.83 feet; thence along the southerly line of the north half of Section 21 South 89°59'59" East 3204.88 feet; thence South 28°18'45" West 186.56 feet; thence South 29°09'57" West 315.97 feet; thence South 32°04'00" West 296.25 feet; thence South 47°29'30" West 405.07 feet; thence South 50°23'25" West 105.09 feet; thence South 56°00'00" West 94.90 feet; thence South 50°15'25" West 92.50 feet; thence South 40°35'50" West 110.80 feet; thence South 31°30'07" West 96.20 feet; thence South 27°54'51" West 126.00 feet; thence South 38°27'54" West 138.00 feet; thence South 33°26'55" West 136.00 feet; thence South 32°00'03" West 159.20 feet; thence South 32°14'53" West 101.60 feet; thence South 35°09'16" West 88.70 feet; thence South 46°47'25" West 123.00 feet; thence South 56°44'38" West 142.80 feet; thence South 15°21'41" West 116.30 feet; thence South 10°41'54" West 76.70 feet; thence North 71°42'35" West 163.49 feet; thence North 72°54'27" West 85.42 feet; thence South 86°11'16" West 94.42 feet; thence South 77°48'30" West 79.25 feet; thence South 77°19'44" West 85.84 feet; thence South 81°11'10" West 122.88 feet; thence South 67°45'58" West 149.28 feet; thence South 64°44'13" West 136.79 feet; thence South 82°14'00" West 672.44 feet; thence South 77°17'18" West 735.40 feet; thence South 87°35'00" West 778.00 feet; thence South 23°55'00" West 604.00 feet; thence South 10°48'36" West 569.75 feet; thence South 20°48'44" West 698.02 feet; thence South

30°09'00" West 354.14 feet; thence South 71°34'40" West 644.26 feet; thence South 49°33'13" West 616.72 feet; thence South 37°33'27" West 779.84 feet; thence South 35°07'44" West 548.54 feet; thence South 44°09'00" West 1236.63 feet; thence South 79°45'30" West 288.30 feet; thence South 83°01'30" West 494.40 feet; thence North 75°15'30" West 705.70 feet; thence North 88°10'30" West 612.40 feet; thence South 79°33'30" West 453.20 feet; thence North 68°16'30" West 378.70 feet; thence North 60°54'30" West 368.90 feet; thence North 29°57'30" West 201.20 feet; thence South 56°08'00" West 402.00 feet; thence South 61°28'00" West 304.10 feet; thence South 50°42'00" West 479.60 feet; thence South 54°28'00" West 792.00 feet; thence South 65°22'00" West 244.50 feet; thence South 78°48'00" West 685.80 feet; thence South 86°10'00" West 265.50 feet; thence South 88°22'00" West 302.90 feet; thence South 79°23'00" West 267.90 feet; thence South 79°50'00" West 261.50 feet; thence North 23°02'08" West 123.79 feet; thence North 17°52'03" West 155.35 feet; thence North 05°10'26" West 233.33 feet; thence North 69°34'42" West 736.28 feet; thence North 52°50'00" West 624.65 feet; thence North 74°11'18" West 213.72 feet; thence North 36°49'35" West 701.84 feet; thence along the southerly line of the Matilda Lode, Mineral Survey No. 4959 North 80°12'00" East 936.47 feet; thence along the easterly line of the Matilda Lode, Mineral Survey No. 4959 North 21°36'00" West 612.00 feet; thence along the northerly line of the Fairbanks Fraction Lode, Mineral Survey No. 5364 North 75°31'00" East 388.60 feet; thence along the westerly line of the Indiana Lode, Mineral Survey No. 4760 North 35°42'00" West 308.10 feet; thence along the northerly line of the Indiana Lode, Mineral Survey No. 4760 North 63°32'00" East 372.80 feet; thence along the southerly line of the Malchite Lode, Lot 281 South 83°15'00" West 788.31 feet; thence along the Summit-Salt Lake County line North 21°28'07" East 381.77 feet; thence along the southerly line of the Augusta Lode, Lot 122 North 47°11'00" East 145.31 feet; thence along the northerly line of the R.K.D. Lode, Lot 287 North 83°15'00" East 489.90 feet; thence along the easterly line of the R.K.D. Lode, Lot 287 South 24°08'00" East 21.90 feet; thence along the northerly line of the Roscamp Lode, Lot 286 North 64°44'00" East 250.80 feet; thence North 129.30 feet; thence North 63°07'00" East 231.20 feet; thence North 56°30'00" East 794.20 feet; thence along the west line of Section 30 North 00°36'00" East 3.70 feet; thence North 45°41'00" East 214.75 feet; thence along the northerly line of the Hope Lode, Lot 299 North 36°45'00" East 147.10 feet; thence along the easterly line of the Pique No. 3 Lode, Mineral Survey No. 4742 North 44°41'00" West 26.10 feet; thence North 04°55'00" West 575.00 feet; thence along the southerly line of the Norma Lode, Mineral Survey No. 4177 South 76°24'00" West 177.28 feet; thence North 01°35'00" East 137.93 feet; thence East along the southerly line of Section 19 1321.46 feet; thence South 00°00'07" West 727.38 feet; thence South 39°30'00" East 659.89 feet; thence North 50°00'00" East 1050.51 feet; thence North 45°56'25" East 493.99 feet; thence North 13°09'11" East 3773.82 feet; thence North 09°05'46" East 4380.03 feet; thence North 11°27'54" West 1099.08 feet; thence along the northerly line of the Seldom Seen No. 4, Mineral Survey No. 5591 North 56°24'00" East 1500.00 feet; thence along the northerly line of the Seldom Seen No. 3, Mineral Survey 5591 North 29°33'00" East 977.60 feet; thence along the northerly line of the Seldom Seen No. 2, Mineral Survey No. 5591 North 24°18'00" East 609.56 feet; thence along the southerly line of Section 8 South 89°37'42" East 2375.13 feet; thence along the southerly line of Section 8 North 89°53'52" East 363.00 feet; thence (along the boundary of property owned by Park Properties) the following three (3) courses: 1) South 40°33'27" East 1007.17 feet; thence 2) South 130.35

