RESOLUTION NUMBER 05-082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO AUTHORIZING THE MAYOR TO EXECUTE A MASTER DEED RESTRICTION, OCCUPANCY, AND RESALE AGREEMENT FOR COPPER RIDGE WITH KGF DEVELOPMENT LLC, A WASHINGTON LIMITED LIABILITY COMPANY.

WHEREAS, pursuant to Idaho Code §50-301, the City of Ketchum is empowered to enter into contracts as may be deemed necessary to promote the public health, safety, and welfare of Ketchum and its residents; and,

WHEREAS, the City of Ketchum has required KGF Development LLC to enter into a master deed restriction, occupancy, and resale agreement with the City of Ketchum to increase in the allowable Floor Area Ratio (FAR) of Copper Ridge; and,

WHEREAS, KGF Development LLC desires to enter into such agreement with the City of Ketchum.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Ketchum, Idaho that the City Council hereby authorizes the Mayor to execute a master deed restriction, occupancy, and resale agreement for Copper Ridge with KGF Development LLC, a Washington limited liability company.

PASSED by the City Council and APPROVED by the Mayor this 19th day of September, 2005.

CITY OF KETCHUM, IDAHO

Edward Simon, Mayor

ATTEST:

Sandra E. Cady, CMC
City Treasurer/Clerk

APPROVED AS TO FORM AND CONTENT:

Benjamin W. Worst,
City Attorney

CITY OF KETCHUM
BLAINE COUNTY, IDAHO
SEAL

2005-12-15 01:27:00 No. of Pages: 10
Recorded for : BE IMARK ASSOC
MARSHA RIEMANN Fee: 30.00
Ex-Officio Recorder Deputy
Index to: AGREEMENT/CORRECTION

MASTER DEED RESTRICTION, OCCUPANCY AND RESALE DEED RESTRICTION, AGREEMENT FOR COPPER RIDGE

THIS MASTER DEED RESTRICTION, OCCUPANCY AND RESALE AGREEMENT (the "Agreement") is made and entered into this 7TH DAY OF NOV, 2005, by KGF Development LLC, a Washington limited liability company (hereinafter referred to as "Declarant"), for the benefit of the parties and enforceable by the BLAINE KETCHUM HOUSING AUTHORITY (hereinafter referred to as "BKHA"), a duly constituted multi-jurisdictional Housing Authority established pursuant to County Resolution 96-38, the requisite Intergovernmental Agreement between the City of Ketchum, Idaho, and Blaine County, and Chapter 42 of the Idaho State Code, and the CITY OF KETCHUM, an Idaho municipal corporation ("City").

WITNESSETH

WHEREAS, Declarant owns the real property described in Exhibit "A" attached hereto and incorporated herein. For purposes of this Agreement, the real property and all dwellings, appurtenances, improvements and fixtures associated therewith shall hereinafter be referred to as the "Property"; and

WHEREAS, as a condition of the approval granted by the City of Ketchum, Idaho, for an increase in the allowable Floor Area Ratio (FAR) for the Property, the Declarant is required to enter into this Agreement; and

WHEREAS, Declarant agrees to restrict four (4) designated residential units described in Exhibit "B" attached hereto on the Property as "Community Housing Units"; and

WHEREAS, Declarant agrees to restrict three (3) of the Community Housing Units as rental units for Income Category 2, as defined and directed in the Community Housing Guidelines of the BKHA (the "Community Housing Guidelines"; references herein to the Community Housing Guidelines shall mean such guidelines as amended from time to time and as in effect at the time); and

WHEREAS, Declarant agrees to restrict one (1) of the Community Housing Units as a rental unit for Income Category 3, as defined and directed in the Community Housing Guidelines; and

WHEREAS, "Qualified Long-Term Renters" are natural persons or legal resident aliens who are employed full time within the City of Ketchum and who reside in the Community Housing Units on a long-term basis, which is defined as 6 months or longer; and

WHEREAS, a "Tenant" is a person who is a Qualified Long-Term Renter who enters into a long-term lease for a Community Housing Unit in compliance with the terms and provisions of this Agreement; it being understood that such person or persons shall be

deemed a Tenant hereunder only during the period of his, her, or their leasing of the Property and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period; and

WHEREAS, a "Unit" is any of the units described in Exhibit "B."

RESTRICTIONS

NOW, THEREFORE, for value received, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby represents, covenants and agrees as follows:

1. The leasing of the Community Housing Units shall henceforth be limited exclusively to housing for natural persons or legal resident aliens who meet the definition of Qualified Long-Term Renter and their families. In addition, all subsequent leasing of the Community Housing Units shall be made in accordance with the terms of this Agreement and the Community Housing Guidelines through the BKHA.

