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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
RIVERSIDE AT WHITEFISH
(OMNIBUS)**

THIS DECLARATION, made this 18th day of September, 2003, by Riverside at Whitefish, Ltd., hereinafter referred to as "DECLARANT,"

WITNESSETH

That WHEREAS, Riverside at Whitefish, Ltd. is the owner of real property situated in Flathead County, Montana, described in Exhibit A as attached hereto:

WHEREAS, the Declarant is desirous of maintaining said area ("the Development") as a residential and commercial district of the highest standard in which each owner of a Lot (as hereinafter defined) shall enjoy maximum livability and freedom with respect to the use of said Lot, subject only to due regard for the equal rights of the other owners of Lots in said Development;

That WHEREAS, the intent of the Declarant in making this Declaration is to create a planned residential community to include not only the above described property, but also additional property which the Declarant anticipates developing in phases in the future. The above described property and all future phases shall be known generally as Riverside at Whitefish (sometimes called the "Property" or "Project") All additional phases shall, as and immediately at the time each phase is platted, become automatically subject to this Declaration.

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NOW, THEREFORE, the Declarant, being the owner of all of the real property above-described, hereby declares that the said real property is, and shall be, held, transferred, sold and conveyed, subject to the conditions, restrictions, covenants and reservations hereinafter set forth; and

All persons or corporations who now or shall hereafter acquire any interest in and to the above-described property shall be held to agree and covenant with the owner of any of the property hereinabove described, or any parcel thereof, and with their heirs and successors and assigns, to conform to and observe the following covenants, restrictions, and conditions as to the use thereof, and as to the construction of dwellings and improvements thereon.

ARTICLE I. DEFINITIONS

Section 1: "Declarant" herein mentioned is Riverside at Whitefish, Ltd.

Section 2: "Owner" shall mean and refer to the person or persons owning a parcel of land in fee simple absolute, individually or as an owner in any real estate tenancy relationship recognized under the laws of the State of Montana, including a unit ownership pursuant to a recorded unit ownership declaration.

Section 3: "Lot" shall mean any parcel, unit or other ownership interest in real estate.

Section 4: "Vote" or "voter" shall mean one vote per lot, and provided that the Declarant herein shall be entitled to a vote for each Lot interest it owns inclusive of a Lot

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shown on a preliminary Development plat which has not received final Development plat approval.

ARTICLE II. ARCHITECTURAL REVIEW COMMITTEE

ARCHITECTURAL CONTROL COMMITTEE

The Architectural Control Committee shall be composed originally of three members, consisting of two representatives of the Declarant selected by the Declarant, and a land planner selected by the Declarant. Initially, Mark Johnson and Kevin Holliday shall serve as the representatives of the Declarant, and Bruce Lutz shall serve as the land planner. Such representative of the Declarant or land planner may be removed at any time by the Declarant and in the event of such removal or the death, incapacity or resignation of any one of such three members, the Declarant shall have full authority to designate a successor who, in like manner, may be removed at any time by the Declarant. The Declarant may designate a person to serve on the Committee during the temporary absence from the State of Montana of any one of such three members. The removal of members, the appointment of successor members and the designation of such temporary members of such Committee shall all be made by the Declarant by the execution, acknowledgment and recording of an appropriate instrument in writing for any such purpose. Such representative of the Declarant shall not be entitled to any compensation for services performed pursuant to this Declaration of Protective Covenants. A quorum at any meeting of such Committee shall consist of all three of the members thereof and any decision shall be reached by the affirmative vote of a majority of such members. Whenever reference is made to the Declarant in this paragraph, such reference shall be to the present constitution of the Declarant as well as any successor constitution thereof. When all of the Lots in the Development have been sold then the owners of all of the Lots shall have the power through

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a duly recorded instrument to change the membership of the Architectural Control Committee by majority vote.

Section 1: Approval by Committee. The Committee's approval or disapproval, as required by any provision of this Declaration, shall be in writing. In the event the Committee fails to approve or disapprove within thirty days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and there will be deemed to have been full compliance with the related covenants.

