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WHEN RECORDED, MAIL TO:  
C. Craig Liljenquist, Esq.  
Prince, Yeates & Geldzahler  
City Centre I, Suite 900  
175 East 400 South  
Salt Lake City, Utah 84111

# 526

ENT 2323 BK 3860 PG 502  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
1996 JAN 9 3:30 PM FEE 141.00 BY ME  
RECORDED FOR CENTURY TITLE

Space Above for Recorder's Use Only

FOURTH AMENDMENT TO  
CONDOMINIUM DECLARATION FOR  
RIVERSTONE CONDOMINIUMS,  
an Expandable Utah Condominium Project

THIS FOURTH AMENDMENT TO CONDOMINIUM DECLARATION is made and executed by RIVERSTONE CONDOMINIUMS OWNERS ASSOCIATION, INC, a Utah nonprofit corporation (the "Association").

R E C I T A L S

A. By that certain Record of Survey Map of Riverstone Condominiums (the "Map") recorded March 31, 1994, as Entry No. 26887 and Map Filing No. 5440 in the Office of the County Recorder of Utah County, Utah, and by that certain Condominium Declaration for Riverstone Condominiums (the "Declaration") recorded concurrently with the Map in said office as Entry No. 26888, in Book 3407, at Pages 437 through 496, inclusive, Riverstone Limited Company, a Utah limited liability company (the "Declarant"), submitted that certain real property more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (the "Property"), to the provisions of the Condominium Ownership Act of the State of Utah (the "Act") as an expandable Utah condominium project known as Riverstone Condominiums (the "Project"), the defined terms of which Declaration are hereby made a part hereof by this reference.

B. By that certain First Supplemental Record of Survey Map of Riverstone Condominiums (the "First Supplemental Map") recorded September 16, 1994, as Entry No. 73311, and Map Filing No. 5712, in the Office of the County Recorder of Utah County, Utah, and by that certain First Amendment to Condominium Declaration for Riverstone Condominiums (the "First Amendment") recorded concurrently with the First Supplemental Map in said office as Entry No. 73312, in Book 3531, at Pages 165 through 173, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the

First Supplemental Map and First Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

C. By that certain Second Supplemental Record of Survey Map of Riverstone Condominiums (the "Second Supplemental Map") recorded January 9, 1995, as Entry No. 1270, and Map Filing No. 5865, in the Office of the County Recorder of Utah County, Utah, and by that certain Second Amendment to Condominium Declaration for Riverstone Condominiums (the "Second Amendment") recorded concurrently with the Second Supplemental Map in said office as Entry No. 1271, in Book 3600, at Pages 715 through 723, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Second Supplemental Map and Second Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

D. By that certain Third Supplemental Record of Survey Map of Riverstone Condominiums (the "Third Supplemental Map") recorded May 12, 1995, as Entry No. 29809, and Map Filing No. 6061, in the Office of the County Recorder of Utah County, Utah, and by that certain Third Amendment to Condominium Declaration for Riverstone Condominiums (the "Third Amendment") recorded concurrently with the Third Supplemental Map in said office as Entry No. 29810, in Book 3676, at Pages 167 through 175, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Third Supplemental Map and Third Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

E. Under the provisions of Article XXXI of the Declaration, Declarant explicitly reserved the right, at its sole and exclusive option and without the consent of any Unit Owners or any other person or entity having any right or interest in all or any portion of the Project, to expand the Project from time to time by adding to the Project all or any portion of the Additional Land described in the Declaration, together with all improvements constructed or to be constructed thereon, and by creating new Units, Common Areas and Facilities and/or Limited Common Areas within those portions of the Additional Land added to the Project, so long as Declarant does so in accordance with the provisions of said Article XXXI and Section 57-8-13.6 of the Act.

F. Declarant now desires further to expand the Project by adding to the Project a portion of the Additional Land described in the Declaration and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land added to the Project.

G. However, Declarant's expansion plan also encompasses an area of land which is not included within the Additional Land (the "Omitted Land") into which Declarant now also desires to expand the Project and within which Declarant now desires to create new Units, Common Areas and Facilities and Limited Common Areas.

H. Declarant has requested the Association to amend the Declaration to add the Omitted Land to the Additional Land so that Declarant may expand the Project into the Omitted Land, and the Association is willing to do so.