2. A Tenant, in connection with the lease of this Property or Unit, must: a) occupy the Community Housing Unit within this Property as his or her sole/primary place of residence during the time that such unit is leased; b) not engage in any business activity on or in such Unit, other than permitted in that zone district or by applicable ordinance; and c) not permit any use or occupancy of such unit except in compliance with this Agreement and the Community Housing Guidelines.

TENANT RESIDENCE

3. The Unit shall be and is to be utilized only as the sole and exclusive place of residence of a Tenant.

4. In the event the Tenant changes domicile or ceases to utilize the Unit as his sole and exclusive place of residence, the Unit shall be offered for lease pursuant to the provisions of this Agreement. Tenant shall be deemed to have changed Tenant's domicile by becoming a resident elsewhere or by accepting permanent employment outside of Ketchum, or by residing in the Unit for less than 75% of the lease term.

5. **NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE THE BKHA TO PROTECT OR INDEMNIFY THE DECLARANT AGAINST ANY LOSSES ATTRIBUTABLE TO THE RENTAL, INCLUDING (NOT BY WAY OF LIMITATION) NON-PAYMENT OF RENT OR DAMAGE TO THE PREMISES; NOR TO REQUIRE THE BKHA TO OBTAIN A QUALIFIED TENANT FOR THE**

DECLARANT IN THE EVENT THAT NONE IS FOUND BY THE DECLARANT.

TENANT APPROVAL PROCEDURE

6. Declarant shall select Tenants who meet the requirements to qualify for residence in a Community Housing Unit as outlined in the Community Housing Guidelines for the applicable income categories. Declarant shall submit to the BKHA sufficient information (as reasonably determined by BKHA) to verify that Tenants meet such requirements and shall obtain BKHA's written approval of same prior to execution of a rental or lease agreement with said Tenant.

7. The rental unit designated for Income Category 3 may at Declarant's election be leased by Declarant to the manager of the Property as the manager's residence.

BREACH

8. In the event that BKHA has reasonable cause to believe that Declarant is violating the provisions of this Agreement, the BKHA, by its authorized representative, may inspect the Unit between the hours of 8:00 AM and 5:00 PM, Monday through Friday, after providing Declarant and/or the Tenant with no less than 24 hours' written notice.

9. The BKHA, in the event a violation of this Agreement is discovered, shall send a notice of violation to Declarant detailing the nature of the violation and allowing Declarant fifteen (15) days to cure. Said notice shall state that Declarant may request a hearing before the BKHA Board of Commissioners within fifteen (15) days to determine the merits of the allegations. If no hearing is requested and the violation is not cured within the fifteen (15) day period, Declarant shall be considered in violation of this Agreement. If a hearing is held before the BKHA, the decision of the BKHA based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

REMEDIES

10. There is hereby reserved to the parties hereto any and all remedies provided by law for breach of this Agreement or any of its terms. In the event the parties resort to litigation with respect to any or all provisions of this Agreement, the prevailing party shall be entitled to recover damages and costs, including reasonable attorneys' fees.

11. In the event that Declarant fails to cure any Breach, the BKHA may resort to any and all available legal action, including, but not limited to, specific performance of this Agreement or a mandatory injunction requiring lease of the Property by Declarant. The costs of such action shall be taxed against the proceeds of the lease with the balance being paid to Declarant.

COVENANTS RUN WITH THE LAND

12. This Agreement shall constitute covenants running with the Real Property, described in Exhibit "A," as a burden thereon, for the benefit of, and shall be specifically enforceable by, the BKHA or the City, as applicable, by any appropriate legal action including but not limited to specific performance, injunction, reversion, or eviction of non-complying Tenants and/or occupants.

GRIEVANCE PROCEDURES

13. All disputes between Declarant and the administrative staff of the BKHA shall be heard in accordance with the grievance procedures set forth in the Community Housing Guidelines.

GENERAL PROVISIONS

14. Notices. Any notice, consent or approval which is required to be given hereunder shall be given by a reputable overnight courier (e.g., Fed Ex) properly addressed to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Agreement. The notice shall be deemed effective upon delivery.

Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant:	KGF Development LLC 5800 125th Lane NE Kirkland, WA 98033
and to:	David R. Koopmans Short Cressman & Burgess PLLC 999 Third Ave., Suite 3000 Seattle, WA 98104
To BKHA:	Director Blaine Ketchum Housing Authority

P.O. Box 2315
Ketchum, ID 83340

To City: City Attorney
City of Ketchum
480 East Avenue North
P.O. Box 2315
Ketchum, ID 83340

15. Exhibits. All exhibits attached hereto (Exhibits "A"& "B") are incorporated herein and by this reference made a part hereof.

