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Cheri Brunvand-Summit County Recorder 10/5/2006 11.46 DF:

VIC'S LANDING EMPLOYEE HOUSING
RESTRICTIVE COVENANT AND AGREEMENT

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VIC'S LANDING
EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT

THIS VIC'S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT ("Covenant") is made and entered into at Breckenridge, Colorado this 5 day of October, 2006 by and between VIC'S LANDING LLC, a Colorado limited liability company ("Developer") and the TOWN OF BRECKENRIDGE, a Colorado municipal corporation ("Town").

Recitals

A. Developer is owner of record of the real property situate in the Town of Breckenridge, County of Summit and State of Colorado and described in **Exhibit A** attached hereto and incorporated herein by this reference ("Property").

B. Developer has heretofore requested Town to annex the Property and to issue a development permit for the development of the Property which development, therefore, is subject to the applicable laws, ordinances and regulations of the Town.

C. Town has annexed the Property by Ordinance No. 28, Series 2006, and has issued to Developer Development Permit No. PC2005104 ("Development Permit").

D. It is a condition of the Amendment to Annexation Agreement and the Development Permit that the Developer create a valid and enforceable covenant running with the land which assures that certain of the units to be developed on the Property will be used solely by Qualified Occupants, subject to limited exceptions provided for herein.

E. Under this Covenant Developer intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use of the units described and provided for herein shall be and are covenants running with the land and are intended to be and shall be binding upon the Developer and all subsequent owners of such units for the stated term of this Covenant, unless and until this Covenant is released and terminated by the Town in the manner hereafter described.

F. The parties acknowledge that by entering into this Covenant the Town has acted both in its governmental capacity and in its proprietary capacity for the management of the Project in which it has an interest, and for the private advantage of its residents and for itself as a legal entity.

Agreement

NOW, THEREFORE, in satisfaction of the conditions in the Annexation Agreement and Development Permit and in consideration of the issuance of the Development Permit, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by Developer, the Developer and the Town agree as follows:

1. Definitions. As used in this Covenant:

A. "AMI" means the annual median income for Summit County, Colorado as determined by the United States Department of Housing and Urban Development from time to time, or such successor index or figure as said Department may establish.

B. "Affordability Restrictions" means, collectively: (i) the Income Limits and Pre-Qualification Requirements of Section 2 of this Covenant; (ii) the Ownership Restrictions of Section 3 of this Covenant; (iii) the Occupancy Restrictions of Section 4 of this Covenant, and (iv) the Resale Restrictions of Section 5 of this Covenant.

C. "Director" means the Director of the Department of Community Development of the Town of Breckenridge, Colorado, or such person's designee.

D. "Income Limits and Pre-Qualification Requirements" means those limitations and requirements on the ability to purchase a Residential Unit as set forth in Section 2 hereof.

E. "Maximum Allowed Sale Price" means the maximum amount of money for which a Residential Unit may be sold by a Unit Owner as set forth in Subsection 5.A of this Covenant.

F. "Occupancy Restrictions" means those restrictions on the occupancy of the Residential Units as set forth in Section 4 hereof.

G. "Ownership Restrictions" means those restrictions on the ownership of the Residential Units as set forth in Section 3 hereof.

H. "Project" means the affordable housing development to be constructed by Developer on the Property. The Project shall consist of up to thirty six (36) Residential Units, all of which shall initially be subject to this Covenant. Twenty four (24) of the Residential Units shall forever remain subject to the this Covenant. Up to twelve (12) of the Residential Units may be released from this Covenant as provided for in Section 6 hereof.

I. "Property" means the real property located in the County of Summit and State of Colorado, as further described on **Exhibit A** attached hereto, against which this Covenant shall be recorded.

J. "Purchase Price" means the actual consideration paid by a Unit Owner to purchase a Residential Unit. "Purchase Price" does not include any real estate sales commission paid in connection with the purchase or sale of the Residential Unit.

K. "Qualified Occupant" means a person eighteen (18) years of age or older who, during the entire period of his or her occupancy of a Residential Unit, earns his or her living by working in Summit County, Colorado an average of at least thirty (30) hours per week, together with such person's spouse and minor children, if any.