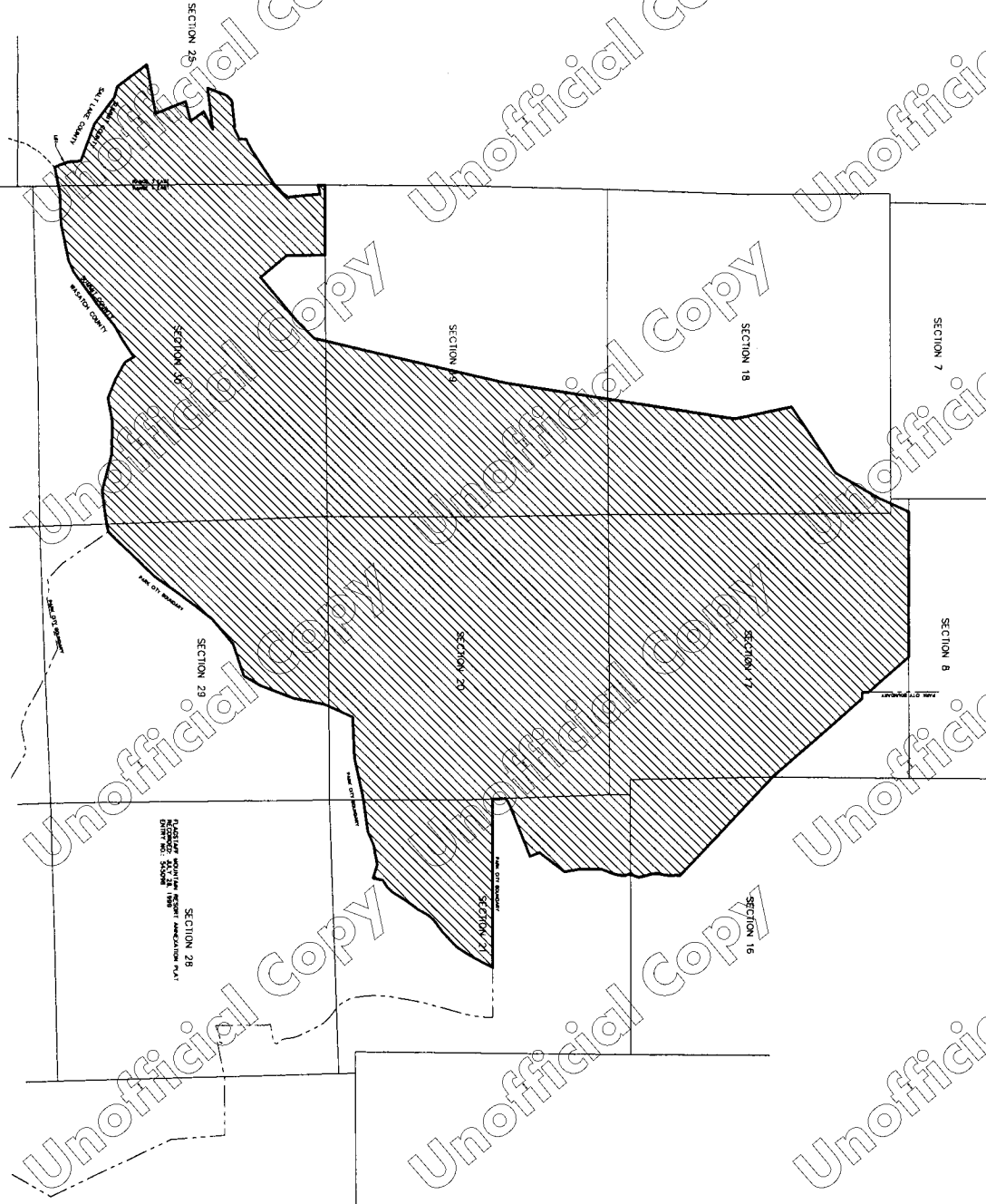
feet; thence 3) East 119.98 feet to the southwesterly boundary of the parcel described in that Special Warranty Deed recorded October 30, 1975 as entry no. 129128 in the office of the recorder, Summit County, Utah; thence along said parcel South 40°33'27" East 643.53 feet to the southwesterly line of Parcel No. 7, described in the document recorded on March 18, 1971 as entry no. 112831 in the office of the recorder, Summit County, Utah; thence along the boundary of said Parcel No. 7 the following two (2) courses: 1) South 40°33'27" East 1600.00 feet; thence 2) South 46°37'01" East 2570.22 feet (deed South 46°54'22" East) to the point of beginning.

