

**SECOND AMENDED AND RESTATED BYLAWS
OF
BATTLEMENT MESA SERVICE ASSOCIATION**

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**SECOND AMENDED AND RESTATED BYLAWS
OF
BATTLEMENT MESA SERVICE ASSOCIATION**

RECITALS

Battlement Mesa Service Association, a Colorado nonprofit corporation (“Service Association” or “Association”), certifies that:

- (1) The Service Association and its Members desire to amend and restate the Bylaws currently in effect as set forth below.
- (2) The provisions set forth in these Second Amended and Restated Bylaws supersede and replace the existing Bylaws and all amendments.

The Bylaws of the Service Association are hereby amended by striking in their entirety Articles 1 through 16, inclusive, and by substituting the following:

ARTICLE 1 INTRODUCTION, PURPOSES AND DEFINITIONS

Section 1.1 Introduction.

These Second Amended and Restated Bylaws are adopted for the regulation, management, and governance of the affairs of the Service Association. The Service Association was organized as a Colorado nonprofit corporation under Colorado law to act as the Service Association under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Battlement Mesa, as may be amended (the “Declaration”).

Section 1.2 Purposes.

The purposes for which the Service Association is formed are:

- (a) to protect the value and desirability of the Battlement Mesa community (the “Community”) and the Privately Owned Sites;

- (b) to further the interests of the residents of the Community and Members of the Service Association;
- (c) to be the owners association provided for in the Declaration;
- (d) to operate and govern the Community; and
- (e) to provide for the administration, maintenance, preservation, and architectural review of the Privately Owned Sites as defined in the Declaration and Service Association Property within the Community.

Section 1.3 Definitions

The definitions set forth in the Declaration, as amended, shall apply to all capitalized terms set forth herein, unless otherwise defined herein and set forth as follows:

- (a) "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et. seq., as it may be amended, to the extent it applies to common interest communities established prior to July 1, 1992, or as otherwise adopted herein by reference to either specific provisions or specific topics.
- (b) "Community" or "Battlement Mesa Community" shall mean the Battlement Mesa Planned Unit Development, as further defined by the recorded P.U.D. Master Plan and the Declaration.
- (c) "Governing Documents" shall mean the Articles of Incorporation, the Bylaws, the Declaration, and Rules and Regulations of the Battlement Mesa Service Association, as they may be amended.

ARTICLE 2 MEMBERSHIP AND VOTING

Section 2.1 Membership and Voting.

Every person who is a record Owner of a fee interest in any Privately Owned Site subject to the Declaration shall be a Member of the Service Association. When more than one person holds an interest in a Privately Owned Site, all persons holding a fee interest shall be Members. The foregoing is not intended to include persons or entities holding an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Privately Owned Site which is subject to the Service Association's Governing Documents.

Ownership of a Privately Owned Site shall be the sole qualification for membership. Votes shall be allocated pursuant to the Declaration. Fractional and cumulative voting are prohibited.

Section 2.2 Voting for Delegates.

Each Member shall have the right to cast votes for the election of a Delegate to the Service Association to exercise the voting power of the Delegate Area in which the Member's Privately Owned Site is located pursuant to the voting allocations set forth in these Second Amended and Restated Bylaws and the Declaration.

(a) The candidate for election to a Delegate position who received a majority of the votes validly cast by the Members in such Delegate's Delegate Area shall be elected as the Delegate from such Delegate Area.

(b) Notwithstanding anything to the contrary contained herein, however, Delegates representing Owners of Privately Owned Sites other than Sites which are intended to be occupied by the Owner thereof, shall never elect a majority of the Members of the Board of Directors, and all other Members of the Board of Directors shall be elected by the Delegates representing Owners of Sites which are intended to be occupied by the Owner thereof.

Section 2.3 Suspension of Voting Rights and Use Rights.

During any period in which an Owner shall be in default in the payment of any Assessment, including interest, fines, late fees, attorney fees and costs, levied by the Service Association, the voting rights of the Owner shall be deemed suspended by the Board of Directors, without notice or hearing, until the Assessment has been paid. Voting rights and use rights of an Owner may also be suspended for other violations for a period not to exceed 60 days or during any period of violation, whichever is greater.

Section 2.4 Member Voting.

(a) At all meetings of Members, each Member eligible to vote may vote in person or by proxy.

(b) If only one of several Owners of a Privately Owned Site is present at a meeting of the Service Association, the Owner present is entitled to cast the vote allocated to such Privately Owned Site.

(c) If more than one of the Owners is present, the vote allocated to the Privately Owned Site may be cast only in accordance with the agreement of a majority of those Owners. Majority agreement exists if any one of the Owners casts the vote allocated to the Privately Owned Site without protest being made promptly to the person presiding over the meeting by another Owner of the Privately Owned Site. In the event of disagreement between or among co-Owners and an attempt by two or more of them to cast such vote or votes, such vote or votes shall not be counted.

(d) The vote of a corporation, partnership, limited liability company, or other legal entity may be cast by any officer, director, trustee, partner, manager, or member of such corporation, partnership, limited liability company, or other legal entity in the absence of express notice of the designation of a specific person to the Board of Directors.

(e) The chair of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership, or business trust Owner is qualified to vote.

(f) Votes allocated to Privately Owned Sites owned by the Service Association may not be cast by the Board.

Section 2.5 Transfer of Membership.

Transfers of membership shall be made on the books of the Service Association only upon presentation of evidence, satisfactory to the Service Association, of the transfer of ownership of the Privately Owned Site to which the membership is appurtenant.

