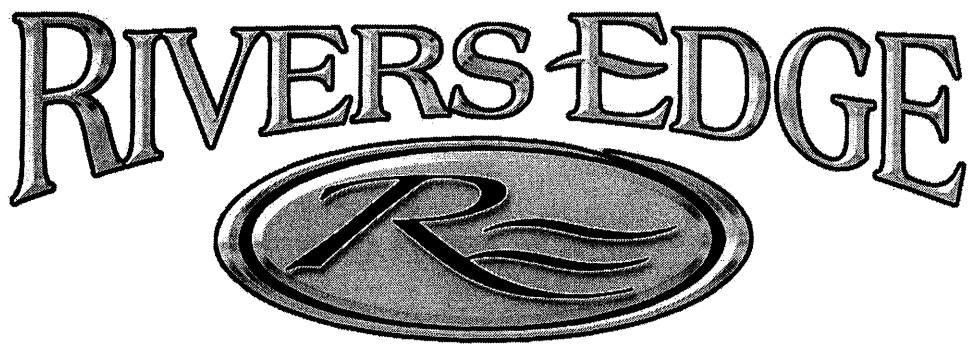


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STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
BLACK ROCK
DEVELOPMENT
2005 AUG 31 P 3: 46

DANIEL J. ENGLISH
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COVENANTS, CONDITIONS *and* RESTRICTIONS

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RIVERS EDGE**

The undersigned, NW Properties, LLC, an Idaho limited liability company doing business under the laws of the state of Idaho, (hereinafter referred to as "Declarant"), is the current owner, of the real property located in Coeur d'Alene, Kootenai County, Idaho, more particularly described on **Exhibit "A,"** attached hereto. In addition to the covenants, conditions, restrictions and easements contained in the Revised Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Mill River First Addition, Declarant hereby adopts the following Covenants, Conditions and Restrictions for the subdivision known as RIVERS EDGE, and any additions located at the Property, and declares that the following shall apply to the subject Property and to any interest in that Property. These Covenants, Conditions and Restrictions ("Declaration") shall run with the land, and with each estate therein, and shall be binding upon all persons having or acquiring any right, title or interest in said real property or any Lot, parcel or portion thereof; and shall inure to the benefit of and be binding upon Declarant, Declarant's successors-in-interest, purchasers, assigns, heirs and any party having acquired any right, title or interest in or to any part of the subject Property until the Declaration is terminated.

**ARTICLE 1.
STATEMENT OF PURPOSE AND IMPOSITION OF COVENANTS**

1.1. **Purpose.** The purpose of the Declarant in making this Declaration is to create a subdivision known as RIVERS EDGE on the Property.

The Declarant further intends to ensure the attractiveness of the Property, including the residences and other improvements constructed on it; to prevent any future impairment of the Property and to protect and enhance the values and amenities of the Property; to provide for the operation, administration, use and maintenance of the Common Areas within the Property; to preserve, protect and enhance the values and amenities of the Property; and to promote the health, safety and welfare of the owners of the Property. THIS DOCUMENT DOES NOT AND CANNOT ALTER THE LAW OF THE GOVERNMENTAL AGENCIES HAVING JURISDICTION.

**ARTICLE 2.
DEFINITIONS**

The following terms, as used in this Declaration, are defined as follows:

2.1. **Articles or Articles of Incorporation.** The Articles of Incorporation of Rivers Edge Property Owner's Association, Inc., which have been filed with the Secretary of State of Idaho, as such Articles may be amended from time to time.

2.2. **Assessments.** Those payments required of Owners or Association Members, including Annual, Special, and Default Assessments levied pursuant to Article 11.

2.3. **Association.** Rivers Edge Property Owner's Association, Inc., an Idaho non-profit corporation, and any successor of that entity by whatever name.

2.4. **Board or Board of Directors.** The Board of Directors of the Association.

2.5. **Building.** A building or other structure constructed on a Lot.

2.6. **Bylaws.** The Bylaws of the Association, as such Bylaws may be amended from time to time.

2.7. **Common Areas.** Such real property depicted as Common Areas on the recorded Final Plat of the Project and any other property in which the Association owns an interest for the common non-exclusive use, benefit and enjoyment of some or all of the Members and such other persons as may be permitted to use the Common Areas under the terms of this Declaration or any contract with the Association. Such interest owned by the Association may include, without limitation, estates in fee, estates for terms of years, or easements.

2.8. **Common Expenses.** Common Expenses shall include the actual and estimated expenses incurred, or anticipated to be incurred by the Association for the general benefit of all Owners. Common Expenses shall include reasonable reserves as the Board may find necessary and appropriate for deferred maintenance, repairs, replacements and improvements in accordance with RIVERS EDGE Documents as well as: (i) Premiums for insurance carried by the Association under Article 14; (ii) all expenses, costs and amounts of every kind and nature incurred by the Association in administering, servicing, conserving, managing, maintaining, operating, repairing or replacing the Common Areas and any Improvements located on it; (iii) all expenses expressly declared to be Common Expenses by RIVERS EDGE Documents; (iv) all expenses lawfully determined to be Common Expenses by the Board of Directors; and (v) all expenses to be allocated among the Owners as provided in Article 11.

2.9. **Community.** The subdivision known as RIVERS EDGE.

2.10. **Declarant.** NW Properties, LLC, an Idaho limited liability company, or its successors or assigns, including any Successor Declarant to the extent the rights of Declarant are assigned to the Successor Declarant, as provided in Section 2.36.

2.11. **Declaration.** The Declaration of Covenants, Conditions and Restrictions for RIVERS EDGE.

2.12. **Default Rate.** An annual rate of interest that is the lesser of (i) five points above the prime rate charged by the Association's then current bank rate, and (ii) the maximum rate permitted by applicable law.

2.13. **Development Rights.** Those rights of Declarant as set forth in Section 13.1.2.

2.14. **Director.** Member of the Board of Directors of the Association.

2.15. **Dwelling Unit.** A single-family residence.

2.16. **Expansion Property.** Such additional real property now owned or in the future acquired by Declarant (including any Successor Declarant) as Declarant may make subject to the provisions of this Declaration, by duly recorded Declaration of Annexation.

2.17. **Final Development Plan.** The Final Development Plan of the Property, as approved by the appropriate governmental agencies and the City of Coeur d'Alene, as amended and approved during subdivision and final platting process.

2.18. **First Mortgage.** Any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens that are given priority by statute.

2.19. **First Mortgagee.** The holder of record of a First Mortgage.

2.20. **Improvement(s).** All Buildings, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, gates, roads, docks, ponds, lakes, trails, gates, signs, changes in any exterior color or shade, excavation and all other site work, including without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. The term "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude that does not change exterior colors or exterior appearances. The term "Improvement(s)" does include both original improvements and all later changes and improvements.

2.21. **Landscaping.** Grass, trees, shrubs, plants and any outside improvements on dwelling unit Lots or common areas; not including street and roads.

2.22. **Lot.** A parcel of land designated as a Lot on any Plat of the Property that the Declarant makes subject to this Declaration together with any improvements thereon. The streets, roads, and Common Areas on any Plat shall not be considered to be separate Lots.

2.23. **Maintenance Fund.** The fund created by Assessments and fees levied pursuant to Article 11 below to provide the Association with the funds required to carry out its duties under this Declaration.

2.24. **Member.** Any person or entity holding membership in the Association.

2.25. **Mortgage.** Any mortgage, deed of trust, trust indenture, contract for deed, or other document which is recorded in the office of the Recorder of Kootenai County, and, which encumbers any portion of the Property or interest therein as security for the payment of a debt or obligation.

2.26. **Mortgagee.** Any person named as a beneficiary or mortgagee under a Mortgage, or any successor to the interest of any such person under such Mortgage. In the case of a contract for deed, the seller shall be considered the "Mortgagee" for purposes of this Declaration.

2.27. **Owner.** The person or other legal entity, including Declarant, that holds fee simple title of record to any Lot or, if the Lot is subject to one or more contracts for deed, the buyer under the most recent contract for deed, provided, however, that if the seller under such contract notifies the Association in writing that the buyer under said contract is in default, then the seller under such contract shall be the Owner for purposes of this Declaration. The Association shall be entitled to rely on such notification without further inquiry. "Owner" does not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgage, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

2.28. **Period of Declarant Control.** The period beginning on the date this Declaration is first recorded in the office of the Recorder of Kootenai County, Idaho, and ending on the earlier of: (a) the date which is 20 years later, or (b) the date on which the Declarant has recorded the plats of all Expansion Property and sold 100% of the Lots to Owners other than Declarant in each of the Plats. When Declarant has determined that no additional property shall be considered Expansion Property, Declarant shall so notify the Association in writing. The Period of Declarant Control may be reinstated or extended by agreement between Declarant and the Association, subject to such terms, conditions and limitations as the Board of Directors may impose on the subsequent exercise by Declarant of the Special Declarant Rights. After the termination of the Period of Declarant Control, Declarant, if still an Owner, will continue to have all the rights and duties ordinarily given to Members and/or Owners under this Declaration.