16. Severability. Whenever possible, each provision of this Agreement and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document.

17. Choice of Law. This Agreement and each and every related document is to be governed and construed in accordance with the laws of the State of Idaho.

18. Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

19. Section Headings. Paragraph or section headings within this Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

20. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Agreement. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

21. Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice visa.

22. Further Actions.. The parties to this Agreement agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement or any agreement or document relating hereto or entered into in connection herewith.

23. Modifications. The parties to this Agreement agree that any modification of this Agreement shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of Blaine County, Idaho. Notwithstanding the foregoing the BKHA reserves the right to amend this Agreement unilaterally where deemed necessary to effectuate the purpose and intent of this Agreement, and where such unilateral action does not materially impair the Tenant's rights under this Agreement. Such Amendment shall require sixty (60) days written notice to Tenants.

24. No Third Party Beneficiaries. Nothing herein shall be deemed or construed to create any third party beneficiary rights.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

DECLARANT:

X Kevin D Fortun

Title: President

STATE OF Washington)
) ss.
COUNTY OF King)

The foregoing instrument was acknowledged before me this 7 day of November, 2005, by Kevin G. Fortun.

Witness by hand and official seal.

/ /

Susan K. Knipfel

Notary Public

My commission expires:

6/10/08

SUSAN K. KNIPFEL
COMMISSION EXPIRES
NOTARY
PUBLIC
6-10-09
STATE OF WASHINGTON

ACCEPTANCE BY THE BLAINE COUNTY HOUSING AUTHORITY

The foregoing Master Deed Restriction Agreement for the Occupancy, Rental and Resale of Copper Ridge of the Blaine County Housing Authority and its terms are hereby adopted and declared by the Blaine County Housing Authority.

THE BLAINE COUNTY
HOUSING AUTHORITY

By: [signature]
Title: Executive Director

STATE OF IDAHO)
) ss.
COUNTY OF BLAINE)

The foregoing instrument was acknowledged before me this 28th day of November, 2005, by Michael David.

Witness by hand and official seal.
11 / 28 / 2005
[signature]
Notary Public

My commission expires:
May 21, 2007

BARBI S. ROSS
NOTARY
PUBLIC
STATE OF IDAHO

ACCEPTANCE BY THE CITY OF KETCHUM

The foregoing Master Deed Restriction Agreement for the Occupancy, Rental and Resale of Copper Ridge of the Blaine County Housing Authority and its terms are hereby adopted and declared by the City of Ketchum.

CITY OF KETCHUM

By: _____

Title: Mayor

STATE OF IDAHO)
) ss.
COUNTY OF BLAINE)

The foregoing instrument was acknowledged before me this 23 day of November 2005 by Edward Simon

Witness by hand and official seal.

11/23/05

Sandra E. Cady

Notary Public

My commission expires:

11-20-07

SANDRA E. CADY NOTARY PUBLIC STATE OF IDAHO

EXHIBIT "A"
LEGAL DESCRIPTION

Lots 1, 2, 3 and 4, Block 38, City of Ketchum, County of Blaine, State of Idaho.

EXHIBIT "B"
COMMUNITY HOUSING UNIT DESCRIPTION

Community Housing Units of this development shall be:

Unit 1	Studio	500 sqft	INCOME CATEGORY 2
Unit 2	Studio	500 sqft	INCOME CATEGORY 2
Unit 3	1 Bedroom	825 sqft	INCOME CATEGORY 2
Unit 4	1 Bedroom	825 sqft	INCOME CATEGORY 3

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

John D. Sullivan
Short Cressman & Burgess PLLC
999 Third Avenue, Suite 3000
Seattle, WA 98104-4088

(Space above for recorder's stamp)

MASTER DEED RESTRICTION, OCCUPANCY AND RESALE DEED RESTRICTION, AGREEMENT FOR COPPER RIDGE

THIS MASTER DEED RESTRICTION, OCCUPANCY AND RESALE AGREEMENT (the "Agreement") is made and entered into this 19th day of September, 2005, by KGF Development LLC, a Washington limited liability company (hereinafter referred to as "Declarant"), for the benefit of the parties and enforceable by the BLAINE KETCHUM HOUSING AUTHORITY (hereinafter referred to as "BKHA"), a duly constituted multi-jurisdictional Housing Authority established pursuant to County Resolution 96-38, the requisite Intergovernmental Agreement between the City of Ketchum, Idaho, and Blaine County, and Chapter 42 of the Idaho State Code, and the CITY OF KETCHUM, an Idaho municipal corporation ("City").