L. "Resale Restrictions" means those restrictions on the resale of the Residential Units by Unit Owners as set forth in Subsection 5.A.

M. "Residential Unit" means a physical portion of the Project to be constructed for purposes of residential use only and to be created as a separate transferable real property interest by the filing of subdivision plat(s), condominium map(s) or similar plat(s) or map(s) for some or all of the Property, and does not mean or include: (i) any physical portion of the Project constructed for purposes of commercial use; or (ii) any residential unit excluded from this Covenant pursuant to Section 6.

N. "Town Clerk" means the Town Clerk of the Town of Breckenridge, Colorado, or such person's designee.

O. "Town Council" means the Town Council of the Town of Breckenridge, Colorado.

P. "Unit Owner" means a natural person or persons at any time taking and holding title to a Residential Unit, but does not include any entity, whether a corporation, partnership, limited liability company or similar entity which is not a natural person or an individual. Such natural person or persons shall be deemed a "Unit Owner" hereunder only during the period of his, her or their ownership interest in the Residential Unit. "Unit Owner" does not include a person or entity having an interest in a Residential Unit solely as security for the performance of an obligation.

2. Income Limits; Pre-Qualification Requirements.

A. Income Limits. It is the intent of this Covenant to impose income limits upon those twenty four (24) Residential Units that the Developer is required by the Town to sell for either a Purchase Price that is affordable to under 80% AMI, or a Purchase Price that is affordable to under 100% AMI. Accordingly, at the time of purchase of a Residential Unit for a Purchase Price initially designated and identified by Developer to be affordable to under 80% AMI, a Unit Owner's gross annual household income, excluding the income of minors, cannot exceed 80% of the AMI adjusted for the appropriate household size. Similarly, at the time of purchase of a Residential Unit for a Purchase Price initially designated and identified by Developer to be affordable to under 100% AMI, a Unit Owner's gross annual household income, excluding the income of minors, cannot exceed 100% of AMI adjusted for the appropriate household size.

Prior to closing on the purchase of a Residential Unit, all prospective purchasers of Residential Units initially designated by the Town and Developer to be affordable to under either 80% AMI or 100% AMI shall be required to submit to the Town or its designee for review and approval sufficient competent evidence that the prospective purchaser's income does not exceed the maximum allowed income for the purchase of the particular Residential Unit the purchaser desires to purchase according to applicable Town guidelines as adopted and as amended from time to time. The income test shall apply only at the time of purchase of the Residential Unit by a Unit Owner and shall not limit or restrict the Unit Owner's income for the duration of ownership of the Residential Unit.

B. Qualified Occupant Verification. Prior to purchasing any Residential Unit a prospective purchaser shall also submit to the Town or its designee for review and approval sufficient competent evidence to demonstrate that the prospective purchaser qualifies as a Qualified Occupant as defined in Subsection 1.K.

3. Ownership Restrictions. Title to each Residential Unit shall be taken and held only in the name of a Unit Owner, except for ownership by Developer and except in the event title is transferred by means of a public trustee's or sheriff's deed or by a deed in lieu of foreclosure of a deed of trust or mortgage, in which case such an entity shall transfer title subject to the terms and conditions of this Covenant, including specifically, but not limited to, the Affordability Restrictions.

4. Occupancy Restrictions.

A. Owner Occupancy Requirement. Subsequent to the initial sale of a Residential Unit by the Developer, and subject to the provisions of Subsection 4.C hereof, each Residential Unit shall be occupied by the owner thereof as his or her sole place of residence.

B. General Occupancy Restriction. Except as expressly provided in Subsection 4.C. hereof, each Residential Unit shall be used and occupied only by Qualified Occupants and by no one else.