I. Article XXVII of the Declaration provides, in relevant part, that the Declaration may be amended upon the affirmative vote or approval of Unit Owners having ownership of not less than sixty-six and two-thirds percent (66-2/3%) of the undivided interest in the Common Areas and Facilities, except in circumstances where the Act requires a greater affirmative vote or approval and consent, in which event the provisions of the Act shall be controlling, that any amendment so authorized shall be accomplished by recordation of an instrument executed by the Board of Trustees, and that in said instrument the Board of Trustees shall certify that the vote required by said Article has occurred. Section 57-8-7(2) of the Act states, in relevant part, that:

. . . [T]he undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended declaration duly recorded. Utah Code Annotated Section 57-8-7(2).

Accordingly, since the creation of new Units within the Omitted Land will alter the undivided interest of each Unit Owner in the Common Areas and Facilities of the Project, under the Act the unanimous consent of all Unit Owners appears to be required in order to add the Omitted Land to the Additional Land.

J. Also, Section 2 of Article XXVII of the Declaration provides in relevant part that so long as the Declarant retains the right to appoint and to remove the members

Executed this 3 day  
of April, 1995.

RECORD OWNER(S) OF UNIT 5 AND 25  
THROUGH 48, INCLUSIVE, OF  
RIVERSTONE CONDOMINIUMS:

RIVERSTONE LIMITED COMPANY,  
a Utah limited liability company

By: *David L. Clark*  
David L. Clark, Member

By: *Thomas L. Clark*  
Thomas L. Clark, Member

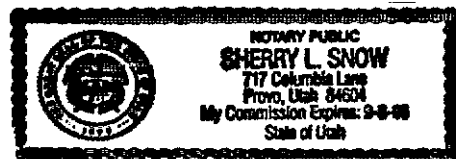
By: *Stephen D. Clark*  
Stephen D. Clark, Member

STATE OF UTAH )  
: SS.  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me  
this 3 day of April, 1995, by DAVID L. CLARK,  
THOMAS L. CLARK and STEPHEN D. CLARK, Members of Riverstone  
Limited Company, a Utah limited liability company.

*Sherry L. Snow*  
NOTARY PUBLIC  
Residing at: *Provo, Utah*

My Commission Expires:  
*9-8-96*













ACTION OF MEMBERS  
OF  
RIVERSTONE CONDOMINIUMS OWNERS ASSOCIATION, INC.  
BY  
UNANIMOUS WRITTEN CONSENT

THE UNDERSIGNED, constituting all of the members of RIVERSTONE CONDOMINIUMS OWNERS ASSOCIATION, INC., a Utah nonprofit corporation (herein called the "Association") which manages the affairs of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium project (herein called the "Project"), do hereby take the following action by unanimous written consent as authorized by Section 3.10 of the Bylaws of the Association and by Section 16-6-33 of the Utah Code Annotated:

R E C I T A L S

A. Riverstone Limited Company, a Utah limited liability company and the declarant (herein called the "Declarant") under the recorded Condominium Declaration and Record of Survey Map, as amended, which create the Project (herein respectively called the "Declaration" and the "Map"), desires further to amend the Declaration and the Map in order to expand the Project and create, among other things, twelve (12) additional condominium units (herein called "Phase V") within the expanded Project.

B. Under the provisions of Article XXXI of the Declaration, Declarant reserved the right, without obtaining the consent of any person or entity, to expand the Project from time to time by adding to the Project all or any portion of the additional land described in Exhibit C to the Declaration (herein called the "Additional Land") and to create therein additional condominium units.

C. However, Declarant's site plan for Phase V encompasses an area of land which is not included within the Additional Land (herein called the "Omitted Land"). Under the Declaration, Declarant has no right to expand the Project into the Omitted Land unless the Association first amends the Declaration.

D. Declarant has requested the Association to do so and has prepared the foregoing Fourth Amendment to the Declaration (herein called the "Fourth Amendment"), which Fourth Amendment amends the definition of the Additional Land to include the Omitted Land.

F. Article XXVII of the Declaration provides, in relevant part, that the Declaration may be amended upon the affirmative vote or approval of condominium unit owners having

ownership of not less than sixty-six and two-thirds percent (66-2/3%) of the undivided interest in the common areas and facilities of the Project, except in circumstances where the Utah Condominium Ownership Act (herein called the "Act") requires a greater affirmative vote or approval and consent, in which event the provisions of the Act shall be controlling, that any amendment so authorized shall be accomplished by recordation of an instrument executed by the Board of Trustees, and that in said instrument the Board of Trustees shall certify that the vote required by said Article has occurred. Section 57-8-7(2) of the Act states, in relevant part, that:

. . . [T]he undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended declaration duly recorded. Utah Code Annotated Section 57-8-7(2).