WITNESSETH

WHEREAS, Declarant owns the real property described in Exhibit "A" attached hereto and incorporated herein. For purposes of this Agreement, the real property and all dwellings, appurtenances, improvements and fixtures associated therewith shall hereinafter be referred to as the "Property"; and

WHEREAS, as a condition of the approval granted by the City of Ketchum, Idaho, for an increase in the allowable Floor Area Ratio (FAR) for the Property, the Declarant is required to enter into this Agreement; and

WHEREAS, Declarant agrees to restrict four (4) designated residential units described in Exhibit "B" attached hereto on the Property as "Community Housing Units"; and

WHEREAS, Declarant agrees to restrict three (3) of the Community Housing Units as rental units for Income Category 2, as defined and directed in the Community Housing Guidelines of the BKHA (the "Community Housing Guidelines"; references herein to the Community Housing Guidelines shall mean such guidelines as amended from time to time and as in effect at the time); and

WHEREAS, Declarant agrees to restrict one (1) of the Community Housing Units as a rental unit for Income Category 3, as defined and directed in the Community Housing Guidelines; and

WHEREAS, "Qualified Long-Term Renters" are natural persons or legal resident aliens who are employed full time within the City of Ketchum and who reside in the Community Housing Units on a long-term basis, which is defined as 6 months or longer; and

WHEREAS, a "Tenant" is a person who is a Qualified Long-Term Renter who enters into a long-term lease for a Community Housing Unit in compliance with the terms and provisions of this Agreement; it being understood that such person or persons shall be deemed a Tenant hereunder only during the period of his, her, or their leasing of the Property and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period; and

WHEREAS, a "Unit" is any of the units described in Exhibit "B."

RESTRICTIONS

NOW, THEREFORE, for value received, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby represents, covenants and agrees as follows:

1. The leasing of the Community Housing Units shall henceforth be limited exclusively to housing for natural persons or legal resident aliens who meet the definition of Qualified Long-Term Renter and their families. In addition, all subsequent leasing of the Community Housing Units shall be made in accordance with the terms of this Agreement and the Community Housing Guidelines through the BKHA.

2. A Tenant, in connection with the lease of this Property or Unit, must: a) occupy the Community Housing Unit within this Property as his or her sole/primary place of residence during the time that such unit is leased; b) not engage in any business activity on or in such Unit, other than permitted in that zone district or by applicable ordinance; and c) not permit any use or occupancy of such unit except in compliance with this Agreement and the Community Housing Guidelines.

TENANT RESIDENCE

3. The Unit shall be and is to be utilized only as the sole and exclusive place of residence of a Tenant.

4. In the event the Tenant changes domicile or ceases to utilize the Unit as his sole and exclusive place of residence, the Unit shall be offered for lease pursuant to the provisions of this Agreement. Tenant shall be deemed to have changed Tenant's domicile by becoming a resident elsewhere or by accepting permanent employment outside of Ketchum, or by residing in the Unit for less than 75% of the lease term.

5. **NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE THE BKHA TO PROTECT OR INDEMNIFY THE DECLARANT AGAINST ANY LOSSES ATTRIBUTABLE TO THE RENTAL, INCLUDING (NOT BY WAY OF LIMITATION) NON-PAYMENT OF RENT OR DAMAGE TO THE PREMISES; NOR TO REQUIRE**

THE BKHA TO OBTAIN A QUALIFIED TENANT FOR THE DECLARANT IN THE EVENT THAT NONE IS FOUND BY THE DECLARANT.

TENANT APPROVAL PROCEDURE

6. Declarant shall select Tenants who meet the requirements to qualify for residence in a Community Housing Unit as outlined in the Community Housing Guidelines for the applicable income categories. Declarant shall submit to the BKHA sufficient information (as reasonably determined by BKHA) to verify that Tenants meet such requirements and shall obtain BKHA's written approval of same prior to execution of a rental or lease agreement with said Tenant.

7. The rental unit designated for Income Category 3 may at Declarant's election be leased by Declarant to the manager of the Property as the manager's residence.

BREACH

8. In the event that BKHA has reasonable cause to believe that Declarant is violating the provisions of this Agreement, the BKHA, by its authorized representative, may inspect the Unit between the hours of 8:00 AM and 5:00 PM, Monday through Friday, after providing Declarant and/or the Tenant with no less than 24 hours' written notice.