C. Other Restrictions and Requirements. Each Unit Owner shall be subject to and shall comply with the following additional restrictions and requirements:

1. Within nine (9) months from the date of after acquiring an ownership interest in a Residential Unit, a Unit Owner shall divest himself or herself of any ownership interest in any other real property located in Summit County, Colorado, whether such ownership interest is held in the Unit Owner's individual name, in the name of a trust of which the Unit Owner is a trustee or a beneficiary, or is held in the name of a partnership, corporation, limited liability company or other business entity in which such Unit Owner owns an interest.

2. Throughout a Unit Owner period of ownership of a Residential Unit, the Unit Owner shall: (a) not engage in any business activity in or upon the Residential Unit, other than as

permitted in the applicable land use regulations of the Town or by applicable Town ordinance; (b) not sell or otherwise transfer the Residential Unit for use in a trade or business; (c) not permit any use of occupancy of the Residential Unit except in compliance with the terms, conditions and limitations of this Covenant; (d) not voluntarily encumber the Residential Unit in an amount in excess of the Unit Owner's Purchase Price; and (e) not acquire any ownership interest in any other residential property in Summit County, Colorado, other than the Residential Unit, whether such ownership interest is held in the Unit Owner's individual name, in the name of a trust of which the Unit Owner is a trustee or a beneficiary, or is held in the name of a partnership, corporation, limited liability company or other business entity in which such Unit Owner owns an interest.

D. Exceptions. Notwithstanding the provisions of the preceding Subsection 4.B., it shall not be a violation of this Covenant if: (i) rooms within a Residential Unit are rented to Qualified Occupants sharing the Residential Unit with the Unit Owner; (ii) a Residential Unit is rented for use and occupancy to a Qualified Occupant for a maximum cumulative total of twelve (12) months during the time of ownership by a Unit Owner; (iii) a Residential Unit is occupied by a person age sixty two (62) years or older who is no longer a Qualified Occupant because he or she no longer works the required number of hours as described in Subsection 1.K., if such person occupied the Residential Unit as a Qualified Owner for a minimum of seven (7) consecutive years prior to ceasing to be a Qualified Owner; (iv) a Residential Unit is owned or occupied by a person otherwise authorized to own or occupy the Residential Unit pursuant to this Covenant who becomes disabled after commencing ownership or occupancy of the Residential Unit such that he or she cannot work the required number of hours each week required by this Covenant, provided, however, that such person shall be permitted to own or rent the Residential Unit for a maximum period of one (1) year following the commencement of such person's disability unless a longer period of ownership or occupancy is authorized by the Town pursuant to Subsection 4.E; and (v) guests visiting a Qualified Occupant and paying no rent or other consideration.

E. Relief In Extraordinary Circumstances. The Director may grant a variance, exception or waiver from the requirements of this Section 4 based upon the written request of the owner or prospective owner of a Residential Unit. Such variance, exception or waiver may be granted by the Director only upon a finding that: (i) the circumstances justifying the granting of the variance, exception or wavier are unique; (ii) a strict application of this Section 4 would result in an extraordinary hardship; and (iii) the variance, exception or waiver is consistent with the intent and purpose of this Covenant. No variance, exception or wavier shall be granted by the Director if its effect would be to nullify the intent and purpose of this Covenant. In granting a variance, exception or wavier of the provisions of this Section 4 the Director may impose specific conditions of approval, and shall fix the duration of the term of such variance, exception or waiver. Any owner or prospective owner of a Residential Unit who is dissatisfied with the decision of the Director with respect to a request for a variance, exception or waiver from the requirements of this Section 4 may appeal the Director's decision to the Town Council by submitting a written letter of appeal to the Town Clerk within ten (10) days of the date of the Director's decision. The Town Council shall make a final determination of such appeal within forty five (45) days after the Town Clerk's receipt of the letter of appeal.

5. Resale Restrictions.

A. Resale Price Limit. The Maximum Allowed Sale Price for which a Residential Unit may be sold by a Unit Owner shall be determined as follows:

(i) The selling Unit Owner's initial Purchase Price paid for the Residential Unit shall be the selling Unit Owner's "Base Price Limit." Real estate sales commissions, if any, paid by prior Unit Owners shall not be included in calculating the selling Unit Owner's Base Price Limit.