Accordingly, since the creation of new condominium units within the Omitted Land will alter the undivided interest of each condominium unit owner in the common areas and facilities of the Project, under the Act the unanimous consent of all condominium unit owners appears to be required in order to add the Omitted Land to the Additional Land.

G. Further, Article XXVIII of the Declaration provides that in any case in which the Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of a transaction, such requirement may be fully satisfied, subject to the limitations set forth below, by obtaining, without a meeting, unanimous consents in writing to such transaction from all condominium unit owners within the Project

H. The members of the Association are all of the record owners of condominium units within the Project.

I. The foregoing Fourth Amendment has been submitted to and reviewed by each member of the Association.

J. Each of the members of the Association desires to consent to the Fourth Amendment and deems it to be in the best interests of the Association to do so.

#### A C T I O N

NOW, THEREFORE, BE IT RESOLVED, that the foregoing

Fourth Amendment is hereby approved by the unanimous written consent of the members of the Association as required by Article XXVIII of the Declaration;

PROVIDED, HOWEVER, that, in accordance with the provisions of Article XXVIII of the Declaration:

(1) This Action by Unanimous Written Consent shall not become effective unless:

(a) The written consent of the last member of the Association to give his or her consent to the Fourth Amendment is obtained prior to the expiration of one hundred twenty (120) days after the date the written consent of the first member of the Association to give his or her consent to the Fourth Amendment is obtained; and

(b) The written consent of all owners having an interest of record in each and every condominium unit in the Project is obtained;

(2) However, any change in ownership of a condominium unit within the Project which occurs after consent has been obtained from the owner having an interest therein shall not be considered or taken into account; and

RESOLVED FURTHER, that the Board of Trustees of the Association is hereby authorized and instructed to execute the Fourth Amendment and to certify therein that the Fourth Amendment has been approved by the unanimous written consent of the members of the Association in accordance with the provisions of Article XXVIII of the Declaration, and to cause the Fourth Amendment to be recorded in the Office of the County Recorder of Utah County, Utah, at Declarant's sole cost and expense; and

RESOLVED FURTHER, that the President and/or Secretary of the Association, and each of them, acting alone, is hereby authorized and instructed to sign all other documents and take all other actions as they deem reasonably necessary to carry out the purposes and intent of these resolutions, all at Declarant's sole cost and expense.

IN WITNESS WHEREOF, the undersigned have each executed this Action of Members of the Association by Unanimous Written Consent on the date set forth opposite their respective signatures below:

of the Board of Trustees of the Association, the Declaration may not be amended without the prior written approval of the United States Secretary of the Department of Veteran Affairs (the "Secretary").

K. Further, Article XXVIII of the Declaration provides that in any case in which the Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, without a meeting, unanimous consents in writing to such transaction from all Unit Owners.

L. The members of the Association are all of the record Owners of Units within the Project.

M. As evidenced by that certain Action of Members of the Association by Unanimous Written Consent attached hereto, all of the members of the Association have given their written consent to this Fourth Amendment in accordance with the provisions of the Declaration.

N. As evidenced by VA Secretary Approval attached hereto, the Secretary has given his written approval hereof.

#### A M E N D M E N T

NOW, THEREFORE, the Declaration as previously amended by the First Amendment, the Second Amendment and the Third Amendment is hereby further amended as follows, with such amendment to become effective upon the recording of this Fourth Amendment in the office of the County Recorder of Utah County, Utah:

1. Exhibit "C" (Legal Description of Additional Land). Exhibit "C" attached to the Declaration, which Exhibit "C" contains the legal description of the land which may be added to the Project, is hereby deleted in its entirety and First Amended Exhibit "C" attached hereto and by this reference made a part hereof is substituted in its stead. Said First Amended Exhibit "C" contains the amended legal description of the land which may be added to the Project.

2. Certification of Board of Trustees. The undersigned, constituting all of the members of the Board of Trustees of the Association, hereby certify, in accordance with the requirement of Article XXVII of the Declaration, that this Fourth Amendment has been consented to by the unanimous written consent of all Unit Owners.