9. The BKHA, in the event a violation of this Agreement is discovered, shall send a notice of violation to Declarant detailing the nature of the violation and allowing Declarant fifteen (15) days to cure. Said notice shall state that Declarant may request a hearing before the BKHA Board of Commissioners within fifteen (15) days to determine the merits of the allegations. If no hearing is requested and the violation is not cured within the fifteen (15) day period, Declarant shall be considered in violation of this Agreement. If a hearing is held before the BKHA, the decision of the BKHA based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

REMEDIES

10. There is hereby reserved to the parties hereto any and all remedies provided by law for breach of this Agreement or any of its terms. In the event the parties resort to litigation with respect to any or all provisions of this Agreement, the prevailing party shall be entitled to recover damages and costs, including reasonable attorneys' fees.

11. In the event that Declarant fails to cure any Breach, the BKHA may resort to any and all available legal action, including, but not limited to, specific performance of this Agreement or a mandatory injunction requiring lease of the Property by Declarant. The costs of such action shall be taxed against the proceeds of the lease with the balance being paid to Declarant.

COVENANTS RUN WITH THE LAND

12. This Agreement shall constitute covenants running with the Real Property, described in Exhibit "A," as a burden thereon, for the benefit of, and shall be specifically enforceable by, the BKHA or the City, as applicable, by any appropriate legal action including but not limited to specific performance, injunction, reversion, or eviction of non-complying Tenants and/or occupants.

GRIEVANCE PROCEDURES

13. All disputes between Declarant and the administrative staff of the BKHA shall be heard in accordance with the grievance procedures set forth in the Community Housing Guidelines.

GENERAL PROVISIONS

14. Notices. Any notice, consent or approval which is required to be given hereunder shall be given by a reputable overnight courier (e.g., Fed Ex) properly addressed to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Agreement. The notice shall be deemed effective upon delivery.

Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant:	KGF Development LLC 5800 125th Lane NE Kirkland, WA 98033
and to:	David R. Koopmans Short Cressman & Burgess PLLC 999 Third Ave., Suite 3000 Seattle, WA 98104
To BKHA:	Director Blaine Ketchum Housing Authority P.O. Box 2315 Ketchum, ID 83340
To City:	City Attorney City of Ketchum 480 East Avenue North P.O. Box 2315 Ketchum, ID 83340

15. Exhibits. All exhibits attached hereto (Exhibits "A"& "B") are incorporated herein and by this reference made a part hereof.

16. Severability. Whenever possible, each provision of this Agreement and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document.

17. Choice of Law. This Agreement and each and every related document is to be governed and construed in accordance with the laws of the State of Idaho.

18. Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

19. Section Headings. Paragraph or section headings within this Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

20. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Agreement. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

21. Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice visa.

22. Further Actions.. The parties to this Agreement agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement or any agreement or document relating hereto or entered into in connection herewith.

23. Modifications. The parties to this Agreement agree that any modification of this Agreement shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of Blaine County, Idaho. Notwithstanding the foregoing the BKHA reserves the right to amend this Agreement unilaterally where deemed necessary to effectuate the purpose and intent of this Agreement, and where such unilateral action does not materially impair the Tenant's rights under this Agreement. Such Amendment shall require sixty (60) days written notice to Tenants.

24. No Third Party Beneficiaries. Nothing herein shall be deemed or construed to create any third party beneficiary rights.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

DECLARANT:

_____

Title: _____

STATE OF _____)
) ss.
County of _____)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to me to be the _____ of KGF Development LLC, a Washington limited liability company, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said limited liability company.

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

_____
NOTARY PUBLIC for _____
(seal) Residing at _____
Commission Expires _____

ACCEPTANCE BY THE BLAINE COUNTY HOUSING AUTHORITY

The foregoing Master Deed Restriction Agreement for the Occupancy, Rental and Resale of Copper Ridge of the Blaine County Housing Authority and its terms are hereby adopted and declared by the Blaine County Housing Authority.

THE BLAINE COUNTY
HOUSING AUTHORITY

By: _____
Title: _____

STATE OF IDAHO)
) ss.
County of Blaine)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to me to be the _____ of Blaine Ketchum Housing Authority, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said limited liability company.

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

_____
NOTARY PUBLIC for _____
(seal) Residing at _____
Commission Expires _____

ACCEPTANCE BY THE CITY OF KETCHUM

The foregoing Master Deed Restriction Agreement for the Occupancy, Rental and Resale of Copper Ridge of the Blaine County Housing Authority and its terms are hereby adopted and declared by the City of Ketchum.

CITY OF KETCHUM

_____

By: Edward Simon
Title: Mayor, City of Ketchum

STATE OF IDAHO)
) ss.
County of Blaine)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Edward Simon, known to me to be the Mayor of the City of Ketchum, an Idaho municipal corporation, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said limited liability company.

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

_____
NOTARY PUBLIC for _____
(seal) Residing at _____
Commission Expires _____

EXHIBIT "A"
LEGAL DESCRIPTION

Lots 1, 2, 3 and 4, Block 38, City of Ketchum, County of Blaine, State of Idaho.