ARTICLE 3 MEETINGS OF MEMBERS

Section 3.1 Annual Meetings.

An annual meeting of the Members in each Delegate Area shall be held during each of the Service Association's fiscal years, at such time of the year and date as determined by the Board and set forth in the notice of the meeting. At these meetings, the Delegates for each Delegate Area shall be elected by the Members, in accordance with the provisions of these Bylaws, the Declaration, and Articles of Incorporation, or as otherwise determined by the Members present in person at the meeting. The Members may transact other business as may properly come before them at these meetings.

Failure to hold an annual meeting shall not be considered a forfeiture or dissolution of the Service Association.

Section 3.2 Special Meetings.

Special meetings of the Members in the Delegate representing the Delegate Area, the Board of Directors, or by a petition signed by at least five percent (5%) of the total votes of all Members in the Delegate Area. The form of notice, date, time, and place of the meeting shall be determined by the Board. If a notice for a special meeting demanded pursuant to petition is not given by the Secretary within 30 days after the date the written demand or demands are delivered to the Secretary, the person(s) signing the demand or demands may set the time and place of the meeting and give notice, pursuant to the terms of these Second Amended and Restated Bylaws. Any meeting called under this Section shall be conducted by the President of the Delegate, or in their absence, a person chosen by a majority of the Members present or by a Member of the Board.

Section 3.3 Notice of Meetings.

Notice of each meeting of the Members in any Delegate Area shall be physically posted in a conspicuous place if feasible and practicable at least 24 hours prior to any meeting of the Members. Written notice of each meeting of Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, or by personal delivery, at least 10 days before, but not more than 50 days before the meeting to each Member, addressed to the Member's address last appearing on the books of the Service Association, or supplied by a Member to the Service Association for the purpose of notice.

In addition to mailing, but not in lieu of, notice may also be sent by any other means permitted by the Colorado Revised Nonprofit Corporation Act, including, but not limited to, e-mail delivery. If the Service Association has the ability to give electronic notice, the Service Association shall e-mail notice of the Members' meeting to any Member who requests, and who provides their e-mail address to the Service Association in addition to the above specified delivery of notice. Any such e-mail notice shall be given at least 24 hours prior to the meeting. The notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. No matters shall be heard nor action adopted at a special meeting except as stated in the notice.

Section 3.4 Place of Meetings.

Meetings of the Members shall be held in the Community, in any other location in the Garfield County area, or in any other suitable place convenient to the Members, as may be designated by the chair of the meeting.

Section 3.5 Quorum of Members.

The presence of Members holding at least 15% of the votes entitled to be cast in any Delegate Area at any meeting, in person or by proxy, shall constitute a quorum for any action except as otherwise provided in the Governing Documents.

Section 3.6 Proxies for Members Meetings.

(a) The vote allocated to a Privately Owned Site may be cast under a proxy duly executed by an Owner.

(b) All proxies shall be in writing and provided to the Secretary or designee of the Service Association.

(c) If a Privately Owned Site is owned by more than one person, each Owner of the Privately Owned Site may vote or register protest to the casting of the vote by the other Owners of the Privately Owned Site through a duly executed proxy. In the event of disagreement between or among co-Owners and an attempt by two or more of them to cast such vote or votes, such vote or votes shall not be counted.

(d) An Owner may revoke a proxy given under this section by written notice of revocation to the person presiding over a meeting of the Service Association or by attending the meeting and voting in person, after giving actual notice to the person presiding over the meeting of the Owner's intent to do so.

(e) A proxy is void if it is not dated.

(f) A proxy terminates 11 months after its date, unless it specifies a shorter term or a specific purpose, or upon sale of the Privately Owned Site for which the proxy was issued.

(g) Proxies obtained through fraud or misrepresentation are invalid as determined in the sole discretion of the Secretary of the Service Association.

Section 3.7 Order of Business.

The Board may establish the order of business for all meetings of the Board or Members. Failure to strictly follow Robert's Rules of Order shall not invalidate any action taken at a meeting of the Board or Members.

Section 3.8 Voting Procedures.

Voting may be by voice, by show of hands, by consent, by mail, by electronic means, by proxy, by written ballot, or as otherwise determined by the Board of Directors prior to the meeting or by a majority of the Members present at a meeting.

Section 3.9 Voting by Mail Ballot.

(a) In any instance where a vote of the Members is required or permitted to be taken at a meeting of the Members, such vote may be taken by written ballot in lieu of a meeting, pursuant to this Section. In case of a vote by written ballot in lieu of a meeting, the Secretary shall mail or deliver written notice and a ballot to all Members. The notice shall include: (i) a statement of the proposed action, (ii) a statement that Members are entitled to vote for or against such proposal, (iii) a date at least 10 days after the date such notice shall have been given on or before which all ballots must be received by the Service Association, (iv) the number of ballots which must be received to meet the quorum requirement and the percentage of votes received needed to carry the vote; and (v) state the time by which the ballots must be received by the Service Association to be counted. The notice shall also be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

(b) The Service Association may conduct elections of directors by mail, in its sole discretion, and pursuant to procedures adopted by it; *provided however*, that any procedures adopted shall provide for notice to Members of the opportunity to run for a vacant position and/or nominate any Member of the Service Association for a vacant position, subject to the nominated Member's consent.

(c) A written mail ballot, once received by the Service Association, may not be revoked.

Section 3.10 Telephone or Electronic Communication in Lieu of Attendance.

Members may attend meetings by using an electronic or telephonic communication method whereby the Member may be heard by the other Members and may hear the deliberations of the other Members on any matter properly brought at the meeting. The Member's vote shall be counted and the presence noted as if that Member were present in person.