## EXHIBIT A

Legal Description of the Property

Commencing at a point located North  $0^{\circ}45'53''$  West along the section line 1771.92 feet and East 1130.82 feet from the Southwest corner of Section 36, Township 6 South, Range 2 East of the Salt Lake Base and Meridian; thence North  $14^{\circ}47'56''$  East 113.40 feet; thence North  $75^{\circ}12'04''$  West 31.16 feet; thence North  $14^{\circ}47'56''$  East 46.00 feet; thence South  $75^{\circ}12'04''$  East 187.82 feet; thence South  $14^{\circ}12'23''$  West 212.86 feet; thence North  $56^{\circ}36'14''$  West 167.62 feet to the point of beginning.

Area = 0.706 acres

## FIRST AMENDED EXHIBIT "C"

Amended Legal Description of  
the Additional Land

Commencing at a point located North 0°45'53" West along the section line 1657.40 feet and East 824.79 feet from the Southwest Corner of Section 36, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 344.99 feet; thence East 136.33 feet; thence North 1°03'13" West 21.23 feet; thence North 0°42'12" West 25.16 feet; thence South 82°14'18" East 91.67 feet; thence South 52°21'11" East 116.35 feet; thence South 27°50'01" West 32.00 feet; thence South 75°12'04" East 199.82 feet; thence South 14°12'23" West 95.15 feet; thence South 85°20' East 243.28 feet; thence South 20°32' West 30.00 feet; thence South 85°10'24" East 16.52 feet; thence South 6.28 feet; thence West 14.70 feet; thence South 20°14'50" West 16.50 feet; thence South 10°59'53" West 52.26 feet; thence South 15°12'18" West 29.13 feet; thence South 5°59'45" West 38.77 feet; thence South 5°59'32" West 71.08 feet; thence South 5°44'52" West 58.41 feet; thence South 0°41'51" West 87.97 feet; thence West 231.00 feet; thence North 38.28 feet; thence North 14°30' East 91.21 feet; thence North 75°30'04" West 326.63 feet; thence North 60.98 feet; thence West 138.02 feet to the point of beginning.

Area = 6.32 acres

LESS AND EXCEPTING THE FOLLOWING:

Commencing at a point located North 0°45'53" West along the section line 1771.92 feet and East 1130.82 feet from the Southwest corner of Section 36, Township 6 South, Range 2 East of the Salt Lake Base and Meridian; thence North 14°47'56" East 113.40 feet; thence North 75°12'04" West 31.16 feet; thence North 14°47'56" East 46.00 feet; thence South 75°12'04" East 187.82 feet; thence South 14°12'23" West 212.86 feet; thence North 56°36'14" West 167.62 feet to the point of beginning.

Area = 0.706 acres

AND

Commencing at a point located North 0°45'53" West along the section line 1587.14 feet and East 961.89 feet from the Southwest Corner of Section 36, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 0°07'50" West 79.20 feet; thence

North 1°09'11" West 18.46 feet; thence South 76°07'52" East  
299.51 feet; thence South 13°38'31" West 17.83 feet; thence South  
14°42'28" West 63.99 feet; thence North 78°48'47" feet West  
275.00 to the point of beginning.

ENT 2323 BK 3860 PG 517

Area = 0.583 acres





















Executed this 13 day  
of June, 1995.

RECORD OWNER(S) OF UNIT 13 OF  
RIVERSTONE CONDOMINIUMS:

[Signature]  
Lisa Holmberg  
 Signature(s)

Louis M. Pope  
Lisa Holmberg  
 Printed Name(s)

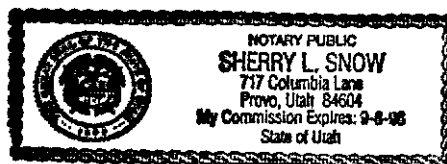
STATE OF Utah )  
 ) : ss  
 COUNTY OF Utah )

The foregoing instrument was acknowledged before me  
 this 13 day of June, 1995, by Louis M. Pope &  
Lisa Holmberg, Record Owner(s) of Unit 13  
 of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium  
 project.

[Signature]  
 NOTARY PUBLIC

My Commission Expires:

9-8-96









Executed this 25 day  
of May, 1995.

RECORD OWNER(S) OF UNIT 17 OF  
RIVERSTONE CONDOMINIUMS:

Signature(s)

Sara S. Brown

SARA S. BROWN

Printed Name(s)

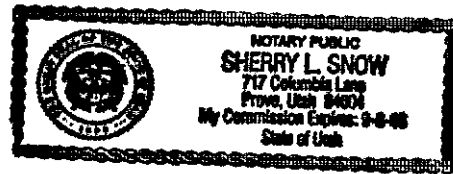
STATE OF Utah )  
COUNTY OF Utah ) : SS

The foregoing instrument was acknowledged before me  
this 25 day of May, 1995, by Sara S. Brown  
\_\_\_\_\_, Record Owner(s) of Unit 17  
of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium  
project.