2.29. **Person.** Whether or not in capitalized form, Person means a natural person, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or combination of the foregoing.

2.30. **Plat.** Any engineering survey or surveys of all or part of the Property (including Expansion Property), together with such other diagrammatic plans and information regarding the Property as may be required by applicable law, or as may be included in the discretion of Declarant, as each such survey may be amended and supplemented from time to time, and all as recorded in the office of the Recorder of Kootenai County, Idaho.

2.31. **Project.** Community and any additions, pursuant to Section 2.16 of this Declaration.

2.32. **Property.** Includes the property described on **Exhibit "A"** and initially subjected to this Declaration, and also refers to any Expansion Property that may be incorporated into the Project from time to time and made subject to these Covenants pursuant to the provisions of this Declaration.

2.33 **RIVERS EDGE.** The community created by this Declaration ("Community"), consisting of the Property (including any Expansion Property, after annexation in accordance with Article 18) and all of the Improvements located on the Property, also referred to herein from time to time as "Project," pursuant to Section 2.31 of this Declaration.

2.34. **RIVERS EDGE Documents.** The basic documents creating and governing RIVERS EDGE, including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, and any other procedures, rules, regulations or policies adopted under such documents by the Association, all as may be amended from time to time.

2.35. **Special Declarant Rights.** Those rights of Declarant as set forth in Article 13 below.

2.36. **Successor Declarant.** Any party or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as permitted by Section 2.10, and evidenced by an assignment or deed of record in the office of the Recorder of Kootenai County, Idaho, designating such party as a Successor Declarant, signed by the transferor and the transferee. Upon such recording, Declarant's rights and obligations under the Declaration will cease and terminate to the extent provided in such document, and all such rights and obligations shall be transferred to and assumed by the Successor Declarant to the extent provided in such document.

ARTICLE 3.

RIVERS EDGE PROPERTY OWNER'S ASSOCIATION, INC.

3.1. **Organization of Rivers Edge Property Owner's Association, Inc.** Rivers Edge Property Owner's Association, Inc. shall be initially organized by Declarant as an Idaho non-profit corporation under the provisions of the Idaho Code and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles, Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration or with any Amendments thereto that Declarant might adopt pertaining to RIVERS EDGE.

3.2. **Board of Directors and Officers.** Subject to the rights and obligations of Declarant as set forth in this Declaration and to the rights and obligations of the other Owners, the Association will be responsible for the administration and operation of the Property. The Board of Directors will exercise all powers, duties and authority of the Association not reserved to

Declarant or the Members by this Declaration, the other RIVERS EDGE Documents, or other applicable law.

3.3. **Appointment of Officers and Directors by Declarant.** Until the expiration of the Period of Declarant Control, Declarant will retain the exclusive powers to appoint, remove and replace Directors and Officers of the Association.

Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint, remove and replace Directors and Officers of the Association before the end of the Period of Declarant Control by providing a notice to that effect to the Association and otherwise complying with the procedures for termination of this Special Declarant Right, as set forth in the Bylaws. However, upon voluntarily terminating this Special Declarant Right in advance of the expiration of the Period of Declarant Control, Declarant may require that specified actions of the Association or the Board, as described in an instrument executed and recorded by Declarant in the office of the Recorder of Kootenai County, Idaho, be approved by Declarant before those actions become effective.

3.4. **Manager.** The Association may employ or contract for the services of a Manager to act for the Association and the Board and the Officers according to the powers and duties delegated to the Manager pursuant to the Bylaws or resolution of the Board. Neither the Board nor any officer of the Association will be liable for any omission or improper exercise by a Manager of any such duty, power, or function so delegated by written instrument executed by or on behalf of the Board. The Manager may be the Declarant or a person related to Declarant.

3.5. **Committees.** The Association may delegate any of its rights, duties or responsibilities to any committee or other entity (in addition to the Design Committee) that the Board may choose to form.

3.5.1. **Limitation.** Any delegation by the Board under this Section is subject to compliance with the Bylaws and the requirements that the Board, when so delegating, will not be relieved of its responsibilities under RIVERS EDGE Documents.

ARTICLE 4. ASSOCIATION MEMBERSHIP

4.1. **Membership.** Every Owner, by virtue of being an Owner, and for so long as he is an Owner, will be a Member of the Association. Membership will be appurtenant to and may not be separated from ownership of any Lot. No Owner, whether one or more persons, will have more than one membership per Lot owned, but all of the persons owning each Lot will be entitled to rights of membership and of use and enjoyment appurtenant to such ownership.

4.2. **Classes of Membership.** The Association will initially have two classes of Members as described below.

4.2.1. **Class A Members.** Owners of Lots, shall be known as Class A Members. Each Class A Member shall be entitled to cast one (1) vote for each Lot owned by such Class A Member on the date of the vote.

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4.2.2. **Class B Members.** The Declarant shall be known as a Class B Member and shall be entitled to cast twenty-five (25) votes per Lot owned, by Declarant on the date of the vote. Provided, however, that Class B Membership shall cease to exist after the termination of the Period of Declarant Control, and at such time, Declarant, if still an Owner of a Lot or Lots, will become a Class A Member and shall be entitled to one (1) vote for each Lot owned.

The Bylaws may set forth additional classifications of membership from time to time, except no additional classifications shall be created during the Period of Declarant Control unless the Declarant agrees in writing to any new or different class.

4.3. **Voting Rights.** Each Member will be entitled to vote on Association matters based on the number of votes to which that Member is entitled based on such Member's membership class.

When more than one person holds an interest in any Lot, all such persons shall be Members but shall share the vote attributable to the Lot. Fractional votes, however, shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint Owners of the Lot from which the vote derived. The right to vote may not be severed or separated from the ownership of the Lot to which it is appurtenant, except that any Owner may give a revocable proxy.

Any Owner of a Lot that is leased may assign his voting right to the tenant, provided that a copy of the instrument of assignment is furnished to the Secretary of the Association prior to any meeting at which the tenant exercises the voting right.

4.4 **Voting Rights For Mill River Property Owners Association, Inc. Matters.** Each member will be entitled to vote on matters involving the Mill River Property Owners Association, Inc., ("Mill River Association") based on the number of votes to which that Member is entitled in accordance with such Member's membership class as described in this Section 4. Said votes shall be cast within the Association, and the President of the Association shall then cast the votes in the aggregate as one block of votes based upon the majority votes.

4.5. **Transfer of Membership.** An Owner may not transfer, pledge, assign or alienate its membership in the Association in any way except upon the transfer of its title in its respective Lot, and then only to the transferee of such title. If the transfer is pursuant to a contract for deed, Owner's membership shall transfer to the buyer under said contract.

4.6. **Notice of Membership.** Any person, on becoming a Member, will furnish the Secretary of the Association with a photocopy or certified copy of the recorded instrument or such other evidence as may be specified by the Board

under the Bylaws, vesting the person with the interest required to make him a Member for each Lot owned.

4.7. **Owner's and Association's Addresses for Notices.** At the same time that the Member provides Notice of Membership as set forth in Section 4.5, the Member will provide the Association with the single name and address which shall be deemed the registered address for that Membership and for the Owners associated therewith. The registered address shall be the address to which any notices given pursuant to RIVERS EDGE Documents shall be sent. The Member will promptly update any changed information by providing a new written notice to the Association. The Association will keep and preserve the most recent written notice received by the Association with respect to each Member and shall be entitled to rely on such notice.

If no address is provided to the Association, or if all of the Owners cannot agree on a single address, then the address of the Lot will be deemed the registered address until another registered address is furnished as required under this Section 4.6.

All notices given under this Declaration will be sent by personal delivery, which will be effective upon receipt; by overnight courier service, which will be effective one business day following timely deposit with a courier service; or by regular, registered or certified mail, postage prepaid, which will be effective three days after deposit in the U.S. Mail.

All notices and demands intended to be served upon the Board of Directors will be sent to the address of the Association or such other address as the Board may designate from time to time by a notice delivered to all Owners in accordance with this Section.

ARTICLE 5. POWERS AND DUTIES OF THE ASSOCIATION

5.1. **Powers.** The Association shall have all the powers permitted under the Idaho Non Profit Corporation Act as supplemented or limited by this Declaration, the Articles and the Bylaws. The Association shall have the power to engage in all lawful activities necessary, proper or incidental to carry out the purposes for which it is formed, so long as such activities are not inconsistent with the Act, this Declaration, the Articles or the Bylaws.

5.1.1. **Association Rules.** The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable and necessary to accomplish the purposes for which the Association is formed. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between such Association Rules and any other provisions of this Declaration, or other Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of

this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

5.1.2. **Emergency Powers.** The power, exercised by the Association or by any person authorized by it, to enter upon any property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association.