Description contains 2,931 acres, more or less.

X:\Empire\Docs\Talisker\Desc\259-pcmr deed restrict.doc



PCMR LANDS DEED RESTRICTION



**EXHIBIT D - 2
CONSERVATION EASEMENT**

Unofficial copy

COPY

WHEN RECORDED MAIL TO
Summit Land Conservancy
Attn: Cheryl Fox, Executive Director
1650 Park Avenue
P. O. Box 1775
Park City, UT 84060

CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT ("Easement") is made effective as of the 2nd day of March, 2007, by UNITED PARK CITY MINES COMPANY, a Delaware corporation ("UPCMC") and its subsidiary, TALISKER LAND HOLDINGS, LLC ("TLH"), which contribute, grant and convey the rights described hereafter to SUMMIT LAND CONSERVANCY, a Utah non-profit corporation ("Summit"). UPCM and TLH are collectively referred to herein as "Grantor" and Summit is referred to herein as "Grantee". Grantor and Grantee are sometimes collectively referred to herein as the "Parties".

WITNESSETH:

WHEREAS, Grantor owns certain real property located in Summit County, Utah (the "Property") more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the Property possesses natural, scenic, open space, and public recreation values as described in Section 170(h)(4)(A) of the Internal Revenue Code of 1986 (the "Code") (collectively referred to herein as "Conservation Values"); and

WHEREAS, the specific Conservation Values of the Property are documented in materials sometimes referred to as the "Baseline Documentation," which consists of narratives, maps, photographs and other documentation intended to provide the Parties with an accurate representation of the Property at the time of the granting of the Easement as defined below; and

WHEREAS, located on the Property is a certain historic mining structure and related improvements identified in the Baseline Documentation (collectively, the "Historic Mining Improvements"); and

WHEREAS, the Property is appropriate for substantial and regular year-round recreational and other uses as hereinafter described as the Reserved Use Rights; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by the continuation of land use patterns, including, without limitation, those existing at the time of the recording of this Easement, subject to the Reserved Use Rights; and

WHEREAS, Grantor further intends, as owner of the Property, to preserve and protect the conservation values of the Property in perpetuity, subject to the Reserved Use Rights; and

WHEREAS, GRANTEE is a qualified organization described in Code Section 170(b)(1)(A)(vi), (c)(2) and (h)(3)(A); and

WHEREAS, Grantee agrees by accepting this grant that the Easement contained herein significantly furthers conservation values including a clearly delineated local governmental policy of Park City Municipal Corporation, and that Grantee will honor the intentions of Grantor stated herein to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and the generations to come;

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Utah and in particular U.C.A. Title 57, Chapter 18, Grantor hereby contributes, grants and conveys to Grantee a Conservation Easement in perpetuity over the Property of the nature and character and to the extent set forth herein (the "Easement").

1. Purpose. It is the primary purpose of the Easement to prevent residential development on the Property and, subject to the Reserved Use Rights described in Section 3 of this Easement, to assure that the Property will be retained forever in its open, generally undeveloped condition as provided herein and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that the Easement will confine the use of the Property to those activities, including without limitation the Reserved Use Rights, that are consistent with the terms of this Easement.