Section 3.11 Voting in Elections of Directors/Other Voting.

In an election of Delegates, candidates receiving the largest number of votes shall be elected.

Section 3.12 Acceptance or Rejection of Individual Votes.

The Service Association has the right to reject a vote, consent, written ballot, waiver, proxy appointment or proxy appointment revocation when it has a reasonable, good faith basis to doubt the validity of the signature or the signatory's authority to sign for the Owner. The Service Association and its officer or agent who accepts or rejects any of the above in good faith is not liable for any damages that may result from the acceptance or rejection. Unless a court decides otherwise, any action taken on the acceptance or rejection of any of the above will be deemed valid.

Section 3.13 Counting of Ballots.

All ballots shall be counted by a neutral third party, or a committee of volunteers who are Owners and are not Delegates and not candidates in a contested election, selected or appointed at an open meeting in a fair manner by the chair of the Board or person presiding at such meeting or as otherwise required by law and as may be further defined by policy or procedures of the Service Association.

ARTICLE 4 DELEGATES

Section 4.1 Delegates.

A Delegate is as defined in the Declaration. The Delegates are Members of the Service Association and shall represent the Members within the Delegate Area.

Section 4.2 Voting Rights of Delegates.

Each Delegate shall have one vote for each Privately Owned Site which is subject to the Declaration and is located in the Delegate Area represented by such Delegate. The Delegate may cast votes with respect to each Privately Owned Site in their Delegate Area except for any Privately Owned Site as to which the voting right of the Owner thereof has been suspended. Each Delegate may cast the votes which they represent in such manner as the Delegate may, in their sole discretion, deem appropriate, acting on behalf of all of the Members owning Privately Owned Sites in the Delegate Area; provided, however, that if at least a majority of the votes of the Members in any Delegate Area shall determine, at any duly constituted meeting of the Members of such Delegate Area, to instruct their Delegate as to the manner in which he or she is to vote on any issue to be voted on by the Delegates, then the Delegate representing such Delegate Area shall cast all of the voting power in such Delegate Area in the same proportion, as nearly as possible without counting fractional votes, as the Members in such Delegate Area shall have cast their voting power "for" or "against" such issue in person or by proxy. When a Delegate is voting in his or her own discretion, without instruction from the Members whom the Delegate represents, then all of the votes may be cast a unit, or the Delegate may apportion some votes in favor of a given proposition and some votes in opposition to such proposition. It shall be conclusively presumed for all purposes that any Delegate casting votes will have acted with the authority and consent of all of the Members represented by such Delegate.

Section 4.3 Qualification of Delegates.

A Delegate must be a resident of a Privately Owned Site located in the Delegate Area from which such person is the Delegate, or an Owner of such a Site, or if any Owner is not a natural Person, must be an authorized agent of such Owner. If a Delegate conveys or transfers title to his or her Privately Owned Site or ceases to reside in the Delegate Area, or if a Delegate who is an authorized agent of an Owner which is not a natural Person ceases to be such authorized agent, or if the entity of which a Delegate is an agent transfers title to its Privately Owned Site, such Delegate's term as Delegate shall immediately terminate and a new Delegate shall be elected as promptly as possible to take such Delegate's place. A Delegate may be re-elected, and there shall be no limit on the number of terms a Delegate may serve. If any Privately Owned Site is owned by a partnership or corporation, any officer, partner or employee of that Member shall be eligible to serve as a Delegate and shall be deemed to be a Member for the purposes of these Bylaws.

Section 4.4 Term of Delegates.

Each Delegate elected at an annual meeting of Members in a Delegate Area shall serve for a term of three years, unless such Delegate resigns, is removed, or becomes disqualified to be a Delegate. The terms of the Delegates shall be staggered.

Section 4.5 Removal of Delegates.

At any duly called meeting of Members of a Delegate Area, the notice of which indicates such purpose, the Delegates representing that Delegate Area may be removed, with or without cause, by a vote of the majority of the votes of Members present at such meeting in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created.

Section 4.6 Resignation of Delegates.

Any Delegate may resign at any time by giving written notice to the President, to the Secretary or to the Board of Directors, stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective. Resignation as a Delegate shall automatically constitute resignation as a Director.

Section 4.7 Delegate Vacancies.

Any vacancy occurring in the office of a Delegate shall, unless filled in accordance with Section 4.5, be filled at a special meeting of the Delegate Area, called for such purpose, of Members of the Delegate Area represented by such Delegate. A Delegate elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

ARTICLE 5 MEETINGS OF DELEGATES

Section 5.1 Annual Meetings of the Delegates.

Annual meetings of the Delegates shall be held on such day and at such time as is fixed by the Board of Directors from time to time and specified in the notice of meeting. Annual meetings of Delegates shall be held to elect Directors of the Service Association and to transact such other business as may properly come before the meeting.

Section 5.2 Special Meetings of the Delegates.

Special meetings of Delegates may be called by the Board of Directors or by Delegates representing at least 15% of the total voting power of the Delegates. No business shall be transacted at a special meeting of Delegates except as indicated in the notice thereof.

The form of notice, date, time, and place of the meeting shall be determined by the Board. If a notice for a special meeting demanded pursuant to petition is not given by the Secretary within 30 days after the date the written demand or demands are delivered to the Secretary, the person(s) signing the demand or demands may set the time and place of the meeting and give notice, pursuant to the terms of these Second Amended and Restated Bylaws. Any meeting called under this Section shall be conducted by the President of the Board, or in their absence, a person chosen by a majority of the Board. In the event no Board members are in attendance, a chairperson for the meeting shall be elected by a majority of the Members present at the meeting, and that chairperson shall conduct the meeting.