5.1.3. **Licenses, Easements and Rights-of-Way.** The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Areas as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Common Areas, and for the preservation of the health, safety, convenience and the welfare of the Owner, for the purpose of constructing, erecting, operating or maintaining:

(a) Underground lines, cables, wires, conduits or other devices for the transmission of electricity or electronic signals for lighting, heating, power, telephone, television, security and communication, or other purposes, and the above ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services;

(b) Sewers, storm drains, underground irrigation pipes, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

(c) Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing, gates, and landscaping abutting Common Areas, public and private streets or land conveyed for any public or quasi-public purpose including, but not limited to, bicycle pathways.

The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association.

5.1.4. **Mill River Property Owners Association, Inc. Matters.** The power, exercised by the President of the Association, to cast the votes in the aggregate as one block of votes based upon the majority votes of the Members, on any matters coming before the Association concerning the Mill River Association, as described in Section 4.4 of this Declaration.

5.2. **Implied Rights and Obligations.** The Association will perform all of the duties and obligations and may exercise all of the rights and privileges expressly set forth in the RIVERS EDGE Documents, together with every other

duty, obligation, right or privilege, or reasonably necessary in conjunction with any other duty, right or privilege.

ARTICLE 6. COMMON AREAS

6.1. **Association's Responsibility for Common Areas.** The Association, subject to the rights and obligations of the Owners set forth in this Declaration, will be responsible for the management and control of the Common Areas and all Improvements on the Common Areas, and will keep it in good, clean and attractive condition and repair consistent with the standards of Project.

6.2. **Conveyance by Declarant.** On or before the date on which Declarant conveys any Lot to another party, Declarant will convey to the Association, by written instrument recorded with the Recorder of Kootenai County, Idaho, the Common Areas more fully described on the attached **Exhibit "B,"** including any Improvements located on and the rights and easements appurtenant to such property. From time to time before the expiration of the Period of Declarant Control, Declarant may, but will not be obligated to, convey to the Association, by written instrument recorded with the Recorder of Kootenai County, Idaho, other parts of the Property as Common Areas.

6.3. **Use of Common Areas.** The Common Areas generally are designated by this Declaration for the common use, benefit and enjoyment of the Owners and their families, tenants, employees, guests and invitees, and such other persons as may be permitted to use the Common Areas by agreement established under Sections 6.2 or 6.7 below.

6.4. **No Dedication to the Public.** Nothing in this Declaration or the other RIVERS EDGE Documents will be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Areas by such authority or utility, absent an express written agreement to that effect.

6.5. **Declarant's Right to Perform for the Account of the Association.** In the event the Association does not repair or maintain the Common Areas, Declarant will have the right, but not the obligation, to perform such duties for the Association. In that event, Declarant will be entitled to reimbursement from the Association of all costs incurred by Declarant, such reimbursement being due within 30 days after the receipt by the Association of an invoice from Declarant, itemizing the costs incurred. After expiration of the 30-day period allowed for payment, interest shall accrue on such amount at the Default Rate.

6.6. **Association's Agreements Regarding Common Areas.** The Association, acting through the Board of Directors, may grant easements, rights-of-way, leases, licenses and concessions through or over the Common Areas without the independent approval of the Owners. Without limiting the generality of the foregoing, the Association may grant such rights to suppliers of utilities serving the Project or property adjacent to the Project, and to developers or owners of property adjacent to the Project for the purpose of accommodating

minor encroachments onto the Common Areas or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Areas by Owners.

6.7. **Ownership of Personal Property and Real Property for Common Use.** The Association, through action of its Board of Directors, may acquire, hold and dispose of personal property and real property. The Board, acting on behalf of the Association, will accept any real or personal property, leasehold or other property interests within the Project and conveyed to the Association by Declarant.

**ARTICLE 7.
PRIVATE ROADS, TRAILS, STREETS AND DOCKS**

7.1. **Roads and Streets.** The Association shall own and be responsible for maintaining all roads within the Property. Such maintenance will include repair and replacement of such roads, as well as periodic maintenance of the surface and regular snow, ice, and trash removal from all drive areas (including private driveways located within Lots on the Property). The Association shall be responsible for maintaining all emergency egress roads with adequate snow removal to ensure safe, two-way circulation year round. The Board will cooperate with the applicable traffic and fire control officials to post roads and streets with traffic control, fire lane, and parking regulation signs. The Association shall also be responsible for maintaining all trails, if any, within the Property as well as all docks.

7.2. **Trails and Docks.** The Association shall own and be responsible for maintaining any trails and docks on or appurtenant to the Property.

7.3. **Conveyance by Declarant.** The roads within the Property, except private driveways located within Lots on the Property, are considered to be Common Areas. The Declarant shall convey such roads along with the other Common Areas as set forth in Section 6.2 herein.

**ARTICLE 8.
BOOKS, RECORDS AND RESERVE ACCOUNTS**

8.1. **Books and Records.** The Association will make available for inspection by Owners and Mortgagees, upon request, during normal business hours or under other reasonable circumstances, current copies of RIVERS EDGE Documents, and the books, records and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

8.2. **Reserve Account.** The Association will establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Section 11.3 below for maintenance, repair or replacement of the Common Areas and Improvements located with the Common Areas that must be replaced on a periodic basis and for any other facilities made available to the Association that must be replaced on a periodic basis with contribution from the Association.

8.3 **Working Capital Account.** In order to provide the Association with adequate working capital funds, the Association will collect at the time of the close of escrow of each Lot an amount equal to three (3) months' installments of the Annual Assessments at the rate in effect at the time of the close of such escrow. The Association will maintain such funds in a segregated account to meet unforeseen expenditures or to acquire additional equipment or services for the benefit of the Members. Payments to this fund from escrow closings are not and shall not be considered advance payments of Annual Assessments.

**ARTICLE 9.
PROPERTY USE MAINTENANCE AND RESTRICTIONS**

9.1. **General Restriction.** The Property will be used only for the purposes set forth in this Declaration, as permitted by the applicable ordinances of the City of Coeur d'Alene, the laws of the State of Idaho and the United States, and as set forth in RIVERS EDGE Documents or other specific recorded covenants affecting all or any part of the Property.

9.2. **Use of Lots.** Each Lot may be used only for the purposes permitted by the applicable zoning laws, including any applicable subdivision ordinances. In the event of a conflict between any provision of the applicable subdivision ordinances and any provision of this Declaration, the more restrictive provision shall control. Leasing of a Dwelling Unit shall not be considered a business or trade within the meaning of this subsection.

9.3. **Motorized and Recreational Vehicles.** No motorized or recreational vehicles of any kind other than passenger automobiles or pickup or utility trucks with a capacity of one ton or less, may be parked, stored or in a manner kept or placed on any portion of the Property except in an enclosed garage. This restriction, however, will not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing services to the Property or to Declarant or the other Owners. Only currently licensed vehicles shall be on the Property.

No snowmobiles or off-road vehicles will be allowed to operate anywhere in the Property, except for emergency purposes or in areas specifically designated for such purposes by the Board. Motorcycles may be used on roads in the Property only for transportation to and from a dwelling and shall be operated in a quiet manner and in compliance with the rules of the road. All other starting and running of motorcycles on any Lot shall be strictly prohibited.

9.4. **Parking.** No overnight on-street parking shall be allowed in the Project nor shall parking be allowed in cul-de-sacs.

9.5. **Automobile Repair, Abandoned, Inoperable, or Oversized Vehicles.** No work on automobiles or other vehicle repair will be performed in any visible or exposed portion of the Project except in emergencies. All repair work shall be done in Owner's garage or off the Property. No abandoned or inoperable vehicles of any kind will be stored or parked on or any portion of the Property, except as provided below. An "abandoned or inoperable vehicle" is defined as any vehicle that has not been driven under its own propulsion for a

period of three weeks or longer; provided, however, this will not include vehicles parked by Owners while on vacation or residing away from the Project.

9.6. **Signs**. Signs of any kind, including but not limited to, advertising for sale of Lots, homes, construction/contractors signs or the like are strictly prohibited.

9.7. **Animals and Pets**. All pets (animals, birds, reptiles or living creatures of any kind) kept within any Dwelling Unit or Lot in the Common Areas are subject to the following restrictions.

9.7.1. **Allowed Pets**. Raising or housing of any animal on a commercial basis, including, without limitation, kenneling and breeding, is prohibited. No animals, livestock, or poultry of any kind will be kept on any portion of the Property, other than domestic household pets.

9.7.2. **Limitation on Number of Pets**. No more than three (3) domestic household pets are allowed per Dwelling Unit.

9.7.3. **Containment**. Domestic household pets shall be kept within the perimeter of the Owner's Lot and shall not be permitted to run at large at any time. Dogs that are leashed may not be left unattended. Underground electric fencing may be used around the perimeter of the Lot. Pets shall be managed and controlled in such a way as to not become a nuisance due to excessive noise, odors or any other characteristics that may impair the enjoyment of the Property by other Owners.

9.7.4. **Leashes**. Pedestrians within the Property who are accompanied by dogs must have the dogs under the pedestrians' direct control by use of a leash not to exceed 10 feet in length.