2. Rights of Grantee. To accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement, subject at all times to the Reserved Use Rights:

- (a) The right to preserve and protect the Conservation Values of the Property;
- (b) The right to enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
- (c) The right to prevent any activity on or use of the Property that is inconsistent with the terms of this Easement and to enforce the restoration of such areas or features of the Property that may be damaged by inconsistent activity or use, pursuant to Section 7 hereof; and
- (d) The right to enforce this Easement by appropriate legal proceedings, after providing Grantor with reasonable notice and opportunity to cure, as provided in section 7 herein.

3. Reserved Use Rights. The following uses and practices (collectively referred to herein as the "Reserved Use Rights") are consistent with the purpose of the Easement, shall not be precluded or prevented by this Easement to the extent they are not inconsistent with Conservation Values:

(a) Substantial and regular recreational uses consisting of winter and summer recreational uses to include (i) bike, skiing, snowshoe and hiking trails, (ii) avalanche hazard reduction, (iii) forestry management, and (iv) other passive recreational activities (e.g., ornithology and botany);;

(b) the establishment and maintenance of culinary water lines, pump stations and storage tanks, snowmaking water lines, pump stations, storage tanks and storage ponds, all of which are to be implemented in a manner not inconsistent with Conservation Values but which shall not involve the construction of any new buildings;

(c) The protection, maintenance, repair, renovation, restoration and use of the Historic Mining Improvements by Grantor subject to the approval of Park City Municipal Corporation, in cooperation with the Utah Historic Preservation Society, and in a manner not inconsistent with the Conservation Values;

(d) The construction, installation, use, maintenance, repair, replacement and relocation of utilities including water wells, water lines, sanitary sewer lines, storm sewer lines [and the right to discharge their flows], natural gas lines, electric power lines, cable television lines, telephone lines, and other utility lines, together with the right to temporarily stockpile materials and equipment as expressly approved in writing by the Grantee, so long as such uses are necessary for the Reserved Use Rights, are located in disturbed areas such as ski runs or existing utility corridors (unless otherwise approved by the Grantee) and are not inconsistent with Conservation Values;

(e) The use, maintenance and repair of existing roads (no new roads may be constructed) provided all applicable land use approvals are obtained from Park City Municipal Corporation (nothing herein shall be deemed as such approval) and such are done in a manner not inconsistent with Conservation Values;

(f) All activities on the Property that are necessary to perform investigation, remediation, closure and/or reclamation work consistent with or required by law with respect to any portion of the Property that has been used previously for mining activities or mining operations;

(g) The right to access all subsurface oil, gas or other minerals by subsurface techniques to the maximum extent permitted by a "Qualified Mineral Interest" within the meaning of Section 170(h)(6) of the Code provided that such rights are exercised only without use of any surface mining method and only in a manner which is not inconsistent with the Conservation Values.

(h) Passive uses otherwise allowed by the Park City Land Management Code in the ROS District intended to preserve and protect the Conservation Values.

4. Prohibited Uses and Practices. Any activity on or use of the Property inconsistent with the purpose of the Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(a) Any residential development or use including hotels condominiums and overnight lodging, and any surface mining, use of surface mining methods or mining by any method inconsistent with Conservation Values; and

(b) Hunting or trapping for any purpose other than predatory or problem animal control.

5. Existing Encumbrances. The Property is subject to all existing easements and other encumbrances of record.

6. Reserved Rights. Grantor reserves to Grantor and to Grantor's successors and assigns as the owner of the Property all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are consistent with the purpose of the Easement and that are not expressly prohibited herein, including without limitation the right to engage in or permit others to engage in Reserved Use Rights.

6.1 Minor Boundary Adjustments. Grantor reserves the right to make reasonable and minor boundary line adjustments in the legal description of the Property, provided that any such adjustments are consistent with the Reserved Use Rights and provided that the total area of the Property that is subject to the Easement shall not be reduced as the result of any such boundary line adjustments. The Grantee shall execute, acknowledge and record in the Office of the Recorder of Summit County, Utah any amendments to this Easement proposed by Grantor for such purpose so long as such adjustments are not inconsistent with Conservation Values.

6.2 Notice of Reserved Use Rights and New Uses and Other Purposes. Grantor agrees to notify Grantee in writing at least 30 days in advance of any change in use or exercise of any Reserved Use Right or other activity undertaken by Grantor which may have an adverse impact on any Conservation Value. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, such as those provided in Paragraph 3 above, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner consistent with the terms and Purpose of this Easement Agreement. Therefore the notice shall describe the activity in sufficient detail to permit Grantee to make an informed judgment as to the consistency of the intended action with the requirements and Purpose of this Easement Agreement. Grantor further agrees to give written notice to Grantee of the transfer of any interest in the Property, including but not limited to any sale, gift, or long-term lease, at least thirty (30) days prior to the date of such transfer.

7. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to both Grantor and Current Lessee of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the terms of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or

fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Values protected by the Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Section without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Current Lessee shall, with at least simultaneous notice to Grantor, have the right, but not the duty, to undertake any above described cures on behalf of Grantor if Grantor has not commenced such cure at least five days before the end of the cure period described herein.

7.1 Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs of suit and attorneys' fees, the reasonable fees and expenses of any expert engaged by Grantee, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

7.2 Grantee's Enforcement. Failure by Grantee to immediately enforce this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement.

7.3 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

7.4 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

8. Access. No specific right of access by the general public to any specific portion of the Property is conveyed by this Easement, but the overall operation of the Property shall be such as to provide the Public substantial and regular access for recreational and scenic uses. However, Grantor agrees with Grantee to refrain from taking any action to post against, prohibit, charge a fee, or otherwise discourage access and use of established trails as shown on Exhibit B by the general public for traditional, daytime, non-intensive outdoor recreation such as back country skiing, hiking, mountain biking, trail running, and other activities that are permitted in Park City's ROS zones; except that Grantor and Grantee may mutually agree in writing to temporarily restrict public access on the public trails, but only to the extent and for the duration necessary to assure safety, to permit necessary maintenance, or to preserve important scenic, ecological, or other Conservation Values of the Property. Notwithstanding any public use of the Property and any insurance coverage therefore, neither the Grantor nor the Grantee assumes any obligation to maintain the Property for public recreational use, and Grantor and Grantee claim all the rights and immunities against liabilities for injury to the public to the fullest extent of the law under Utah Code Annotated §57-14-3 and §57-14-4 and or any tort claims act for government, and or charitable immunity statutes for nonprofits.

9. Costs and Liabilities. Grantor retains sole and exclusive responsibility and shall bear all costs, expenses, fees, and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of comprehensive general liability insurance coverage with a limit of at least \$2,000,000. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

9.1 Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, the Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

9.2 Hold Harmless. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees arising from or in any connection with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (b) the obligations specified in Sections 9 and 9.1; and (c) the existence or administration of this Easement.

9.3 Insurance. The Grantor covenants and warrants that it will maintain Public Liability Insurance, with sound and reputable insurers licensed to transact business in the State of Utah, in the amount of at least \$2,000,000.00 insuring against the risks posed by the construction, maintenance, operation, repair, inspection and public trail use of the easement area. The Grantor shall name the Grantee as an additional insured on the liability insurance policy. Upon request, Grantor shall provide Grantee with a certificate of insurance confirming the foregoing coverage.

9.4 Hazardous Materials. Grantor also agrees to defend and indemnify Grantee against obligations arising from past, present or future dumping of hazardous materials on the Property, and any obligations associated with their cleanup or containment.

10. Property Interest: Condemnation or Extinguishment. The Easement constitutes a real property interest immediately vested in Grantee, which the Parties agree can not be extinguished except by a judicial action as permitted under Treas. Reg. 1.170A-14(g)(6)(i), and which, for the purposes of this Easement, the Parties stipulate to have a fair market value determined in accordance with the requirements of the Code and Treas. Reg. 1.170A-14(g)(6)(ii), as applicable to conservation contributions. Grantor will obtain independent tax counsel and be solely responsible for compliance requirements of the Code with respect to the establishment of the fair market value of the Property upon recordation of this Easement; it being understood that Grantee shall have no responsibility relative to the establishment of values for the Property. The values as of the date of this Easement shall be those values used to calculate the deduction, if any, for federal income tax purposes allowable by reason of this Easement, pursuant to Section 170(h) of the Code. If the Easement is taken, in whole or in part, by exercise of the power of eminent domain or by an extinguishment by judicial proceeding permitted under Treas. Reg. 1.170A-14(g)(6)(i), Grantee shall be entitled to compensation in accordance with applicable law (but in no event less than the amount required to be received under Treas. Reg. 1.170A-14(g)(6)(ii)) and such proceeds shall be used in solely in accordance with Treas. Reg. 1.170A-14(c)(2).

11. Assignment. The Easement is not transferable by Grantee except to a non-governmental eligible donee within the meaning of Treas. Reg. 1.170A-14(c)(1) in a properly documented transfer complying with all requirements of law including, without limit, Treas. Reg. 1.170A-14(c)(2).