Section 2: Function of the Architectural Committee. All owners intending to construct any structure whatever upon any Lot, shall first submit their plans and specifications, in writing, to the Architectural Review Committee. All plans for the construction of any landscaping, building, dock, private road or driveway, fence, wall or other structure to be erected upon any Lot and the proposed location thereof upon any Lot and any change, after approval thereof, any remodeling, reconstruction, alteration or addition to any building, road, driveway, or other structure upon any Lot in said premises, shall require written approval of said Architectural Review Committee. Before beginning the construction of any building, road or driveway, fence, wall or other structure whatsoever, or remodeling, reconstruction or altering such road, driveway or structure upon any Lot, the person or persons desiring to effect, construct or modify the same shall submit to the Architectural Review Committee a complete set of plans and specifications thereof including front, side, and rear elevations, floor plans for each floor and basement, exterior color schemes, and a block or plot plan indicating and fixing the exact location of such structure or such altered structure on the grading plan if requested. A reasonable fee shall be paid to the Architectural Review Committee with such plans, said fee to be set by said Committee. (A preliminary sketch of plan may be submitted prior to the execution of detailed drawing.) The Architectural Review Committee may, at any time, inspect any building or property

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located in said Development for the purpose of determining whether the exterior of said building conforms to these covenants.

In the event the proposed improvement shall be one for repainting or redecorating the exterior of such structure without remodeling or changing it, or making additions thereto, it shall only be necessary to file one color scheme of such proposed work and have the same approved prior to the commencement of such work.

Section 3: Structural Engineering. Structural engineering shall be the responsibility of the owner. The Architectural Review Committee may waive such provisions contained in these covenants by unanimous decision. In passing upon any plans and specifications submitted to it, the Architectural Review Committee shall consider:

- a) Suitability of the improvement and materials of which it is to be constructed to the Lot upon which it is to be located;
- b) The nature of the adjacent neighboring improvements;
- c) The quality of the materials to be utilized in any proposed improvements; and
- d) The effect of any proposed improvement on the adjacent or Development property.

In passing on any plans and specifications, it shall be an objective of the Architectural Review Committee to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired,

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and to maintain for the benefit of the Architectural Review Committee and all subsequent individual Lot owners the natural character of the land and to require that all man-made structures blend into the natural background rather than stand out against it.

ARTICLE III. EXCEPTIONS

Notwithstanding anything contained herein to the contrary, there shall be excepted from the operation of both the above "General Conditions, Stipulations and Protective Covenants" and the above "Special Conditions, Stipulations and Protective Covenants" any playground, swimming pool, bathhouse or other community recreational facility.

ARTICLE IV. RESTRICTIONS AS TO USE

Section 1: Deference to Local Ordinance. Unless specifically modified herein, all construction and uses of any property interest herein shall meet the requirements set forth in the duly enacted local codes, laws and ordinance.

Section 2: Utilities. All utilities including but not limited to power, electric, and telephone shall be underground.

Section 3: Continuity of Construction. All structures shall have the exterior completed within twelve (12) months of commencement of construction and landscaped within eighteen (18) months thereof, unless an exception is granted in writing by the Architectural Review Committee.

Section 4. Temporary Structures. No trailer, basement, tent, shack, garage, barn or other building erected or placed on any Lot shall at any time be used as a permanent

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residence. Any of the aforementioned structures shall be erected at any time without the written approval of the Architectural Review Committee.

Section 5: Animals. No animals of any kind, shall be raised, bred or kept on any Lot, excepting that dogs, cats and other small domestic animals may be kept and raised, but not for commercial purposes. Permitted animals, not exceeding two adult animals, must be confined to the Lot of their owner and not permitted to run at large.

Section 6: Garbage. No Lot shall be used or maintained as a storage ground for rubbish. Trash, garbage or other waste shall be kept in covered, reasonable airtight containers. Such containers must be kept in a garage or other enclosed area unless prior approval of the Architectural Control Committee has been granted.