9.7.5. **Right for Removal**. The Association may at any time require the removal of any pet which it finds to be disturbing other Owners unreasonably, and may exercise this authority for specific pets even though other pets are permitted to remain.

9.7.6. **Damage by Pets**. Owners and their guests are responsible for any damage to the Common Areas, to other real or personal property, or to individuals within the Property caused by their pets.

9.7.7. **Alterations to Common Areas**. Nothing shall be altered or constructed in a Common Area to house or accommodate pets.

9.8. **No Outside Clothesline**. No laundry or wash will be dried or hung outside any Dwelling Unit.

9.9. **Antenna**. Standard TV antennas and satellite dishes which are one meter in diameter or less shall be permitted on the Property; however, the location and manner of installation shall be pre-approved prior to installation by the Association. Declarant and/or the Association shall have the right, without

obligation to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property, should any master system or systems be utilized by the Association and require such exterior apparatus.

9.10. **Window Coverings**. Windows shall be covered by drapes, blinds, shades or shutters or as approved by the Association and shall not be covered with foil, cardboard, or similar material.

9.11. **Noise**. No use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound-producing device, so as to be audible to occupants of other Dwelling Units, except for security alarm device used exclusively for security purposes, will be permitted on any portion of the Property.

9.12. **Snow Clearance**. Snow clearance and/or removal is the responsibility of the Association, including private driveways, and Owners shall not clear or remove snow from Owners' driveways or walkways onto Common Areas or roads within the Property.

9.13. **Association Landscape Maintenance**. Landscape maintenance, including but not limited to mowing of grass, weeding, removing debris is the responsibility of the Association, from the street and/or curb to the foundation of the Dwelling Unit. Landscaping shall not be altered by Owner by removing or adding to landscaping in any way without the written consent of the Association.

9.14. **Exterior Maintenance**. Owner is responsible for the upkeep of the exterior of the Dwelling Unit; however Owner shall not alter the exterior appearance Dwelling Unit including but not limited to landscaping, color of Dwelling Unit, windows, decks/porches and the like, without the express written consent of the Association.

9.15. **Compliance with Laws**. Subject to the rights of reasonable contest, each Owner will comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Property.

9.16. **Obstructions**. There will be no obstruction of any walkways or paths or interference with the free use of those walkways and paths except as may be reasonably required in connection with repairs. The Owners, their families, tenants, guests and invitees are granted nonexclusive easements to use the walkways and paths within the Property, subject to such rules as the Board may adopt from time to time.

9.17. **Camping and Picnicking**. No camping will be allowed within the Property except in those areas designated for such purposes. The Board, in its discretion, may ban or permit public assemblies and rallies within the Property.

9.18. **Nuisance**. No obnoxious or offensive activity will be carried on within the Property, nor will anything be done or permitted which will constitute a public nuisance. No noise or other nuisance will be permitted to exist or operate

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upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

9.19. **Dock Systems.** Declarant will provide a boat slip for each Lot at RIVERS EDGE, subject to the following:

9.19.1. Each Lot shall have a semi-private dock constructed and located by the Declarant. The Owner shall not change the location or make any modifications to the construction, including color, of any dock and may not install diving structures, other swimming or playing accessories, and/or storage devices. Said dock shall be owned and maintained by the Association.

9.19.2 Swimming from the dock shall be permitted but excessive noise during swimming shall be not be permitted. No personal property shall be left on the dock except incident to ongoing swimming activities.

9.20. **Rental and Leasing.** The Owner of a Dwelling Unit will have the right to rent or lease the Dwelling Unit , subject to the condition that all lease or rental agreements must be in writing and for a minimum six (6) month term.

9.20.1. The lease or rental agreement shall be specifically subject to RIVERS EDGE Documents, which shall be incorporated by reference therein, and any failure of a tenant to comply with RIVERS EDGE Documents will be a default under the lease or rental agreement.

9.20.2. The Owner shall be liable for any violation of RIVERS EDGE Documents committed by the Owner's tenant, without prejudice to the Owner's right to collect from tenant any sums paid by the Owner on behalf of the tenant.

9.21. **Enforcement.** The Association may take such actions as it deems advisable to enforce this Declaration. In addition, the Association will have a right of entry on any part of the Property for the purposes of enforcing this Article, and any costs incurred by the Association in connection with such enforcement which remain unpaid 30 days after the Association has given notice of the cost to the Owner and otherwise complied with this Declaration will be subject to interest at the Default Rate from the date of the advance by the Association through the date of payment in full by the Owner, and will be treated as a Default Assessment enforceable as provided in Article 11.

**ARTICLE 10.
OWNERS' OBLIGATIONS FOR MAINTENANCE**

10.1. **Owner's Negligence.** If the need for maintenance, repair or replacement of any portion of the Common Areas (including Improvements located on it) arises because of the negligent or willful act or omission of an Owner or his family member, guest, invitee or tenant, then the expenses incurred by the Association for the maintenance, repair or replacement will be a personal obligation of that Owner. If the Owner fails to repay the expenses incurred by the Association within 30 days after the notice to the Owner of the amount owed,

then those expenses will bear interest at the Default Rate from the date of the advance by the Association until payment by the responsible Owner in full, and all such expenses and interest will become a Default Assessment enforceable in accordance with Article 11.

**ARTICLE 11.
ASSESSMENTS**

11.1. Covenant to Pay and Personal Obligation for Assessments.

Pursuant to the Revised Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Mill River First Addition, each Owner of any Lot located within the Property is a member of the Mill River Property Owners Association, Inc. and responsible for the payment of assessments levied by that Association.

Further, Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by accepting a deed for a Lot, is deemed to covenant to pay to the Association: (1) the Annual Assessments imposed by the Board of Directors as necessary to fund the Maintenance Fund and to generally carry out the functions of the Association, including, without limitation, the payment of Common Expenses; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration; (3) Utility Assessments for any utility services provided by the Association; (4) Default Assessments which may be assessed against a Lot pursuant to RIVERS EDGE Documents for the Owner's failure to perform an obligation under RIVERS EDGE Documents or because the Association has incurred an expense on behalf of or caused by the Owner under RIVERS EDGE Documents; and (5) any other Assessments as the Board may impose from time to time. Owner further covenants to pay all utility fees and charges levied by RIVERS EDGE.

Each such Assessment, together with fines, interest, costs and reasonable attorneys' (and legal assistants') fees, will also be the personal and individual obligation of the Owner of such Lot as of the time the Assessment becomes due, and two or more Owners of a Lot will be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessment by abandonment of his Lot or by waiver of the use or enjoyment of the Common Areas. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

11.2. Purpose of Assessments. The Assessments levied by the Association will be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Project, and to effect the provisions of RIVERS EDGE Documents.

11.3. Annual Assessments.

11.3.1. Calculation of Annual Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund. The budget shall also reflect

the sources and estimated amounts for funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments, and the amount to be generated through the levy of Annual Assessments and Special Assessments. The Association is authorized to levy Annual Assessments equally against all Lots subject to assessment to fund the Common Expenses. In determining the Annual Assessment, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Annual Assessment for any fiscal year by payment of a subsidy, which may be either a contribution, an advance against future assessments due from Declarant or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Annual Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget.

The budget shall be determined by the Board of Directors annually in its sole discretion. If any Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

11.3.2. **Apportionment of Annual Assessments.** Each Owner will be responsible for that Owner's share of the Common Expenses, which will be divided equally among the Lots subject to Assessment pursuant to this Declaration. Accordingly, at any given time, an Owner's share of Common Expenses will be determined as a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which is the number of Lots platted before any combination of Lots and incorporated in the Project. Notwithstanding the preceding sentence, any Common Expenses or portion thereof benefiting fewer than all of the Lots will be assessed exclusively against the Lots benefited. Further, the costs of insurance may be assessed in proportion to risk.

11.3.3. **Collection.** Annual Assessments or installments thereon shall be payable in advance and will be collected at such frequency as the Board may determine from time to time. The omission or failure of the Association to fix the Annual Assessments for any Assessment period will not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association will have the right, but not the obligation, to prorate refunds of any Annual Assessment in excess of the actual expenses incurred in any fiscal year.

11.3.4. **Date of Commencement of Annual Assessments.** The Annual Assessments for each Lot will commence upon sale of such Lot to an Owner, a prorated basis for the year of sale, based on the number of months remaining in said year.

11.3.5. **Capitalization of the Association.** At closing on the acquisition of record title to a Lot from Declarant or any seller after Declarant, each Owner will contribute to the working capital and reserves of the Association an amount equal to one-fourth of the amount of the Annual Assessment determined by the Board of Directors for the Lot for the year in which the Owner acquired title. The Association will maintain the working capital funds in segregated accounts to meet unforeseen expenditures or to acquire additional equipment or services for the benefit of the Members. Such payments to this fund will not be considered advance payments of Annual Assessments.

11.4. **Special Assessments.**

11.4.1. **Determination by Board.** The Board of Directors may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, or, after adopting and submitting a revised budget to the Association as may be required, to make up any shortfall in the current year's budget.