12. Estoppel Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.

13. Baseline Documentation. The Parties acknowledge that an inventory of Baseline Documentation relating to the Property has been completed based upon information available to Grantor on the date hereof and which has been provided by Grantor to Grantee. Copies of this inventory of Baseline Documentation are on file in Grantee's offices and in Grantor's offices. The Parties acknowledge that this collection of Baseline Documentation contains an accurate representation of the condition of the Property subject to the Easement and the natural resources associated with the Property as of the date of the execution of this Easement in accordance with Treasury Regulation § 1.170A-14(g)(5)(i). Notwithstanding the foregoing, in the event of a controversy arising with respect to the nature of the biological and/or physical condition of the Property, the Parties shall not be foreclosed from using any and all other relevant or material documents, surveys, reports and other information to assist in the resolution of that controversy.

14. Notices. Any notice, demand, request, consent, approval, or communication that any Party to this Easement desires or is required to give to the other Parties shall be in writing

and shall be served either personally or sent by first class mail, postage prepaid, or by other courier providing reliable proof of delivery, and addressed as follows:

To United Park City Mines
Company, Grantor:

United Park City Mines Company
Attn.: David J. Smith
900 Main Street, Suite 6107
P. O. Box 1450
Park City, Utah 84060

To Talisker Land Holdings,
LLC, Grantor:

Talisker Land Holdings, LLC
Attn.: David J. Smith
900 Main Street, Suite 6111
P. O. Box 4349
Park City, Utah 84060

To Summit Land
Conservancy, Grantee:

Summit Land Conservancy
Attn: Cheryl Fox, Executive Director
1650 Park Avenue
PO Box 1775
Park City, UT 84060

or to such other address as any Party to this Agreement from time to time shall designate by written notice to the other Party.

15. Recordation. Grantee shall record this Easement in a timely fashion in the Office of the Recorder of Summit County, Utah, and Grantee may re-record it at any time as may be required to preserve Grantee's rights in the Easement.

16. General Provisions.

(a) Controlling Law. The Code, Treasury Regulations and laws of the State of Utah shall govern the interpretation and performance of this Easement.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of preserving Conservation Values and to effect the purpose of the Easement and the policy and purposes of both Utah statute and Section 170(h) of the Code. If any provision in this Easement is found to be ambiguous, an interpretation consistent with Conservation Values and the purpose of the Easement that would render the provision valid shall be favored over any such interpretation that would render it invalid.

(c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This Easement sets forth the entire agreement of the Parties hereto with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

(e) Amendments. The Parties may by mutual written agreement jointly amend this Easement; provided that no amendment shall be made that would not be in compliance with the then existing Code or the Treasury Regulations (including the interpretation or application thereof by any court) or that would adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code, the Treasury Regulations, and the laws of the State of Utah, as then existing. Any such amendment shall be consistent with the purpose of this Easement, shall not affect its duration, shall not permit any of the prohibited uses and practices described herein including residential, hotel and lodging uses and development, and shall not permit any impairment of the Conservation Values of the Property. Any such amendment shall be filed in the Summit County Recorder's office. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

(f) No Forfeiture. Nothing contained herein will result in the forfeiture or reversion of Grantor's title in any respect.

(g) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

(h) Termination of Rights and Obligations. A Party's rights and obligations under this Easement (but no part of the Easement itself) shall terminate upon transfer of the Party's interest in the Easement or the Property, as the case may be, except that responsibility for acts or omissions occurring prior to transfer shall survive transfer.

(i) Captions. The captions in this Easement have been inserted solely for convenience of reference and are not a part of this Easement and shall have no effect upon the construction or interpretation hereof.

IN WITNESS WHEREOF Grantor and Grantee have caused this Easement to be executed by persons duly authorized to execute the same effective as of the day and year first above written.

GRANTOR:

UNITED PARK CITY MINES COMPANY, a
Delaware corporation

By: 

David J. Smith, Authorized Signing Officer

TALISKER LAND HOLDINGS, LLC, a Delaware limited liability company

By: [Signature]
David J. Smith, Authorized Signing Officer

GRANTEE:

SUMMIT LAND CONSERVANCY,
a Utah non-profit corporation.

By: [Signature]
Richard Sheinberg, President

STATE OF UTAH)

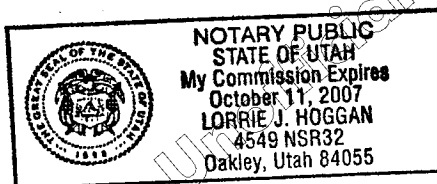
COUNTY OF SUMMIT) ss.

The foregoing instrument was acknowledged before me this 1st day of March, 2007 by David J. Smith in his capacity as the Authorized Signing Officer of United Park City Mines Company, a Delaware corporation.

[Signature]
NOTARY PUBLIC
Residing at: Oakley, Utah


My Commission Expires:

10-11-07



STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

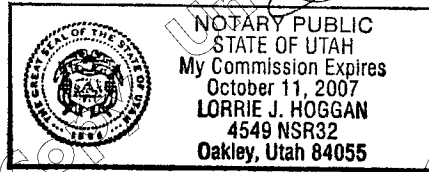
The foregoing instrument was acknowledged before me this 1st day of March, 2007 by David J. Smith in his capacity as the Authorized Signing Officer of Talisker Land Holdings, LLC, a Delaware limited liability company.