EXHIBIT "B"
COMMUNITY HOUSING UNIT DESCRIPTION

Community Housing Units of this development shall be:

Unit 1	Studio	500 sqft	INCOME CATEGORY 2
Unit 2	Studio	500 sqft	INCOME CATEGORY 2
Unit 3	1 Bedroom	825 sqft	INCOME CATEGORY 2
Unit 4	1 Bedroom	825 sqft	INCOME CATEGORY 3

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

LAWSON & LASKI, PLLC
Post Office Box 3310
Ketchum, ID 83340

(Space above for recorder's stamp)

PHASED DEVELOPMENT AGREEMENT

THIS PHASED DEVELOPMENT AGREEMENT (hereinafter this "Agreement") is entered into and made effective the _____ day of September, 2005, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation (hereinafter the "City"), and THUNDER SPRINGS III, LLC, an Idaho limited liability company (hereinafter "Developer"). The City and Developer are sometimes hereinafter referred to individually as a "party" and collectively as the "parties" to this Agreement.

RECITALS

THIS AGREEMENT is predicated upon the following facts:

A. Developer has received from the City a Conditional Use Permit, Number 03-003, for a planned unit development referred to as "Pineridge Townhomes," consisting of thirty – two (32) single family residence sublots and required utilities, on-site improvements, and landscaping (hereinafter referred to as the "Townhomes"). Of the thirty – two (32) dwelling units, thirteen (13) shall be deed restricted community housing units, some of which may be owned by the City of Ketchum. The thirty – two (32) dwelling units will be contained in seven (7) buildings.

B. The Townhomes are to be developed and constructed upon real property located in the City of Ketchum, the legal description of which real property is set forth on Exhibit A attached thereto and incorporated herein by this reference.

C. As of the date hereof, construction of two (2) of the seven (7) buildings is complete, and construction of all of the remaining five (5) buildings has commenced. In an effort to facilitate the sales of the completed Townhomes, Developer has proposed construction of the Townhomes as a phased development project under Article IX of Ketchum Ordinance No. 316, and this Phased Development Agreement is entered into in order to set forth the terms and conditions of the City's approval of the requested phased development of the Townhomes.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions set forth herein, the parties agree as follows:

1) Improvements. The Townhomes, including all dwelling units, utilities, on-site improvements, landscaping, and other amenities, shall be constructed in accordance with the plans and detailed construction specifications approved by the City.

2) Phased Construction and Landscaping Schedule. Improvements shall be constructed in accordance with the construction and landscape schedule set forth on Exhibit B attached hereto and incorporated herein by this reference.

3) Security for Access Road Paving. In the event that paving of the access road and/or landscaping is not completed in accordance with the Phasing Schedule set forth in Exhibit "B" and Developer wishes to record a final plat for a phase in which the paving and/or landscaping is incomplete, the City agrees to record such final plat provided Developer provides financial assurance of completion of such paving and/or landscaping, as the case may be, in accordance with the Phasing Schedule, in the form of a bond, savings account, checking account, letter of credit, or certificate of deposit in the City's name equal to one hundred and fifty percent (150%) of the cost of the paving and/or landscaping still necessary for the completion of the particular phase in question. In the event that satisfactory completion of any phase results in a diminution of the funds necessary to secure performance of the paving and/or landscaping, the City shall release a portion of the security equal to the cost of paving and/or landscaping that is no longer necessary.

4) Declaration of Covenants, Conditions and Restrictions. Prior to final plat approval for Phase I, Developer shall prepare and submit for approval by the City a Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes. Said document shall be recorded with the Blaine County Recorder at the time of final plat approval for Phase I.

5) Plat Approval. Final plat approval of Phases II and III shall not be granted by the Planning and Zoning Commission or the City Council until the Townhomes constructed in a previous phase have received a Certificate of Occupancy from the Ketchum Building Inspector and satisfied the Life Safety Inspection.

6) Revocation of Agreement. In the event Developer does not substantially comply with the phased construction schedule set forth in Exhibit "B" or any time deadlines, the Ketchum City Council may revoke this Phased Development Agreement and any plan approvals, preliminary plat approvals, and building permits previously granted in connection herewith, and may require amendments and plan changes to comply with subdivision and zoning ordinance provisions then in effect. Any requests or applications by Developer to extend or modify the phased construction schedule set forth above shall be considered only if the request or application is received prior to the completion date in question.

7) Final Completion. In the event all of the Townhomes are not completed by one year from the date of the issuance of Findings of Fact by the City Council approving the Pineridge Townhomes Preliminary Plat, the City Council may require appropriate amendments and plan changes to bring the Townhomes into compliance with subdivision and zoning ordinance rules and requirements in effect as of such date.