11.4.2. **Apportionment and Collection of Special Assessments.** The Board will apportion Special Assessments among the Lots and collect payment according to the same guidelines as set forth for Annual Assessments in Section 11.3.2. Lots in a newly platted portion of the Expansion Property which is added to the Property shall not be subject to Special Assessments which preceded the recording of the new Plat, unless the Special Assessment is due in monthly or periodic installments in which case the Lots in the newly platted portion shall be subject to the Special Assessment only to the extent of the installments which become due after the recording of the Plat.

11.4.3. **Notice.** Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least 30 days prior to the due date if payable in a single payment, and at least 30 days prior to the first due date if payable in periodic installments.

11.5. **Default Assessments.** All monetary fines, penalties, interest or other charges or fees (excluding Annual and Special Assessments) levied against an Owner pursuant to RIVERS EDGE Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to RIVERS EDGE Documents, and any expense (including without limitation attorneys' and legal assistants' fees) incurred by the Association as a result of the failure of an Owner to abide by

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RIVERS EDGE Documents, constitutes a Default Assessment, enforceable as provided in this Declaration below.

11.6. **General Remedies of Association for Nonpayment of Assessments.** Any installment of an Annual Assessment or a Special Assessment that is not paid within thirty (30) days after its due date will be delinquent. In the event that an Annual or Special Assessment becomes delinquent, or in the event any Default Assessment is established under the RIVERS EDGE documents and may take any or all of the following actions:

11.6.1. Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

11.6.2. Charge interest from the date of delinquency at the Default Rate;

11.6.3. Suspend the voting rights of the Owner during any period of delinquency;

11.6.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year will be due and payable at once;

11.6.5. Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges; or

11.6.6. File a Notice of Lien with respect of the Lot and foreclose as set forth in more detail below.

11.7. **Assessment Lien.** Any Assessment chargeable to a Lot will constitute a lien on the Lot, effective the due date of the Assessment. To evidence the lien, the Association, as applicable, may, but will not be obligated to, prepare and record, at the office of the Kootenai County Recorder a Notice of Lien with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association, as applicable, and the delinquent Assessment amounts then owing. Any such notice will be duly signed and acknowledged by an Officer or Director of the Association, as applicable, or by the Manager of such entity, and will be served upon the Owner of the Lot by personal service or by certified or registered mail to the last known address of the Owner or Owners of the Lot and any holder of a prior perfected security interest. Thirty (30) days following the mailing of such notice to the Owner, the Association, as applicable, may proceed to foreclose the lien in the manner provided under Idaho law. The Association, as applicable, will have the power and the right to bid on a Dwelling Unit at foreclosure sale and to acquire, hold, lease, mortgage and convey any such Dwelling Unit.

11.8. **Successor's Liability for Assessment.** All successors to the fee simple title of a Lot, except as provided in Section 11.10, will be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' and legal assistants' fees against such Lot without prejudice to any such successor's right

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to recover from any prior Owner any amounts paid by such successor. This liability of a successor will not be personal and will terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor will be entitled to rely on the statement of status of Assessments by or on behalf of the Association under Section 11.13.

11.9. **Waiver of Homestead Exemption; Subordination of the Lien.**

The Assessment liens will be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Idaho, and to all other liens and encumbrances except the following:

11.9.1. **Prior Liens.** Liens and encumbrances recorded before the date of recording this Declaration;

11.9.2. **Tax, Governmental and Statutory Lien.** Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot by an Idaho governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

11.9.3. **First Mortgage Liens.** The lien for all sums unpaid on a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent, including any and all advances made by the First Mortgagee, even though some or all of such advances may have been made subsequent to the date of attachment of the Association's lien.

With respect to Section 11.9, any First Mortgagee who acquires title to a Lot by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Lot free of any claims for unpaid Assessments, interest, late charges, costs, expenses, and attorneys' (and legal assistants') fees against the Lot which accrue prior to the time such First Mortgagee or purchaser acquires title to the Lot.

All other persons who hold a lien or encumbrance of any type not described in Sections 11.9.1 through 11.9.3 will be deemed to consent to the subordination of such lien or encumbrance to the Association's current and future Assessment liens, interest, late charges, costs, expenses, and attorneys' (and legal assistants') fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

11.10. **Reallocation of Assessments Secured by Extinguished Liens.**

The sale or transfer of any Lot to enforce any of the liens to which the Assessment lien is subordinate will extinguish such Assessment lien as to installments that became due prior to such sale or transfer. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Board of Directors. However, no such sale or transfer will relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, Assessments made after the sale or transfer.

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11.11. **Exempt Property.** The following portions of the Property will be exempt from the Assessments, charges, and liens created under this Declaration:

11.11.1. All utility lines and easements; and

11.11.2. Common Areas.

11.12. **Statement of Status of Assessments.** The Association will furnish to an Owner or his designee or to any Mortgagee a statement setting forth the amount of unpaid Assessments then levied against the Lot in which the Owner, designee or Mortgagee has an interest. The Association will deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party within 14 business days after the registered agent of the Association receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested. The information contained in such statement, when signed by an Officer or Director of the Association or the Manager, will be conclusive upon the Association, the Board, and every Owner as to the person or persons to whom such statement is issued and who rely on it in good faith.

11.13. **Failure to Assess.** The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification, or release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE 12. PROPERTY RIGHTS OF OWNERS

12.1. **Owners' Easements of Access and Enjoyment.** Every Owner has a perpetual, non-exclusive easement for access to and from his Lot and for the use and enjoyment of the Common Areas by all Owners of said Lot, their families, guests, invitees, tenants and employees. Said easement is appurtenant to and will pass with the title to said Lot, subject to the provisions set forth in this Article.

12.2. **Easements of Record and of Use.** The Property shall be subject to all easements shown on any recorded Plat and to any other easements of record or of use as of the date of recordation of this Declaration.

12.3. **Emergency Access Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

12.4. **Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and

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between adjacent Lots or any Lot due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of or with the knowledge and consent of, an Owner, occupant, or the Association.

12.5. **Easements for Utilities, Etc.** There are hereby reserved unto Declarant, so long as the Declarant owns any property described on **Exhibit "A"** of this Declaration, the Association, and the designees of each (including, without limitation, any utility) access and maintenance easements upon, across, over, and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, trails, drainage systems, street lights, hydrants, signage and all utilities, including but not limited to water, sewers, meter boxes, telephone, gas and electricity and for the purpose of installing any of the foregoing on property which Declarant owns or within easements designated for such purposes on recorded plats of the Property. The foregoing easements may traverse the private property of any Owner; provided, however, an easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, or to enter into a Dwelling Unit and any damage to a Lot resulting from the exercise of an easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of an easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner of occupant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board shall have the right to grant such easement over the Property without creating a conflict with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other validly recorded easement on the Property.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Areas to any local, state or federal governmental or quasi-governmental entity.

12.6. **Easements to Serve Expansion Property.** The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, designees, successors, assigns, licensees, and mortgagees an easement over the Common Areas for the purposes of enjoyment, use, access and development of such Expansion Property as Declarant may designate in the future. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connection and installation of utilities on such property. Declarant and its successors or assigns shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of such property.

12.7. **Right of Entry.** The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons, to perform maintenance pursuant to Article 12 hereof, and to inspect for the purpose of ensuring compliance with the RIVERS EDGE documents which rights may be exercised by any member of the Board, the Association, or its Officers, agents, employees and managers and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any Dwelling Unit without permission of the Owner except by emergency personnel acting in their official capacities.

**ARTICLE 13.
SPECIAL DECLARANT RIGHTS
AND ADDITIONAL RESERVED RIGHTS**

13.1. **General Provisions.** Until the expiration of the Period of Declarant Control, Declarant will have the following Special Declarant Rights:

13.1.1. **Completion of Improvement.** The right to complete Improvements as indicated on any Plat filed with respect to the Property, including, if any, the Expansion Property;

13.1.2. **Development Rights.** The right to exercise all development rights in connection with the development of the Project including without limitation the right or combination of rights hereby reserved by Declarant, as follows:

- (a) The right to annex all or part of the Expansion Property, if any, to the Project, in accordance with Article 18.
- (b) The right to create Lots and Common Areas on the Property, including, if any, the Expansion Property.
- (c) The right to subdivide Lots and convert Lots into Common Areas on any part of the Property, including, if any, the Expansion Property.
- (d) The right to withdraw real estate, whether contained within the Property initially subject to this Declaration or within the Expansion Property, if any, from the Project, as provided in Article 18.
- (e) The exclusive right to modify road, water, sewer, dry utilities and fire systems in accordance with any requirements of the City of Coeur d'Alene or any other governing agency having jurisdiction for such systems.

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(f) The right to develop the Property and/or the Expansion Property in such phases as Declarant deems appropriate.

13.1.3. **Sales Activities.** The right to maintain sales and management offices, signs advertising the project and model residences on the Common Areas and on Lots owned by Declarant, whether contained within the Property initially subject to this Declaration, or within the Expansion Property, if any.