Section 5.3 Record Date.

For the purpose of determining Delegates entitled to notice of, or to vote at, any meeting of the Delegates for any other proper purpose, the Board of Directors may fix, in advance, a date as the record date for any such determination of Delegates. The record date shall not be more than 50 days prior to the meeting of Members or the event requiring a determination of Members.

Section 5.4 Notice of Delegate Meetings.

Written notice of each meeting of Delegates shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 10 days before, but not more than 50 days before such meeting, or by any other means permitted by the Colorado Revised Nonprofit Corporation Act, including, but not limited to, personal delivery, facsimile, and e-mail delivery, to each Delegate entitled to vote, addressed to the Delegate's address last appearing on the books of the Service Association, or supplied by such Delegate to the Service Association for the purpose of notice. If such Delegate has not given the Service Association an address for mailing of notice, notice may be posted in a conspicuous place in the Service Association Area, such as on a notice board outside the Service Association's principal office, and such notice shall be deemed to be delivered to any such Delegate upon posting. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. No matters

shall be heard nor action adopted at a special meeting except as stated or allowed in the notice.

Section 5.5 Place of Delegate Meetings.

Meetings of Delegates shall be held in the Community, in any other location in the Garfield County area, or as may be otherwise fixed by the Board of Directors and specified in the notice of the meeting.

Section 5.6 Quorum of Delegates.

The presence of 51% of the votes of all Delegates, in person, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, and these Bylaws. If the required quorum is not present, the Delegates who are present shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting to a later date until a quorum shall be present or represented.

Section 5.7 Proxies.

For the purposes of determining a quorum with respect to a particular proposal and for the purposes of casting a vote for or against that proposal, a Delegate may execute, in writing, a proxy to be held by another Delegate. The proxy shall specify either a yes, no, or abstain vote on each particular issue for which the proxy was executed. Proxies which do not specify a yes, no, or abstain vote shall not be counted for the purpose of having a quorum present nor as a vote on the particular proposal before the Delegates. A proxy is void if it is not dated. A proxy terminates 11 months after its date, unless it specifies a shorter term or a specific purpose, or upon sale of the Privately Owned Site for which the proxy was issued. Proxies obtained through fraud or misrepresentation are invalid as determined in the sole discretion of the Secretary of the Service Association.

Section 5.8 Voting in Elections of Delegates/Other Voting.

In an election of Delegates, candidates receiving the largest number of votes shall be elected. On all other items, the vote of Delegates holding a majority of the votes cast shall be binding upon all Members for all purposes except where a higher percentage vote is required in the Governing Documents, as amended, or by law.

Section 5.9 Order of Business.

The Board may establish the order of business and prescribe reasonable rules for the conduct of all meetings of the Delegates. Failure to strictly follow Robert's Rules of Order shall not invalidate any action taken at a meeting of the Delegates.

Section 5.10 Waiver of Notice.

Any Delegate may, at any time, waive notice of any meeting of the Delegates in writing, and the waiver shall be deemed equivalent to the receipt of notice. Attendance at the meeting shall constitute a waiver of notice unless attendance is for the express purpose of objecting to the sufficiency of the notice.

Section 5.11 Voting Procedures.

Voting may be by voice, by show of hands, by consent by mail, by electronic means, by written ballot, or as otherwise determined by the Board of Directors or the Delegates present at the meeting.

Section 5.12 Voting by Mail Ballot.

(a) In any instance where a vote of the Delegates is required or permitted to be taken at a meeting of the Delegates, such vote may be taken by written ballot in lieu of a meeting, pursuant to this Section. In case of a vote by written ballot in lieu of a meeting, the Secretary shall mail or deliver written notice and a ballot to all Delegates. The notice shall include: (i) a statement of the proposed action, (ii) a statement that Delegates are entitled to vote for or against such proposal, (iii) a date at least 10 days after the date such notice shall have been given on or before which all ballots must be received by the Service Association, (iv) the number of ballots which must be received to meet the quorum requirement and the percentage of votes received needed to carry the vote; and (v) state the time by which the ballots must be received by the Service Association to be counted. The notice shall also be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

(b) The Service Association may conduct elections of directors or Delegates by mail, in its sole discretion, and pursuant to procedures adopted by it; *provided however*, that any procedures adopted shall provide for notice to Delegates of the opportunity to run for a vacant position and/or nominate any Delegate of the Service Association for a vacant position, subject to the nominated Delegate's consent.

(c) A written mail ballot, once received by the Service Association, may not be revoked.

Section 5.13 Telephone or Electronic Communication in Lieu of Attendance.

Delegates may attend meetings by using an electronic or telephonic communication method whereby the Delegate may be heard by the other Delegates and may hear the deliberations of the other Delegates on any matter properly brought at the meeting. The Delegate's vote shall be counted and the presence noted as if that Delegate were present in person.

Section 5.14 Officers at Meetings.

The President of the Service Association shall act as the chairman, and the Secretary of the Service Association shall act as the Secretary of any meeting of Delegates. In the absence of the President, then the Vice-President, the Secretary or the Treasurer, in that order, shall act as chairman of the meeting. In the absence of the Secretary, then any Assistant Secretary, the Treasurer, or any Assistant Treasurer, in that order, shall act as secretary of the meeting.

Section 5.15 Members' Right to Attend.

Any Owner shall be entitled to attend any meeting of the Delegates.

ARTICLE 6 BOARD

Section 6.1 Number.