8) Sale or Transfer of Property. In the event Developer or a successor in interest to Developer sells or transfers the property described in Exhibit "A", or any portion thereof, written notice of said transaction shall be given to the City no less than thirty (30) days prior to closing. This requirement shall not apply to the sale and/or transfer or individual residence sublots.

9) Amendment. This Agreement may be revised or amended, in whole or in part, only by means of a written instrument executed by both parties. Any changes to the phasing schedule shall be subject to approval by the Ketchum City Council. Compliance with subdivision and zoning ordinances and/or rules then in effect may be required as a condition of such approval. Any changes to design review approved plans shall be subject to approval by the Planning and Zoning Commission, and compliance with design review or other zoning ordinance requirements then in effect may be required as a condition of such approval.

10) Police Powers. Noting contained herein is intended to limit the police powers of the City or its discretion or review of subsequent applications regarding development and construction of the Townhomes.

11) Specific Performance. In the event of a breach of this Agreement, in addition to all other remedies at law or in equity, this Agreement shall be enforceable by specific performance by either party. All remedies shall be cumulative.

12) Attorneys Fees. In the event either party is required to retain counsel to enforce a provision of this Agreement, or to recover damages resulting from a breach hereof, the prevailing party shall be entitled to recover from the other party all reasonable attorney's fees incurred, whether or not litigation is actually instituted or concluded.

13) Notices. All notices required or provided for under this Agreement shall be in writing and deemed delivered upon delivery in person or upon mailing by certified mail, postage prepaid.

Notices to the City shall be addressed as follows: City of Ketchum City Administrator, P.O. Box 2315, Ketchum, Idaho, 83340.

Notices give to Developer shall be addressed as follows: Thunder Spring III, LLC, c/o Wareham Development, 1120 Nye Street, San Rafael, California 94901, with a copy to Edward A. Lawson, Lawson & Laski, PLLC, Post Office Box 3310, Ketchum, Idaho 83340.

A party may change the address to which further notices are to be sent by notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

14) Reliance by City. Developer acknowledges and intends the Ketchum City Council to consider and rely upon this Agreement in its review and consideration of preliminary and final plat approval.

15) Relationship of Parties. It is understood the contractual relationship between the City and Developer is such that Developer is not the agent, partner, or joint venture of the City. Developer hereby guarantees actual development and performance in accordance wit the terms and conditions set forth herein. Further, nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

16) Successor and Assigns: Covenant Running With the Land. This Agreement shall inure to the benefit of, and be binding upon, the City and Developer and their respective heirs,

successors and assigns. This Agreement, including all covenants, terms, and conditions set forth herein, shall be and is hereby declared a covenant running with the land with regard to the Property described in Exhibit A hereto, or any portion thereof.

17) Recordation. This Agreement shall be recorded with the Blaine County Recorder by the City.

18) No Waiver. In the event the City or Developer does not strictly comply with any of the obligations and duties set forth herein, thereby causing a default under this Agreement, any forbearance of any kind that may be granted or allowed by Developer or the City to the other party under this Agreement shall not in any manner be deemed or construed as waiving or surrendering any of the conditions or covenants of this Agreement with regard to any subsequent default or breach.

19) Timeliness. Time and timely performance are of the essence of this Agreement.

20) Invalid Provisions. If any provision of this Agreement is held not valid, such provision shall be deemed to be excised therefrom and the invalidity thereof shall not affect any of the other provisions contained herein, except that if any provision of this Agreement is held not valid which Owner deems essential to its development of the Property, Owner may, at its sole discretion, declare this entire Agreement null and void and of no force and effect and thereby relieve all parties from any obligations hereunder.

21) Entire Agreement. This Agreement constitutes the full and complete agreement and understanding between the parties thereto regarding the phasing of the subdivision. No representation or warranties made by either party shall be binding unless contained in this Agreement or subsequent written amendments hereto.

22) Authority. Each of the persons executing this Agreement represents and warrants that he has the lawful authority and authorization to execute this Agreement, as well as all deeds, easements, liens or other documents required hereunder, for and on behalf of the entity executing this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

"Developer":
Thunder Spring III, LLC
An Idaho limited liability company

By: Richard K. Robbins
Its: Managing Member

"City":
City of Ketchum, Idaho

By: Edward Simon, Mayor

Attest:
Sandra Cady, Clerk

ACKNOWLEDGMENT

STATE OF ~~IDAHO~~ California)
) ss.
County of ~~Blaine~~ Marin)

On this 10th day of October, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard K. Robbins, known to me to be the Managing Member of Thunder Spring III, LLC, an Idaho limited liability company, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said limited liability company.