Section 7: Signs. Except for those of the Declarant or its agent, no signs shall be placed on any Lot except nameplates, and address numbers, of an ordinary size and character.

Section 8: Nuisance. No noxious or offensive activity or structure shall be carried on nor shall anything be done or permitted which shall constitute a public nuisance therein.

Section 9: Burning. Open fires are not permitted on the property. Outdoor barbecues are not an open fire within the meaning hereof.

ARTICLE V. ENFORCEMENT

Section 1: Interested Parties. Any owner shall have the option and right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations

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and charges now or hereafter imposed by the provisions of this Declaration. The method of enforcement may include proceedings to enjoin the violation, to recover damages, or both. Failure by any owner to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter. The City of Whitefish is an interested party and shall like an owner, at its sole election, have the authority to enforce these Covenants, and in the event of litigation, shall be entitled to attorneys' fees.

Section 2: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

ARTICLE VI. FEES

Each owner covenants and agrees to contribute and pay, upon demand, to the Declarant, or its successors or assigns, such owner's share of such sum as the Declarant, or its successors or assigns, from time to time may pay or may be required to pay for the cost of the care, maintenance and repair of the Development and its common areas, including but not limited to, decorative or ornamental improvements, plantings, waterways, landscaping and other beautification features which the Declarant either has located or may locate on the development, together with the cost of supplying water and electricity thereto and therefor, as well as the cost of development garbage collection, provided, however, that the Declarant, or its successors or assigns, shall always conduct such operations under this covenant on a strictly nonprofit basis. Each owner shall pay a proportionate share of the total amount of such costs, per lot owned, and which share is currently estimated at \$15.00 per lot per month. The total amount shall be more specifically calculated by Declarant, its successors and assigns on a year-to-year basis. This covenant, just as the other covenants contained herein, shall constitute a covenant running with the land but shall not constitute a lien, charge or encumbrance of any kind or nature upon the land. Enforcement of this

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covenant shall rest solely with the Declarant and its successors and assigns and the Declarant, or its successors or assigns, may lawfully prosecute any proceedings in law against such person or persons who violate this covenant and may recover such damages as may ensue because of such violation, including costs of suit and attorney fees. The Declarant, and its successors and assigns, covenants that when all of the development has been sold, or at such earlier time as the Declarant may elect so to do, then the Declarant, or its successors or assigns, will transfer the operations under and the enforcement with respect to the covenant contained in this paragraph to a mutual improvement and maintenance association which will be organized among owners of Lots, either formally or informally; it being understood that any such association shall be operated and conducted on a strictly cooperative and nonprofit basis.

ARTICLE VII. TERM

The provisions of these protective covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty (20) years from the date they are recorded, after which time said protective covenants shall be automatically extended for successive periods of ten (10) years unless an instrument executed by the owners of seventy-five percent (75%) of the Lots located on the land described as all that land as shown on and described as Parcel <_> of Certificate of Survey No. <_>, Records of Flathead County, Montana, has been recorded agreeing to terminate said protective covenants or change them in whole or in part. Each Lot shall be entitled to one vote under this Article, as determined in Article I.

ARTICLE VIII. AMENDMENT

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This Declaration may be amended by an instrument signed by the owners of Seventy-five Percent (75%) of the single family Lots located on the land described as all that land as shown on and described as "Exhibit A", agreeing to such amendment. Each Lot shall be entitled to one vote as determined in Article I under this Article, provided that in any event an amendment shall not be valid unless approved in writing by the City of Whitefish.

IN WITNESS WHEREOF, the Declarant has executed this instrument the day and year first above written.

RIVERSIDE AT WHITEFISH, LTD.

By: Ronald Z Holliday
President



: ss.
County of Flathead)

On this 19th day of September, 2003, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Ronald Holliday known to me to be the President of RIVERSIDE AT WHITEFISH, LTD., the corporation whose name is subscribed to the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Ker S Brumby
Notary Public for the State of Montana
Residing at: Columbia Falls
(SEAL) My Commission Expires: 12-18-2006