NOTARY PUBLIC
Residing at: Oakley, Utah

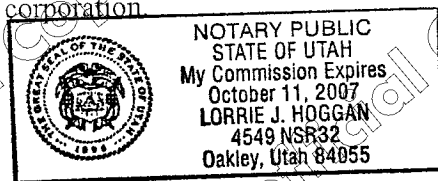
My Commission Expires:


10-11-07



STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 1st day of March, 2007 by Richard Sheinberg, as the President of Summit Lands Conservancy, a Utah non-profit corporation.





NOTARY PUBLIC
Residing at: Oakley, Utah

My Commission Expires:

10-11-07

**EXHIBIT A
TO
CONSERVATION EASEMENT**

[Insert Legal Description of the Property]

(Attached)

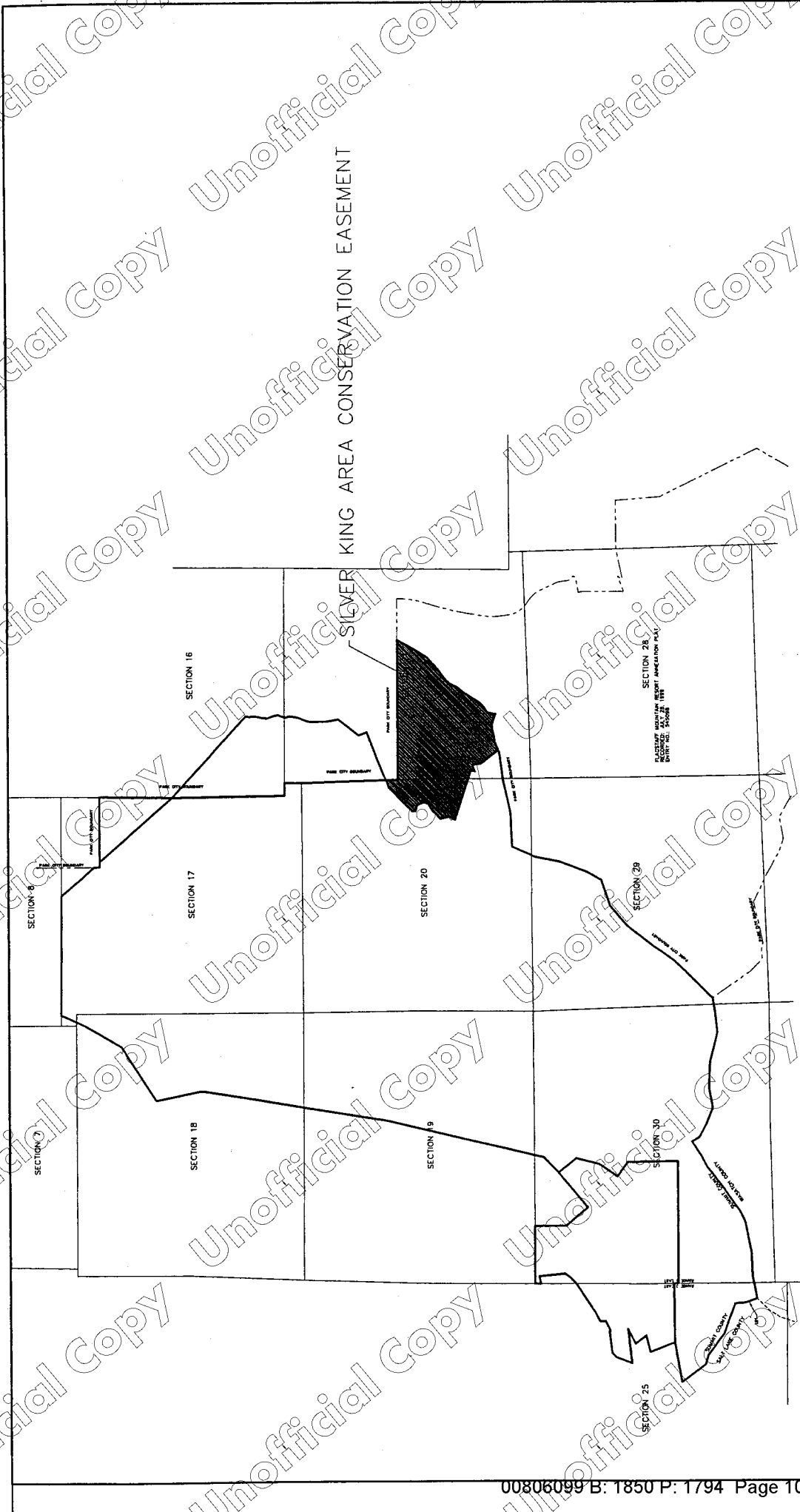
LEGAL DESCRIPTION
SILVER KING AREA CONSERVATION EASEMENT
March 2, 2007