The affairs of the Service Association shall be governed by a Board of Directors which shall consist of 11 members. The number of Directors shall increase as new Delegate Areas are developed and, consequently, new Delegates are elected by the Owners within the new Delegate Areas.

Section 6.2 Qualification.

- (a) Directors shall be Owners, and shall also be Delegates of the Service Association.
- (b) Only one Owner per Privately Owned Site, eligible to vote, current in the payment of Assessments, and otherwise in good standing, may be elected to, or appointed to fill a vacancy on the Board.
- (c) If any Privately Owned Site is owned by a partnership, trust, corporation, limited liability company, or other legal entity, any officer, partner, director, manager, member, trustee, or employee of that entity shall be eligible to serve as a director.
- (d) Any Owner who is more than 60 days delinquent in payment of any Assessment and is not in a qualified payment plan shall not be qualified to serve on the Board.
- (e) Any director who has unexcused absences from three consecutive Board meetings shall not be qualified to serve on the Board. An absence will be excused if the absent Board member notifies the Board President of the planned absence and the reason for the absence at least three days before the meeting, and a majority of the remaining Board members approve the absence as being for a valid purpose.
- (f) Any Owner who is in violation of any provision of the Governing Documents of the Service Association for more than 60 days, after notice and the opportunity for a hearing, shall not be qualified to serve on the Board.
- (g) Any Owner who initiates or maintains an adversarial judicial proceeding of any type or initiation of arbitration against the Service Association shall not be qualified to serve on the Board for the duration of the proceeding.
- (h) Once elected or appointed, each director is encouraged to and shall, to the extent required by law, attend at least one educational program per year related to the management, operation or law of community associations. The director shall be entitled to reimbursement of any actual or necessary expenses incurred in attending such educational program(s), as long as approved, in advance, by the Board of Directors. Any such expenses shall be treated as a Common Expense.

(i) If required, within 30 days of being elected or appointed as a director, each director shall comply with any applicable state and federal reporting requirements, including but not limited to the federal Corporate Transparency Act ("CTA"). The CTA requires the filing of a Beneficial Ownership Information Report, which must include the name of each director, their DOB, their address, and a copy of their driver's license, passport, or other qualifying document which shows a unique identifying number.

(j) If, by the affirmative vote of the remaining members of the Board, a director is deemed not qualified to serve on the Board, the director's position shall be deemed vacant by resignation.

Section 6.3 Term of Office for Directors.

The term of office of Directors shall be three years or the same as the Delegate term which that Director is currently serving. The terms of the Directors shall be staggered, as provided for in these Second Amended and Restated Bylaws. There shall be no limit on the number of terms a Director may serve.

Section 6.4 Resignation of Directors.

Any director may resign at any time by giving written notice to the President, to the Secretary or to the Board of Directors stating the effective date of the resignation. Acceptance of a resignation shall not be necessary to make the resignation effective. Resignation as a Director shall automatically constitute resignation as a Delegate.

Section 6.5 Removal of Directors.

(a) One or more directors or the entire Board of Directors may be removed at a Special Meeting of Members of a Delegate Area called pursuant to these Second Amended and Restated Bylaws, with or without cause, by a vote of a majority of the Members of the Delegate Area. However, Members of a Delegate Area may only remove a Director which serves as Delegate of that Delegate Area. Notice of a Special Meeting of the Members to remove directors shall set forth that the meeting is being conducted for that purpose and shall be provided to every Member of the Service Association, including the directors sought to be removed, as provided in these Second Amended and Restated Bylaws. Directors sought to be removed shall have the right to be present at this meeting and shall be given the opportunity to speak to the Members prior to a vote to remove being taken.

(b) In the event of removal of one or more directors, a successor shall be elected by the Members at the meeting to serve for the unexpired term of their predecessor(s).

Section 6.6 Vacancies.

Vacancies on the Board caused by any reason (other than removal) may be filled by appointment by a majority vote of the remaining Board Members at any time after the occurrence of the vacancy, even though the directors present at that meeting may constitute less than a quorum. Each person so appointed shall be a director who shall serve for the remainder of the unexpired term. Any appointment for a vacant seat shall be only from the vacant Delegate Area.

Section 6.7 Compensation.

No director or officer shall receive compensation for any service the director or officer may render as a director or officer to the Service Association. However, any director or officer may be reimbursed for actual expenses incurred in the performance of Service Association duties, if allowed by state law.

ARTICLE 7 MEETINGS OF DIRECTORS

Section 7.1 Annual Meetings.

Annual meetings of the Board of Directors shall be held at such times, place, and hour as may be fixed by the Board. The business conducted at the annual meeting of Directors shall consist of the appointment of officers of the Service Association and the transaction of such other business as may properly come before the meeting. No prior notice of the annual meeting of the Board of Directors shall be necessary if the meeting is held on the same day and at the same place as the annual meeting of the Delegates at which the Board of Directors is announced at the annual meeting of the Delegates.

Section 7.2 Regular Meetings.

Regular meetings of the Board of Directors shall be held at such times, place, and hour as may be fixed by the Board. The Board may set a schedule of regular meetings by resolution, and no further notice is necessary to constitute such scheduled regular meetings.

Section 7.3 Special Meetings.

Special meetings of the Board of Directors shall be held when called by the President of the Service Association, or by any two directors, after not less than two days' notice to each director.

Section 7.4 Notice of Board Meetings.