(ii) The Base Price Limit shall be increased to reflect a cost of living adjustment for the period of time the selling Unit Owner owned the Residential Unit. The Base Price Limit as increased by the cost of living adjustment described below in this Section 5.A.ii shall be the selling Unit Owner's "Adjusted Price Limit." The Adjusted Price Limit shall be the lesser of:

The Base Price Limit	X	.0025	X	the number of whole months from the date of a Unit Owner's purchase to the date of a Unit Owner's sale of the Residential Unit	+	The Base Price Limit ¹	=	ADJUSTED PRICE LIMIT
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OR

The Base Price Limit	X	100% of AMI most recently released prior to the selling Unit Owner's sale	÷	100% of AMI in effect at the time of the selling Unit Owner's purchase of the Residential Unit ²	=	ADJUSTED PRICE LIMIT
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B. Resale Price Not To Exceed Adjusted Price Limit; No Adjustment For Capital Improvements. The resale price of any Residential Unit shall not exceed such Adjusted Price

¹ The Base Price Limit multiplied by one quarter of one percent (0.25%) multiplied by the number of whole months from the date of a Unit Owner's purchase to the date of a Unit Owner's sale of the Residential Unit plus the Base Price Limit.

² The Base Price Limit multiplied by a fraction the numerator of which is the 100% of AMI most recently released prior to a selling owner's sale and the denominator of which is the 100% of AMI in effect at the time of the selling owner's purchase of the Restricted Unit.

Limit. The Adjusted Price Limit shall not take into consideration any capital improvements made to the Residential Unit by the selling Unit Owner, nor any real estate commission paid by the selling Unit Owner.

C. Adjusted Price Limit Never Lower Than Purchase Price. Notwithstanding anything contained in this Covenant to the contrary, the Adjusted Price Limit shall never be less than the Purchase Price actually paid by the selling Unit Owner for the Residential Unit.

D. Real Estate Commission—Summit Housing Authority. If the selling Unit Owner of a Restricted Unit sells the Restricted Unit through the services of the Summit Housing Authority, a commission of not more than 2% of the Adjusted Price Limit may be paid to the Summit Housing Authority.

NO RESIDENTIAL UNIT SHALL BE SOLD FOR AN AMOUNT WHICH IS IN EXCESS OF THE MAXIMUM ALLOWED SALE PRICE AS SET FORTH IN THIS SUBSECTION 5.A. ANY AMOUNT RECEIVED BY A SELLING UNIT OWNER IN EXCESS OF THE MAXIMUM ALLOWED SALE PRICE SHALL BE PAID TO THE TOWN AS PROVIDED IN SUBSECTION 5.B.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTEE BY THE TOWN, THE DEVELOPER, OR ANY OTHER PARTY, THAT THE UNIT OWNER WILL BE ABLE TO OBTAIN THE MAXIMUM ALLOWED SALE PRICE, AND THE TOWN AND DEVELOPER HEREBY DISCLAIM ANY SUCH REPRESENTATION OR WARRANTY THAT MIGHT OTHERWISE BE ALLOWED OR ATTRIBUTED.

E. Appreciating Limiting Promissory Note and Deed of Trust. At the time of each sale of a Residential Unit, beginning with the first such sale by Developer to a Unit Owner, the purchaser(s) of each Residential Unit shall execute an Appreciating Limiting Promissory Note in the form attached hereto as **Exhibit B**, or such other form as may be adopted from time to time by the Town which is consistent with the intent of this Covenant ("Note"), together with a form of Deed of Trust to a public trustee encumbering the Residential Unit to secure strict compliance with the terms of the Note. The deed of trust shall contain a strict due on sale provision and shall be in form and substance acceptable to the Town Attorney of the Town ("Deed of Trust"). At the time of each closing of the transfer of title to a Residential Unit, a new Note shall be executed by the purchaser(s) and delivered to the Town and a new Deed of Trust shall be executed by the purchaser(s) and recorded in the Summit County, Colorado real estate records. At the time of closing of each transfer of title to a Residential Unit subsequent to the first transfer by Developer, the Town shall determine whether the transfer complies with the requirements of this Covenant. If the transfer complies with the requirements of this Covenant, the Town shall mark the selling Unit Owner's Note as paid and execute a request for release of deed of trust on verification to the Town, by the title company or other independent agent responsible for closing on the transfer of title to a Residential Unit, that the amount paid for the purchase of the Residential Unit does not exceed the Maximum Allowed Sale Price or that, if the price exceeds