13.1.4. **Easements.** The right to use easements through the Common Areas on the Property, including the Expansion Property, if any, for the purpose of making Improvements on the Property and the Expansion Property, if any.

13.1.5. **Association Directors and Officers.** The right to appoint any Officer or Director of the Association, as provided in this Declaration or the Bylaws.

13.1.6. **Order of Exercise of Declarant's Rights.** Declarant makes no representations and gives no assurances regarding the legal description or the boundaries of any phase of the Expansion Property, if any, or the order or time in which the phases of the Expansion Property, if any, may be developed or incorporated in the Project, or whether or to what extent any of the Expansion Property, if any, will be developed or incorporated in the Project. Further, the fact that Declarant may exercise one or more of Declarant's Development Rights or other Special Declarant Rights on one portion of the Property (including the Expansion Property, if any) will not obligate or require Declarant to exercise a Development Right or other Special Declarant Right with respect to any other portion of the Property (including the Expansion Property, if any).

13.2. **Supplemental Provisions Regarding Declarant's Rights.** Without limiting the generality of the foregoing, certain of these Special Declarant Rights are explained more fully in this Article below. Further, Declarant reserves the exclusive right to amend this Declaration and any Plat in connection with the exercise of any Development Right, any other Special Declarant Right, or for any other purpose and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

13.3. **Reservation for Expansion and Construction.** Declarant hereby reserves for itself and its successors and assigns and for Owners in all future phases of the Project a perpetual easement and right-of-way for access over, upon and across the Property, including the Expansion Property, if any, for construction, utilities, drainage, ingress and egress, and for the use of the Common Areas, including Common Areas located within the Expansion Property, if any. The location of these easements and right-of-ways may be made certain by Declarant or the Association by instruments recorded in Kootenai County, Idaho.

Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility, ingress and egress, and other easements over and across the Common Areas, and to create other reservations, exceptions, and exclusions convenient or necessary for the use and operation of any other property of Declarant.

13.4. **Reservations of Easements, Exceptions, and Exclusions for Utilities, Infrastructure and Access.** Declarant reserves for itself and its successors and assigns, and hereby grants to the Association, acting through the Board of Directors, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Areas, for purposes including but not limited to streets, paths, walkways, drainage, recreation areas and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners and the Association, in order to serve the Owners within the Project as initially built and expanded.

Declarant also reserves for itself and its successors and assigns, and grants to the Association, the concurrent right to establish from time to time, by instruments recorded in Kootenai County, Idaho, such easements, permits or licenses over the Common Areas for access by certain persons (other than Owners and Owners' families and guests) who may be permitted to use designated portions of the Common Areas as contemplated under this Declaration.

13.5. **Maintenance Easement.** An easement is hereby reserved by Declarant for itself and its successors and assigns and granted to the Association, and any member of the Board of Directors or Manager, and their respective Officers, agents, employees and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to RIVERS EDGE Documents, including the right to enter upon any Lot for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Lot, as required by RIVERS EDGE Documents.

13.6. **Drainage Easement.** An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the Association, its Officers, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb the uses of the Owners, the Association and Declarant, as applicable, to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work. Declarant, or its Officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval will not be unreasonably withheld.

13.7. **Declarant's Right Incident to Construction.** Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights will be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his family, tenants, employees, guests, or invitees.

13.8. **Easements Deemed Created.** All conveyances of Lots hereafter made, whether by Declarant or otherwise, will be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE 14. INSURANCE AND FIDELITY BONDS

14.1. **Authority to Purchase.** All insurance policies relating to the Common Areas will be purchased by the Board of Directors or its duly authorized agent, on behalf of the Association. The Board of Directors, the Manager and Declarant will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs.

14.2. **General Insurance Provisions.** All such insurance coverage obtained by the Board of Directors will be governed by the following provisions:

14.2.1. As long as Declarant owns any Lot, Declarant will be named as an additional insured on all such policies in the same manner as any other Owner.

14.2.2. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments, allocable to all of the Lots or to only some of the Lots, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners, or as an item to be paid from working capital reserves established by the Board of Directors. The Board of Directors shall, in its sole discretion, determine the treatment and allocation of any deductible.

14.3. **Physical Damage Insurance on Common Areas.** The Association will obtain insurance for Improvements within the Common Areas with such coverages, limits, deductibles and other terms and conditions as the Board may determine from time to time.

14.4. **Liability Insurance.** The Association will obtain a comprehensive policy of public liability insurance and property damage insurance with such coverages, limits, deductibles, and terms and conditions as the Board of Directors may from time to time determine. Such insurance shall provide

coverage to each member of the Board of Directors, the Association, the Manager, and their respective employees, agents, and all persons acting as agents against any liability to the public or the Owners, their guests, invitees, tenants, agents, and employees arising in connection with the ownership, operation, maintenance, or use of the Common Areas, streets and roads within the Project and any other areas under the control of the Association. Declarant will be included in the coverage as an additional insured, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas.

The Board of Directors will review the coverage limits from time-to-time, but generally, the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Project, and in no event will such coverage be less than \$1,000,000.00 for all claims for bodily injury or property damage arising out of one occurrence.

14.5. **Fidelity Insurance.** Fidelity bonds or insurance coverage will be maintained by the Association to protect against dishonest acts on the part of its Officers, Directors, trustees, and employees, and on the part of those who are responsible for handling the funds of or administered by the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds or insurance coverage will be required for the Manager and its Officers, employees, and agents, as applicable. Such fidelity bonds or insurance coverage will name the Association as an obligee or insured and will be written in such amount as the Board may determine appropriate.

14.6. **Provisions Common to Physical Damage Insurance, Liability Insurance and Fidelity Insurance.** Any insurance coverage obtained by the Association under the preceding provisions of this Article will be subject to the following provisions and limitations:

14.6.1. **Named Insured:** The named insured under any such policies shall include the Association. Until all of the Lots in the Project have been conveyed by Declarant, shall also be a named insured.

14.6.2. **Owner as Insured:** Each Owner will be an insured person with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association.

14.6.3. **Authorized Representative:** The Association, or its authorized representative, is hereby appointed as attorney-in-fact for the Owners and will have exclusive authority to negotiate losses on Owners behalf under such policies.

14.6.4. **Personal Liability Insurance of Officers and Directors.** To the extent obtainable at reasonable cost, appropriate Officers' and Directors' personal liability insurance will be obtained by the Association to protect the Officers and Directors from personal liability in relation to their duties and responsibilities in acting as such Officers and Directors on behalf of the Association.

14.6.5. **Workers' Compensation Insurance.** The Association will obtain workers' compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

14.6.6. **Other Insurance.** The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it may deem appropriate with respect to the Association's responsibilities and duties.

14.6.7. **Insurance Obtained by Owners.** Each Owner shall obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Lot and Improvement, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board, otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner will include a waiver of the particular insurance company's right to subrogation against Declarant, the Board of Directors, the Association, the Manager, and other Owners.

14.6.8. **Indemnification by Owners.** Each Owner shall indemnify and hold harmless Declarant, the Association and its' Officers, Directors, Agents and Employees for injuries to person or property occurring on such owners Lot.

ARTICLE 15. ASSOCIATION AS ATTORNEY-IN-FACT

15.1. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on the Common Areas upon damage or destruction as provided in Article 16 or a complete or partial taking as provided in Article 17 below. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner will constitute appointment of the Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Association will have full and complete authorization, right, and power to make, execute and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner that may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

**ARTICLE 16.
DAMAGE OR DESTRUCTION**

16.1. Damage or Destruction of Common Areas.

16.1.1. **Estimate of Damages or Destruction.** As soon as practical after an event causing damage to or destruction of any part of the Common Areas, unless the Association, in its sole judgment, believes the cost to repair such damage or destruction will not exceed \$2,000, the Association will obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Areas so damaged or destroyed. "Repair and reconstruction" as used in this Article will mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

16.1.2. **Repair and Reconstruction.** As soon as practical after obtaining estimates, the Association will diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner will be necessary. Assessments of the Association will not be abated during the period of insurance adjustments and repair and reconstruction.

16.1.3. **Funds for Repair and Reconstruction.** The proceeds received by the Association from any hazard insurance will be used for the purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 11.4, levy, assess and collect in advance from all Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

16.1.4. **Disbursement of Funds for Repair and Reconstruction.** The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 11.4 constitute a fund for the payment of the costs of repair and reconstruction after casualty. It will be deemed that the first money disbursed in payment for the costs of repair and reconstruction will be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance will be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 11.4, or, if no Special Assessments were made, then in proportionate shares on the basis of the allocation to the Owners of Common Expenses under Section 11.3.2, first to any First Mortgagee that has paid any such Assessment pursuant to Section 21.1.2 below, and then to the Owners, as their interests appear.