Except as provided in these Second Amended and Restated Bylaws above or below, written notice of each meeting of the Board shall be given by, or at the direction of, the Secretary, by mailing a copy of the notice, postage prepaid, at least two days before the meeting, or by any other means permitted by the Colorado Revised Nonprofit Corporation Act, including, but not limited to, personal delivery, facsimile, and e-mail delivery, to each Board member entitled to vote, addressed to the Board member's address last appearing on the books of the Service Association, or supplied by a Board member to the Service Association for the purpose of notice. If a notice for a special meeting demanded pursuant to these Second Amended and Restated Bylaws is not given by the Board within 30 days after the date the written demand or demands are delivered to the Board, the directors signing the demand or demands may set the time and place of the meeting and give notice, pursuant to the above terms of these Second Amended and Restated Bylaws. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 7.5 Location of Meetings and Open Meetings.

(a) All meetings of the Board of Directors shall be open to attendance by Members, as provided by applicable Colorado law.

(b) All meetings of the Board of Directors shall be held in the Community or in Garfield County unless all directors consent in writing to another location.

(c) All meetings of the Board of Directors may be conducted in person, via conference call, via electronic means, or via any other method permitted by applicable Colorado law.

(d) Rules and Regulations and amendments of the Articles of Incorporation and Bylaws may not be adopted in closed or executive sessions of the Board.

(e) For any executive session or closed Board meeting, minutes kept for that part of the meeting should only indicate that an executive session was held and the general subject of the executive session.

Section 7.6 Waiver of Notice.

Any director may waive notice of any meeting in writing. Attendance by a director at any meeting of the Board shall constitute a waiver of notice. If all the directors are present at any meeting, no notice shall be required, and any business may be transacted at the meeting.

Section 7.7 Quorum.

At all meetings of the Board a majority of the directors currently in office shall constitute a quorum for the transaction of business, unless there are fewer than three directors, in which case all directors must be present to constitute a quorum. The votes of a majority of the directors present at a meeting at which a quorum is present shall constitute a decision of the Board unless there are fewer than three directors, in which case, unanimity of the directors is required to constitute a decision of the Board.

Section 7.8 Proxies for Board Meetings.

For the purposes of casting a vote for or against a particular issue, a director may execute, in writing, a proxy to be held by another director. The proxy shall specify a yes or no vote on each particular issue for which the proxy was executed.

Section 7.9 Consent to Corporate Action.

The directors shall have the right to take any action, except the adopting of a rule or regulation, in the absence of a meeting, which they could otherwise have taken at a meeting, by:

(a) Obtaining the unanimous verbal vote of all directors which vote shall be noted in the minutes of the next meeting of the Board and ratified at that time; or

(b) Providing written notice to each director of a proposed action to be taken. Such notice shall include the date and time by which the directors must respond to the proposed action and shall state that failure to respond by the time stated in the notice will have the same effect as abstaining in writing to a proposed action and failing to demand in writing that action not be taken without a meeting. Upon receiving written notice of a proposed action, each director, by the date and time provided for in such notice, may: (i) vote in writing for such action; (ii) vote in writing against such action; (iii) abstain in writing from voting; (iv) fail to respond or vote; or (v) demand in writing that action not be taken without a meeting.

(1) In the event a sufficient number of affirmative votes for the proposed action are cast in writing and not revoked by the time stated in the notice that equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted, then the action is taken unless one or more directors demands that the action not be taken without a meeting. In the event action is taken pursuant to this provision, the action shall be noted in the minutes of the next meeting of the Board and ratified at that time.

(2) Any director who in writing has voted, abstained, or demanded action not be taken without a meeting pursuant to this Section may revoke such vote, abstention, or demand in writing; provided such revocation is received by the Service Association by the time and date stated in the notice for such proposed action. A director's right to demand that action not be taken without a meeting shall be deemed to have been waived unless the Service Association receives such demand from the director in writing by the time stated in the notice for such proposed action and such demand has not been revoked.

(c) Any action taken under subsections (a) and (b)(1) above shall have the same effect as though taken at a meeting of the directors and shall be effective at the end of the time stated in the notice for such proposed action.

Section 7.10 Telephone or Electronic Communication In Lieu of Attendance.

A director may attend a meeting of the Board by using an electronic or telephonic communication method whereby the director may be heard by the other Members and may hear the deliberations of the other Members on any matter properly brought before the Board. The director's vote shall be counted and the presence noted as if that director were present in person.

Section 7.11 Unit Owner Participation.

Owners must be allowed to speak before the Board votes on any issue under discussion. The Board shall allow a reasonable number of persons to speak on each side of the issue, but the Board may place restrictions on the time allowed for each Owner to speak. Owners may also be allowed to speak at such other times as the Board, in its sole discretion, deems appropriate.

Section 7.12 Officers at Meetings.

The President shall act as the chairman, and the Secretary shall act as the secretary at all meetings of the Board of Directors.

Section 7.13 Order of Business and Rules and Meeting.

The Board may establish the order of business and prescribe reasonable rules for the conduct of all meetings of the Board.

ARTICLE 8 POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 8.1 Powers and Duties.