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

(seal) CASSANDRA F. GAENGER Commission # 1412176 Notary Public - California Marin County My Comm. Expires May 3, 2007

Cassandra F. Gaenger
NOTARY PUBLIC for State of California
Residing at 219 Forbes Ave., San Rafael, CA
Commission Expires 5/3/07.

STATE OF IDAHO)
) ss.
County of Blaine)

On this 12th day of October, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Edward Simon, known to me to be the Mayor of the City of Ketchum, and the Mayor who subscribed said municipality's name to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said limited liability company.

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

(seal) MARTHA GONZALEZ NOTARY PUBLIC STATE OF IDAHO

Martha Gonzalez
NOTARY PUBLIC for Idaho
Residing at Hailey
Commission Expires 7.19.2010

EXHIBIT A

TOWNSHIP 4 NORTH, RANGE 17 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

SECTION 12: A parcel of land more particularly described as follows:

COMMENCING at a brass cap marking the West 1/4 Corner of said Section 12; thence S. 00° 27' 14" W., 264.95 feet to a brass cap marking the East 1/4 Corner of Section 11; thence S. 00° 01'38" E., 1,108.37 feet to an aluminum cap marking the TRUE POINT OF BEGINNING of Broken Horse Townhomes, said corner being a point on the northerly boundary of Warm Springs Road; thence following said Northerly boundary S. 79° 59' 58" E., 159.82 feet to the TRUE POINT OF BEGINNING; thence N. 09° 58' 56" E., 302.10 feet along the westerly Boundary of Warm Springs Subdivision No. 3; thence S. 79° 47' 08" E., 199.98 feet along a portion of the southerly boundary of Sunshine Subdivision and a portion of Four Seasons Subdivision No. 3; thence S. 09° 58' 58" W., 209.66 feet along a portion of the westerly boundary of Four Seasons Subdivision No. 3 and the westerly boundary of Four Seasons Subdivision No. 1; thence S. 80° 04' 00" E., 250.00 feet along the southerly boundaries of Four Seasons Subdivision No. 1 and Four Seasons Subdivision No 2 to a point on the westerly boundary of Lot 1, Schernthanner Acres Subdivision; thence S. 09° 58' 02" W., 99.97 feet along said westerly boundary to a point on the northerly boundary of Warm Springs Road; thence following said northerly boundary 242.59 feet along a non-tangent curve to the left, said curve having a central angle of 04° 16' 09", a radius of 3,255.76 feet and a chord length of 242.54 feet that bears N. 78° 16' 18" W.; thence continuing along said northerly boundary of Warm Springs Road N. 79° 48' 50" W., 207.58 feet to the TRUE POINT OF BEGINNING.

DESCRIBED OF RECORD AS:

TOWNSHIP 4 NORTH, RANGE 17 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO:

SECTION 12: A tract of land in the W 1/2 of the SW 1/4 more particularly described as follows:

BEGINNING at the West quarter corner of Section 12; thence S. 00° 28' 56" W., 1,361.06 feet along the West boundary of the Section to the North line of Warm Springs Road; thence S. 80° 07' 48" E., along said North line 170 feet to the TRUE POINT OF BEGINNING; thence N. 09° 57' 52" E., 301.68 feet; thence S. 80° 02' 08" E., 200 feet; thence S. 09° 57' 52" W., 210 feet; thence S. 80° 04' E., 250 feet; thence S. 09° 57' 52" W., 100 feet, more or less, to the North line of Warm Springs Road; thence Northwesterly along the arc of a right-of-way curve, having a radius of 3,255.76 feet, an arc distance of 242.60 feet along said Northerly road line; thence continuing along the road line N. 80° 07' 48" W., 207.58

feet to the TRUE POINT OF BEGINNING.

EXHIBIT B
Phasing Schedule

Phase No./Buildings	*Current Status*	*Est. Completion*
Phase No. I:		
Building 1W	C of O expected by 9/2/05	October 2005
Building 1E	C of O expected by 9/16/05	October 2005
Landscaping & Fencing immediately surrounding Buildings 1W and 1E	Complete	August 2005
Paving of "U" Access Road		October 2005
Phase No. II:		
Building 2E	C of O expected by 11/16/05	January 2006
Building 3E	C of O expected by 1/3/06	January 2006
Building 4	C of O expected by 1/3/06	January 2006
Landscaping immediately surrounding Building 2E, 3E, & 4		January 2006
Phase No. III:		
Building 2W	C of O expected by 2/15/06	April 2006
Building 3W	C of O expected by 4/3/06	April 2006
Landscaping immediately surrounding Building 2W & 3W		April 2006