16.1.5. **Decision Not to Rebuild.** If Declarant elects, during the Period of Declarant Control, and at all other times, Owners representing at least 67% of the votes in the Association agree in writing, not to repair and reconstruct damage to the Common Areas and no alternative Improvements are authorized, then and in that event the Property will be restored to its natural state and maintained as an undeveloped portion of the Common Areas by Association in a neat and attractive condition, and any remaining insurance proceeds will be distributed in proportionate shares on the basis of the allocation to the Owners of the Common Expenses under Section 11.3.2, first to any First Mortgagee that has paid any such Assessment pursuant to Section 19.1.2 below, and then to the Owners, as their interests appear.

16.2. **Danger or Destruction Affecting Lots.** In the event of damage or destruction to the Improvements located on any Lot, the Owner thereof will promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within 180 days from the date of such damage or destruction, or if repair and reconstruction is commenced and then abandoned for a period of more than 90 days, then the Association may, after notice and hearing as provided in the Bylaws, impose a fine accruing at the rate of \$100.00 per day or such other rate imposed by the Board in compliance with the Bylaws, charged against the Owner of the Lot until repair and reconstruction is commenced, unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the Owner's control. Such fine will be a Default Assessment and lien against the Lot as provided in Section 11.5 above.

ARTICLE 17. CONDEMNATION

17.1. **Rights of Owners.** Whenever all or part of the Common Areas are taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice of the taking, but the Association will act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

17.2. **Partial Condemnation; Distribution of Award; Reconstruction.** The award made for such taking will be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Areas on which Improvements have been constructed, then, unless, within 60 days after such taking, Declarant so elects, during the Period of Declarant Control, and, at all other times, Owners representing at least 67% of the votes in the Association so agree, the Association will restore or replace such Improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefore, in accordance with plans approved by the Board of Directors. If such Improvements are to be repaired or restored, the provisions in Article 16 above regarding the disbursements of funds with respect to casualty damage or

destruction that is to be repaired will apply. If the taking does not involve any Improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds will be distributed in proportionate shares on the basis of the allocation to the Owners of the Common Expenses under Section 11.3.2 first to any First Mortgagee that has paid any such Assessment pursuant to Section 17.1.2 below, and then to the Owners, as their interests appear.

17.3. **Complete Condemnation.** If the entire Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration will terminate, and the portion of the condemnation award attributable to the Common Areas will be distributed as provided in Section 17.2.

ARTICLE 18. EXPANSION AND WITHDRAWAL

18.1. **Reservation of Right to Expand.** Declarant reserves the right, but will not be obligated, to expand the effect of this Declaration to include all or part of the Expansion Property. The consent of the existing Lot Owners and Mortgagees will not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. Declarant will have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded. Declarant will pay all taxes and other governmental assessments relating to the Expansion Property as long as Declarant is the owner of such property.

18.2. **Completion of Expansion.** When Declarant has determined that no further property shall be added to the Project, Declarant shall notify the Association in writing. Until such notice is given, Declarant retains the right to designate additional property as Expansion Property.

18.3. **Declaration of Annexation.** Any expansion of the Project may be accomplished by recording a Declaration of Annexation and one or more supplemental Plats in the records of the Recorder of Kootenai County, Idaho, before the expiration of the Period of Declarant Control. The Declaration of Annexation will describe the real property to be annexed, submitting it to this Declaration and provide for voting rights and Assessment allocations consistent with Article 4 and 11 of this Declaration. The proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly. Such Declaration of Annexation will not require the consent of Owners, the Association, or the Board of Directors. Any such expansion will be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

18.4. **Withdrawal of Property.** Declarant reserves the right to withdraw from the jurisdiction of this Declaration any parcel of the Property (including the Expansion Property), provided, however, that no parcel may be withdrawn after it has been conveyed to an Owner.

ARTICLE 19.
MORTGAGEE PROTECTIONS

19.1. **First Mortgagees' Rights.**

19.1.1. **Payment of Taxes and Insurance.** First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Areas or Improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Areas. First Mortgagees making such payments will be owed immediate reimbursement from the Association.

19.1.2. **Cure of Delinquent Assessments.** A First Mortgagee will be entitled to cure any delinquency of the Owner of the Lot encumbered by the First Mortgagee in the payment of Assessments. In that event, the First Mortgagee will be entitled to obtain a release from any lien perfected by reason of such delinquency.

19.2. **Title Taken by First Mortgagee.** Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, will be liable for all Assessments which become due and payable on or after the date title to the Lot vests in the First Mortgagee under the statutes of Idaho governing foreclosures, whether judicial or nonjudicial. Except as provided in the Act, such First Mortgagee will not be liable for any unpaid dues and charges attributable to the Lot which were due and payable prior to the date such title vests in the First Mortgagee.

ARTICLE 20.
ENFORCEMENT OF DECLARATION

20.1. **Violations Deemed a Nuisance.** Every violation of RIVERS EDGE Documents, including without limitation, this Declaration, is deemed to be a nuisance and is subject to all the remedies allowed at law or equity against any person responsible for such violation.

20.2. **Compliance.** Each Owner or other occupant of any part of the Property must comply with the provisions of this Declaration and RIVERS EDGE Documents as the same may be amended from time to time.

20.3. **Failure to Comply.** Failure to comply with RIVERS EDGE Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws will be given to the delinquent party prior to commencing any legal proceedings.

20.4. **Who May Enforce.** Any action to enforce RIVERS EDGE Documents may be brought by Declarant, the Board, or the Manager in the name of the Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an

action to enforce RIVERS EDGE Documents, then the aggrieved Owner may bring such an action.

20.5. **Nonexclusive Remedies.** All the remedies set forth herein are cumulative and not exclusive.

20.6. **No Waiver.** The failure of the Board of Directors, Declarant, the Manager, or any aggrieved Owner to enforce RIVERS EDGE Documents in any one or more instances will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of RIVERS EDGE Documents at any future time.

20.7. **No Liability.** No member of the Board of Directors, the Declarant, the Manager or any Owner will be liable to any other Owner for the failure to enforce any of RIVERS EDGE Documents at any time.

20.8. **Recovery of Costs.** If legal assistance is obtained to enforce any of the provisions of RIVERS EDGE Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of RIVERS EDGE Documents or the restraint of violations of RIVERS EDGE Documents, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees and legal assistants' fees as may be incurred, or if suit is brought, as may be determined by the court.

**ARTICLE 21.
RESOLUTION OF DISPUTES**

21.1. **Hearing.** If any dispute or question arises between Members, or between Members and the Association, or relating to the interpretation, performance or nonperformance, violation, or enforcement of RIVERS EDGE Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

21.2. **Arbitration.** All claims, disputes and other matters in question arising out of, or relating to this Declaration, which are not resolved in accordance with Section 21.1, or the breach of any provision of this Declaration shall be decided by binding arbitration in accordance with the Idaho Uniform Arbitration Act. This agreement to arbitrate shall be specifically enforceable under Idaho law. The arbitration shall be held in Coeur d'Alene, Idaho, unless the parties agree otherwise. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matters in question would be barred by the applicable statute of limitations. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

21.2.1. **Selection of Arbitrators.** Each party shall select one arbitrator within ten (10) days of the receipt of demand for arbitration. Within twenty (20) days after the receipt of a demand for arbitration, the two (2) selected arbitrators shall jointly select a third arbitrator to

participate in the arbitration. If either party fails to select an arbitrator within the ten (10) day period, or if the two (2) selected arbitrators fail to agree on a third arbitrator, a party may make immediate application to the District Court for the First Judicial District of the State of Idaho located in Kootenai County for appointment of a second or third arbitrator, as the case may be.

**ARTICLE 22.
DURATION OF THIS DECLARATION AND AMENDMENT**

22.1. **Term**. This Declaration and any amendments or supplements herein remain in effect from the date of recordation until the 50th anniversary of the date this Declaration is first recorded in the office of the Recorder of Kootenai County, Idaho. Thereafter this Declaration, as such may be amended from time to time, will be automatically extended for five successive periods of 10 years each, unless otherwise terminated or modified as provided below.

22.2. **Amendment**. Subject to Section 18.4, this Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property as follows:

22.2.1. **Prior to Sale of Lots**. Prior to the sale of any Lots (excluding any sale to a Successor Declarant), Declarant (including a Successor Declarant) may terminate, extend, modify, amend or revoke this Declaration as to the whole or any portion of the Property by recording in the records of Kootenai County, Idaho, a document signed by the Declarant stating the action taken.

22.2.2. **After Sale of Lots but During Period of Declarant Control**. After the sale of a Lot (excluding a sale to a Successor Declarant) but before expiration of the Period of Declarant Control, Declarant (including Successor Declarant) may terminate, extend, modify, amend or revoke this Declaration as to the whole or any portion of the Property. A copy of the document stating the action intended to be taken by the Declarant and a notice of the Owners' rights under this Section shall be mailed to each Owner by first class mail, postage prepaid, to the address of the Owner on the records of Association. Unless written objection is received by Declarant from the Owners holding 80% or more of the votes within 30 days of the mailing of the notice to the Owners, the action proposed to be taken by the Declarant shall be considered approved and shall become final. The Declarant shall then record in the records of Kootenai County, Idaho, a document stating the action taken, together with a certificate certifying that notice was given to the Owners as required herein and that fewer than 80% of the Owners objected to the action.