The Board may act in all instances on behalf of the Service Association, except as provided in the Governing Documents or the Act. The Board shall have, subject to the limitations contained in the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Service Association and of the Community, and for the operation and maintenance of the Community as a first-class residential community, including the following powers and duties:

- (a) Exercise any other powers conferred by the Governing Documents;
- (b) Adopt and amend Rules and Regulations, including responsible governance policies, procedures and rules and regulations as required by the Act, and including penalties for infraction thereof;
- (c) Adopt and amend budgets (subject to any requirements of the Declaration and the Bylaws);
- (d) To keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements of the Service Association;
- (e) Collect Assessments as provided by the Governing Documents;
- (f) Retain a managing agent, independent contractors, or employees as it deems necessary, and prescribe their duties;
- (g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents, and, in the Service Association's name, on behalf of the Service Association or two or more Owners, on matters affecting the Community;
- (h) Provide Service Association disclosures required by, and pursuant to, the Act;
- (i) Make contracts, administer financial accounts and incur liabilities in the name of the Service Association;
- (j) Acquire, hold, encumber and convey, in the Service Association's name and in the ordinary course of business, any right, title or interest to real estate, pursuant to the consent requirements set forth in the Governing Documents, if any, and upon approval of two-thirds (2/3) of the membership votes of the Service Association;
- (k) Borrow funds and secure loans with an interest in future Assessments in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the recorded Declaration and these Second Amended and Restated Bylaws, and to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary and give security therefore, subject to the requirements set forth in the Declaration, and upon approval of two-thirds (2/3) of the membership votes of the Service Association;
- (l) Provide for the indemnification of the Service Association's directors and any person serving without compensation at the request of the Service Association, and maintain association professional liability insurance;

(m) Supervise all persons acting on behalf of and/or at the discretion of the Service Association;

(n) Procure and maintain liability and hazard insurance as set forth in the Governing Documents;

(o) Cause all persons having fiscal responsibilities for the assets of the Service Association to be insured and/or bonded, as it may deem appropriate;

(p) Provide education to Owners on an annual basis; and

(q) Exercise for the Service Association all powers, duties, rights and obligations in or delegated to the Service Association and not reserved to the membership by other provisions of the Governing Documents or the Act.

Section 8.2 Managing Agent.

The Board may employ a managing agent at a compensation established by the Board, to perform duties and services authorized by the Board. The Board shall have the authority to delegate any of the powers and duties set forth in this Article to a managing agent. Regardless of any delegation to a managing agent, the members of the Board shall not be relieved of responsibilities under the Governing Documents or Colorado law.

Section 8.3 No Waiver.

The omission or failure of the Service Association or Owner to enforce the covenants, conditions, easements, uses, limitations, obligations, or other provisions of the Governing Documents shall not constitute or be deemed a waiver, modification, or release thereof, and the Board or the managing agent shall have the right to enforce the same at any time.

ARTICLE 9 OFFICERS AND THEIR DUTIES

Section 9.1 Enumeration of Offices.

The officers of this Service Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and Treasurer, who are not required to be members of the Board of Directors but shall be Owners, and such other officers as the Board may from time to time create by resolution. Any two offices, except the offices of President and Secretary, may be held by the same person.

Section 9.2 Election of Officers.

The officers shall be elected by the Board for one-year terms at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 9.3 Special Appointments.

The Board may elect other officers as the affairs of the Service Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 9.4 Resignation and Removal.

Any officer may be removed from office with or without cause by a majority of the Board of Directors. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. A resignation shall take effect on the date of receipt of a notice or at any later time specified therein. Acceptance of a resignation shall not be necessary to make it effective.

Section 9.5 Vacancies.

A vacancy in any office may be filled by appointment by the Board by majority vote of the Board. The officer appointed to the vacancy shall serve for the remainder of the term of the officer replaced.

Section 9.6 Duties.

The duties of the officers are as follows:

(a) President. The President shall have all of the general powers and duties which are incident to the office of president of a Colorado nonprofit corporation. Specifically, the President shall have the power to preside at all meetings of the Board of Directors and of the Members; appoint committees; see that orders and resolutions of the Board are carried out; sign contracts, leases and other written instruments; direct, supervise, coordinate and have general control over the day-to-day affairs of the Service Association.

(b) Vice-President. The Vice-President shall take the place of the President and perform the President's duties whenever the President is absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint some other director to act in the place of the President on an interim basis. The Vice-President shall also perform other duties imposed by the Board of Directors or by the President.

(c) Secretary. The Secretary shall record the votes and maintain the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Service Association together with their addresses; cause Service Association records to be kept and maintained; and perform such other duties incident to the office of secretary or as required by the Board.

(d) Treasurer. The Treasurer shall be responsible for the receipt, deposit and disbursement of Service Association funds and securities and for maintenance of full and accurate financial records; shall prepare an annual budget and a statement of income and expenditures to be presented to the membership, and deliver a copy of each to the Members. The Treasurer shall perform all duties incident to the office of treasurer and such other duties as may be assigned by the Board of Directors.

Section 9.7 Delegation.

Any officer duties may be delegated to the managing agent, committee, or another Board member; *provided, however*, the officer shall not be relieved of any responsibility under this Section or under Colorado law.

ARTICLE 10 COMMITTEES

Section 10.1 Designated Committees.

The Service Association may create committees and appoint such committee members as deemed appropriate in carrying out its purposes. Committee chair persons must meet the same qualifications to serve as Board members must meet to serve on the Board, as set forth in these Second Amended and Restated Bylaws. Committees shall have authority to act only to the extent designated in the Governing Documents or delegated by the Board. The Board shall also have the power to remove any and all committee members with or without cause and to terminate any such committee.

Section 10.2 Open Committee Meetings.

All committee meetings shall be open to attendance by Members, as provided by applicable law.

ARTICLE 11 BOOKS AND RECORDS

Section 11.1 Service Association Records.

The Service Association records will be available for production to Owners in accordance with statutory requirements, which are further set forth in the Service Association's Inspection and Copying of Records Policy.

Section 11.2 Minutes and Presumptions Under the Minutes.