A parcel of land located in the east half of Section 20 and the south half of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said parcel being more or less described as follows:

Beginning at a point on the north line of the south half of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point also being the northwestern corner of the Flagstaff Mountain Resort Annexation Plat, recorded July 28, 1999 as entry no. 545098 in the office of the recorder, Summit County, Utah; and running thence along the northwestern boundary of said Flagstaff Mountain Resort Annexation Plat the following twenty-seven (27) courses: 1) South 28°18'45" West 186.56 feet; thence 2) South 29°09'57" West 315.97 feet; thence 3) South 32°04'00" West 296.25 feet; thence 4) South 47°29'30" West 405.07 feet; thence 5) South 50°23'25" West 105.09 feet; thence 6) South 56°00'00" West 94.90 feet; thence 7) South 50°15'25" West 92.50 feet; thence 8) South 40°35'50" West 110.80 feet; thence 9) South 31°30'07" West 96.20 feet; thence 10) South 27°54'51" West 126.00 feet; thence 11) South 38°27'54" West 138.00 feet; thence 12) South 33°26'55" West 136.00 feet; thence 13) South 32°00'03" West 159.20 feet; thence 14) South 32°14'53" West 101.60 feet; thence 15) South 35°09'16" West 88.70 feet; thence 16) South 46°47'25" West 123.00 feet; thence 17) South 56°44'38" West 142.80 feet; thence 18) South 15°21'41" West 116.30 feet; thence 19) South 10°41'54" West 76.70 feet; thence 20) North 71°42'35" West 163.49 feet; thence 21) North 72°54'27" West 85.42 feet; thence 22) South 86°11'16" West 94.42 feet; thence 23) South 77°48'30" West 79.25 feet; thence 24) South 77°19'44" West 85.84 feet; thence 25) South 81°11'10" West 122.88 feet; thence 26) South 67°45'58" West 149.28 feet; thence 27) South 64°44'12" West 50.80 feet; thence North 85°19'13" West 26.72 feet; thence North 38°07'58" West 492.94 feet; thence North 10°07'30" West 212.80 feet; thence South 71°23'17" West 141.94 feet; thence North 08°33'57" East 80.65 feet; thence North 71°14'09" West 1185.64 feet; thence North 27°00'44" East 149.76 feet; thence North 13°42'15" West 216.34 feet; thence North 50°17'45" East 117.77 feet; thence North 40°17'45" East 142.01 feet; thence North 58°48'26" East 193.35 feet; thence North 19°44'22" East 106.66 feet; thence North 23°13'01" West 168.03 feet; thence North 73°32'40" West 146.17 feet; thence North 03°13'23" West 78.48 feet; thence North 45°49'43" East 766.88 feet; thence North 69°44'01" East 184.61 feet to the west line of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence along the west line of said Section 21 South 01°49'17" East 266.56 feet; thence along the north line of the south half of said Section 21 South 89°59'59" East 3204.88 feet to the point of beginning.

Description contains 143.40 acres, more or less.

X:\Empire\Docs\Talisker\Desc\258-slvr cons esmt.doc



SILVER KING AREA CONSERVATION EASEMENT

SILVER KING AREA CONSERVATION EASEMENT

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
AT THE REQUEST OF _____ BOOK _____ PAGE _____
DATE _____ TIME _____ FEE _____ RECORDER _____

RECORDED

APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 15TH DAY OF FEBRUARY, 2007 A.D.
BY _____ MAYOR

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 15TH DAY OF FEBRUARY, 2007 A.D.
BY _____ PARK CITY RECORDER

APPROVAL AS TO FORM
I APPROVE AS TO FORM THIS _____ 2007 A.D.
DAY OF _____ 2007 A.D.
BY _____ PARK CITY ATTORNEY

ENGINEER'S CERTIFICATE
I FIND THIS PLAN TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ 2007 A.D.
DATE OF _____ 2007 A.D.
BY _____ PARK CITY ENGINEER

PLACED BY MOUNTAIN RESORT APPLICATION PLAN DISTRICT 50-3486 SECTION 28

PARK COUNTY SUMMIT COUNTY

(43) and back

DEVELOPER'S OFFICE
Summit County, Utah
All fees from this office are for the State of Utah, Park City, Utah 84301-1000.