Sherry L. Snow  
NOTARY PUBLIC

My Commission Expires:

9-8-96





Executed this 26 day  
of May, 1995.

RECORD OWNER(S) OF UNIT 19 OF  
RIVERSTONE CONDOMINIUMS:

Randy Wattle  
Signature(s)

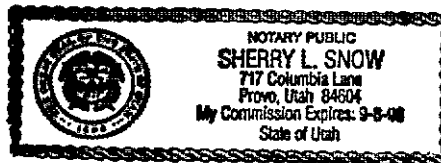
RANDY WATTLES  
Printed Name(s)

STATE OF Utah )  
COUNTY OF Utah ) : ss

The foregoing instrument was acknowledged before me  
this 26 day of May, 1995, by Randy Wattle  
Record Owner(s) of Unit 19  
of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium  
project.

Sherry L. Snow  
NOTARY PUBLIC

My Commission Expires:  
9-8-96









Executed this 23 day  
of MAY, 1995.

RECORD OWNER(S) OF UNIT 22 OF  
RIVERSTONE CONDOMINIUMS:

Norman Avery  
Signature(s)

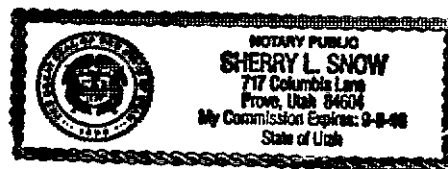
Norman Avery  
Printed Name(s)

STATE OF Utah )  
COUNTY OF Utah : SS

The foregoing instrument was acknowledged before me  
this 23 day of MAY, 1995, by Norman Avery  
Record Owner(s) of Unit 22  
of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium  
project.

Sherry L. Snow  
NOTARY PUBLIC

My Commission Expires:  
9-8-96



Executed this 13 day  
of June, 1995.

RECORD OWNER(S) OF UNIT 23 OF  
RIVERSTONE CONDOMINIUMS:

Clark Mahaffey

Signature(s)

Clark Mahaffey

Printed Name(s)

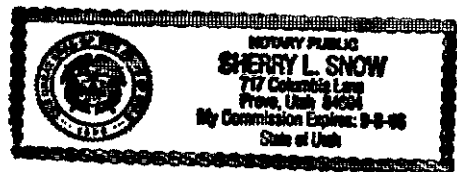
STATE OF Utah )  
COUNTY OF Utah ) : SS

The foregoing instrument was acknowledged before me  
this 13 day of June, 1995, by Clark Mahaffey  
\_\_\_\_\_, Record Owner(s) of Unit 23  
of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium  
project.

Sherry L. Snow  
NOTARY PUBLIC

My Commission Expires:

9-8-96



Executed this 13 day  
of June, 1995.

RECORD OWNER(S) OF UNIT 24 OF  
RIVERSTONE CONDOMINIUMS:

Marta Brantley  
Signature(s)

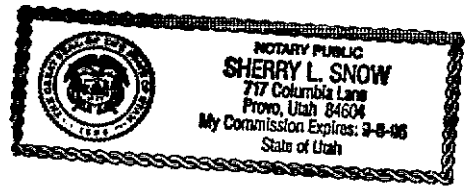
Marta Brantley  
Printed Name(s)

STATE OF Utah )  
COUNTY OF Utah ) : ss

The foregoing instrument was acknowledged before me  
this 13 day of June, 1995, by Marta Brantley  
\_\_\_\_\_, Record Owner(s) of Unit 24  
of RIVERSTONE CONDOMINIUMS, an expandable Utah condominium  
project.

Sherry L. Snow  
NOTARY PUBLIC

My Commission Expires:  
9-8-96



VA SECRETARY APPROVAL

THE UNITED STATES SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS hereby consents to the foregoing Fourth Amendment as required by Section 2 of Article XXVII of the Declaration referred to in the foregoing Fourth Amendment.

DATED this 9 day of Jan, 1996.

THE UNITED STATES SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

By *Gerald P. Black*

STATE OF Utah  
: SS  
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 9th day of January, 1996, by Gerald P. Black acting for and on behalf of THE UNITED STATES SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS.

*J. C. Mallee*  
NOTARY PUBLIC  
Residing at: Salt Lake City, Utah

My Commission Expires:  
8/16/99