Minutes or any similar record of the meetings of Members, or of the Board of Directors, when signed by the Secretary or acting Secretary of the meeting, shall be presumed to truthfully evidence the matters set forth therein. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

Section 11.3 Examination.

The Service Association records shall at all times, during normal business hours and after at least ten days written notice, or at the next scheduled Board meeting if within 30 days of written request, be subject to inspection and copying by any Member, at their expense, except documents determined by the Board to be withheld under the Inspection of Records Policy of the Service Association in accordance with the Act. Any Owner's request to inspect and copy Service Association records must describe with reasonable particularity what records are requested. The Service Association may charge the actual costs for copying of the records, as clarified further in its Inspection of Records Policy.

ARTICLE 12 AMENDMENTS

Section 12.1 Bylaw Amendments.

(a) These Second Amended and Restated Bylaws may be amended by:

(i) The affirmative vote of a majority of the members of the Board of Directors at a duly constituted meeting; provided, however, no amendment shall be made to the quorum requirement without the affirmative vote of at least 51% of the Member votes cast by Delegates who are voting in person at a meeting of the Delegates duly called for this purpose at which a quorum is present; or

(ii) The affirmative vote of at least 51% of the Member votes cast by Delegates who are voting in person at a meeting of the Delegates duly called for this purpose at which a quorum is present, provided that notice has been sent to all Members pursuant to these Second Amended and Restated Bylaws, and such notice sets forth that the meeting is being conducted for the purpose of amendment.

(b) Notwithstanding anything to the contrary in these Second Amended and Restated Bylaws, these Second Amended and Restated Bylaws may be amended by the Board of Directors, without Member approval, to comply with any statutory or judicial requirements.

ARTICLE 13 INDEMNIFICATION

Section 13.1 Obligation to Indemnify.

(a) The Service Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative; by reason of the fact that the person is or was a director, officer or committee member of the Service Association; provided the person is or was serving at the request of the Service Association in such capacity; and provided that the person:

(i) acted in good faith, and;

(ii) in a manner that the person reasonably believed to be in the best interests of the Service Association, and;

(iii) with respect to any claimed criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

The determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner reasonably believed to be in the best interests of the Service Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(b) Notwithstanding anything in subsection (a) above, unless a court of competent jurisdiction determines that, in view of all circumstances of the case, the person is fairly and reasonably entitled to expenses, no indemnification shall be made:

(i) In connection with a proceeding by or in the right of the Service Association, where the person has been adjudged to be liable to the Service Association; or

(ii) In connection with any other proceeding charging that the person received an improper personal benefit, whether or not involving action in an official capacity, the person has been adjudged liable on the basis the person received an improper personal benefit.

(c) To the extent that the person has been wholly successful on the merits in defense of any action, suit or proceeding as described above, the person shall be indemnified against actual and reasonable expenses (including expert witness fees, attorney fees and costs) incurred in connection with the action, suit or proceeding.

Section 13.2 Determination Required.

(a) The Board of Directors shall determine whether the person requesting indemnification has met the applicable standard of conduct set forth above. The determination shall be made by the Board of Directors by a majority vote of a quorum consisting of those members of the Board of Directors who were not parties to the action suit or proceeding.

(b) If a quorum cannot be obtained as contemplated above or if a quorum has been obtained and the Board so directs, a determination may be made, at the discretion of the Board, by:

(i) independent legal counsel selected by a majority of the full Board; or

(ii) by the voting members, but voting members who are also at the same time seeking indemnification may not vote on the determination.

Section 13.3 Payment in Advance of Final Disposition.

The Service Association shall pay for or reimburse the reasonable expenses as described above in advance of final disposition of the action, suit or proceeding if the person requesting indemnification provides the Board of Directors with:

(a) A written affirmation of that person's good faith belief that they have met the standard of conduct described above; and

(b) A written statement that the person shall repay the advance if it is ultimately determined that they did not meet the standard of conduct described above.

Section 13.4 No Limitation of Rights.

The indemnification provided in this Article shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested members of the Board of Directors, or otherwise, nor by any rights which are granted pursuant to C.R.S. §38-33.3-101, *et seq.*, and the Colorado Revised Nonprofit Corporation Act, as those statutes may be amended from time to time.

Section 13.5 Directors and Officers Insurance.

The Service Association shall purchase and maintain insurance on behalf of any person who is or was a member of the Board of Directors, the manager, committee members, or anyone acting at the direction of the Board, covering defense and liability expenses arising out of any action, suit or proceeding asserted against the person by virtue of the person's actions on behalf of the Service Association or at the direction of the Board, whether or not the Service Association would have the power to indemnify the person against liability under provisions of this Article.

ARTICLE 14 MISCELLANEOUS

Section 14.1 Fiscal Year.

The Board has the right to establish and, from time to time, change the fiscal year of the Service Association.

Section 14.2 Notices.

All notices to the Service Association or the Owners shall be delivered in accordance with Colorado law.

Section 14.3 Conflicts.

In the case of any conflicts between the Declaration and these Second Amended and Restated Bylaws or the Articles of Incorporation, the terms of the Declaration shall control. In the case of any conflicts between the Articles of Incorporation and these Second Amended and Restated Bylaws, the terms of the Articles of Incorporation shall control.

CERTIFICATION


By signature below, the Secretary of the Board of Directors certifies these Second Amended and Restated Bylaws received the affirmative vote of at least 51% of the Member votes cast by Delegates who were voting in person at a meeting of the Delegates duly called for this purpose at which a quorum was present.

BATTLEMENT MESA SERVICE ASSOCIATION, a
Colorado nonprofit corporation

By:

Secretary

Date:


5/20/2025