22.2.3. **After the Period of Declarant Control**. After the Period of Declarant Control, this Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property upon the written consent of Owners holding 67% or more of the votes in the Association. Any document will be

immediately effective upon recording in the records of Kootenai County, Idaho, a copy of such executed and acknowledged by the necessary number of Owners, or alternatively, upon the recording in the records of Kootenai County, Idaho, of a copy of the document together with a certificate signed by an officer of the Association stating that the required number of consents of Owners were obtained.

22.3. **Declarant's Approval.** Notwithstanding the provisions of Section 20.2, no termination, extension, modification or amendment of this Declaration will be effective in any event during the Period of Declarant Control unless the written approval of Declarant is first obtained.

22.4. **Effect of Amendments.** Amendments made pursuant to this Section will be appurtenant to each Lot and shall inure to the benefit of and be binding upon all Owners, their families, tenants, guests, invitees and employees, and their respective heirs, successors, and assigns. Joinder of the First Mortgagees shall not be required in order to effect an amendment.

ARTICLE 23. MISCELLANEOUS PROVISIONS

23.1. **Severability.** This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provisions of this Declaration found to be invalid or unenforceable by a court of competent jurisdiction, will be ineffective to the extent of such invalidity or unenforceability without affecting the remainder of this Declaration, which shall continue in full force and effect the same as if the invalid or unenforceable provision had not been included in the first instance.

23.2 **Construction.** In interpreting words in this Declaration, unless the context otherwise provides or requires, the singular will include the plural, the plural will include the singular, and references to the masculine, the feminine or the neuter each include the other.

23.3. **Paragraph Headings.** Paragraph headings are included only for purposes of convenient reference, and shall not affect the meaning or interpretation of this Declaration.

23.4. **No Waiver.** No waiver by the Association or the Board shall be inferred from the failure of either, at any time or under any conditions, to give notice of default, or to exercise or delay in exercising any right or remedy hereunder. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Association. The fact that a condition or provision of this Declaration may have been once waived does not preclude future enforcement of that condition or provision.

23.5. **Limitation of Liability.** Neither the Declarant or the Association nor any partner, Director, Officer, manager or member of either will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under RIVERS EDGE Documents if the action or failure to act was made in good faith. The Association will indemnify all of the Officers and Board

members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

23.6. **Conflicts Between Documents.** In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

23.7. **Assignment.** Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Recorder of Kootenai County, Idaho.

Dated this 30 day of August, 2005.

DECLARANT

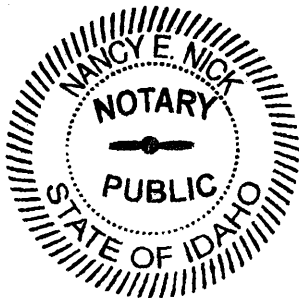
NW Properties, LLC
an Idaho limited liability company

By: [Signature]
Marshall R. Chesrown, Managing Member

STATE OF IDAHO)
)ss.
City of Kootenai)

I, Nancy E. Nick, a notary public in and for the State of Idaho, do hereby certify that on this 30 day of August, 2005, personally appeared before me Marshall R. Chesrown, who, being by me first duly sworn, declared that he is the Managing Member of NW Properties, LLC, an Idaho limited liability company, that he signed the foregoing document as Managing Member of NW Properties, LLC and that he is authorized to sign on behalf of NW Properties, LLC.

Witness my hand and official seal hereto affixed the day and year first above written.



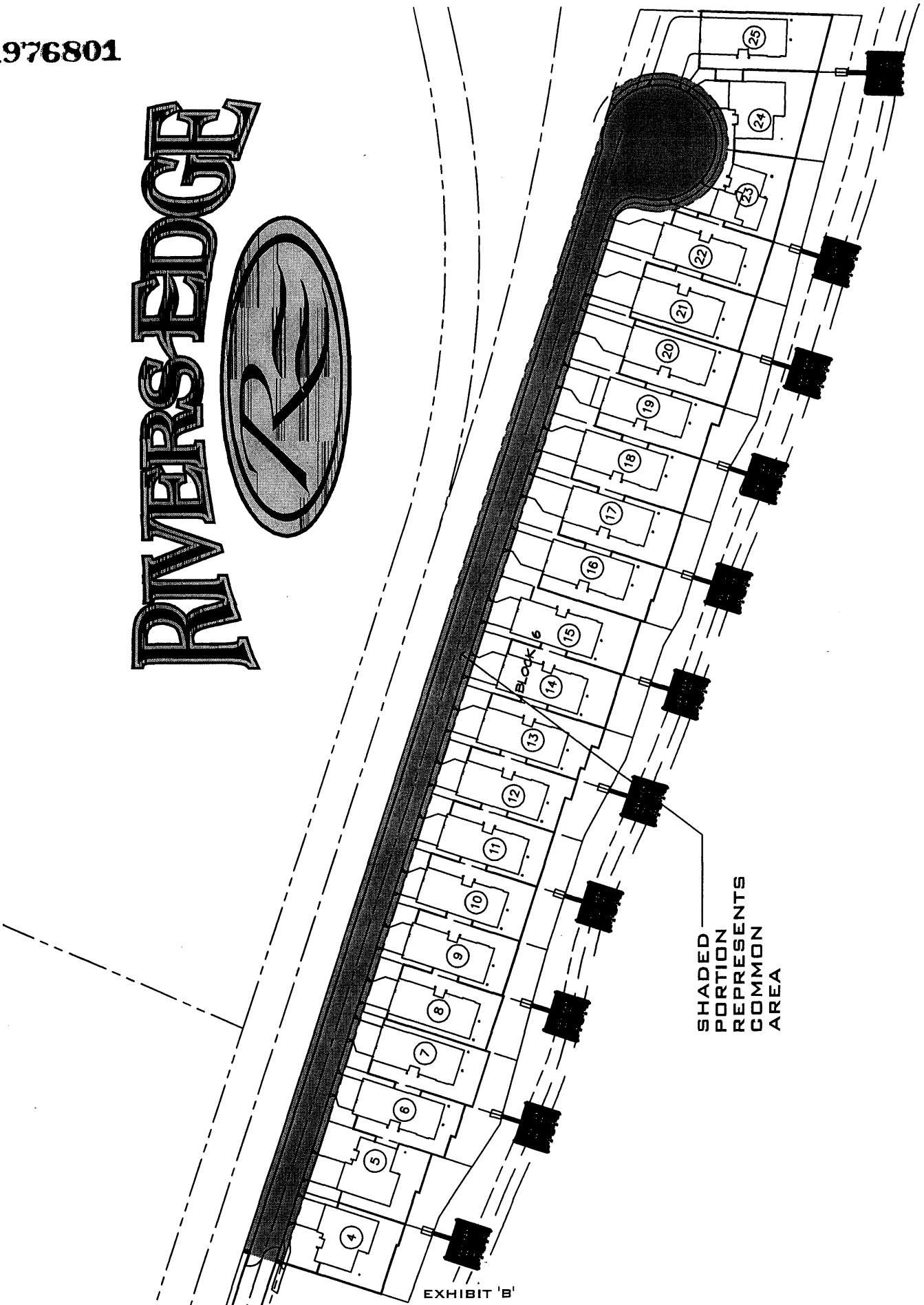
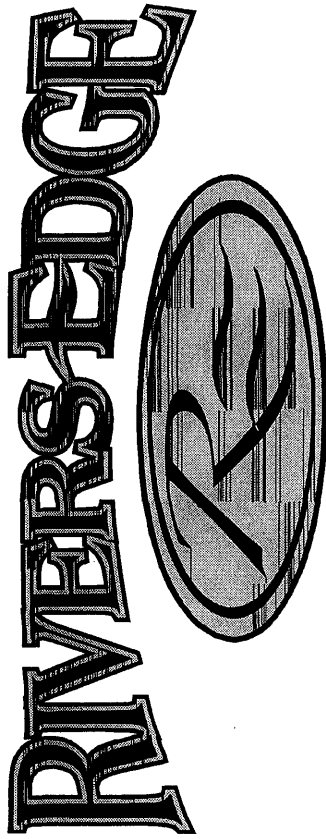
[Signature]
Notary Public in and for the State of Idaho
Residing at: Post Falls, ID
My Commission Expires 10-31-2009

1976801

LOTS 4 THROUGH 25, BLOCK 6, ACCORDING TO THE PLAT OF MILL RIVER
FIRST ADDITION, RECORDED ON MAY 24, 2005, IN BOOK "J" OF PLATS,
PAGES 202, 202A THROUGH 202D, AS INSTRUMENT NUMBER 1951995, AT
THE OFFICE OF THE KOOTENAI COUNTY RECORDER.

EXHIBIT "A"

1976801



SHADED
PORTION
REPRESENTS
COMMON
AREA

EXHIBIT 'B'