the Maximum Allowed Sale Price, the amount of such excess will be paid to the Town. If title to a Residential Unit is transferred without obtaining the release of a Deed of Trust securing a Note in favor of the Town, the Town, among other rights available to it, shall have the right to foreclose said Deed of Trust.

F. Resale Inspection Required. After the initial sale of a Residential Unit by the Developer, no Residential Unit may be resold until it has been inspected and determined by the Town or its designee that the Residential Unit meets minimum health and safety standards. After inspection of the Residential Unit, the Town or its designee shall provide the Unit Owner with a completed home inspection signoff detailing the findings of the inspection, and the requirements, if any, which must be satisfied by the Unit Owner before the Residential Unit can be sold. The Town or its designee may require the Unit Owner to make repairs or perform other work or take other remedial or corrective actions in the event the Residential Unit does not meet minimum health and safety standards. In determining applicable minimum health and safety standards, the Town or its designee shall consider the Town's then current building and technical codes, or such other commonly used health and safety standards as the Town, in its discretion, shall determine. In addition to other applicable requirements as the Town shall determine, in order for a Residential Unit to be deemed to meet the minimum health and safety standards the Residential Unit must: (i) be clean; (ii) be in a good and safe condition, normal wear and tear excepted, including, electrical, plumbing and heating systems, structural walls, and windows; and (iii) have fully operational appliances. **THE INSPECTION OF A RESIDENTIAL UNIT MADE BY THE TOWN OR ITS DESIGNEE UNDER THIS SUBSECTION IS SOLELY FOR THE BENEFIT OF THE TOWN, AND SHALL NOT CONSTITUTE A WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESSED OR IMPLIED, TO ANY PERSON AS TO THE CONDITION OF THE RESIDENTIAL UNIT. NO PERSON SHALL HAVE A RIGHT OF ACTION AGAINST THE TOWN OR ITS DESIGNEE IN CONNECTION WITH ANY ACTION OR OMISSION TAKEN OR OMITTED IN CONNECTION WITH SUCH INSPECTION.**

6. Release of Up to Twelve Residential Units. Developer shall be entitled to the release from this Covenant of up to twelve (12) Residential Units constructed or allowed to be constructed as a part of the Project on the basis of one such Residential Unit to be released for each three Residential Units completed and sold to Unit Owners for prices within the price ranges set forth in **Exhibit C** attached hereto. Such releases to be executed by the Town shall be for lots created by the filing of a subdivision or resubdivision plat for one or more of the tracts identified on **Exhibit A**, and lots allowed to have multiple Residential Units constructed thereon shall be released only if the number of Residential Units Developer is entitled to have released is equal to or greater than the number of Residential Units allowed to be constructed on a lot to be released from this Covenant. Developer may request such releases each time three Residential Units have been completed and sold to Unit Owners for prices within the price ranges set forth in **Exhibit C** or may cumulate the right to such releases and request the release of a number of Residential Units determined by dividing the number of Residential Units completed and sold to Unit Owners for prices within the price ranges set forth in **Exhibit C** by three and rounding down to a whole number.

7. Records; Inspection; Monitoring.

A. For so long as the Developer owns any of the Property, the Developer's records with respect to the use and occupancy of the Property shall be subject to examination, inspection and copying by the Town or its authorized agent upon reasonable advance notice. The Town or its authorized agent shall also have the right to enter into or upon the Property for the purpose of determining compliance with the provisions of this Covenant; provided, however, that the Town or its agent shall first attempt to secure the permission of any occupants of the Property prior to making entry.

B. A Unit Owner's records with respect to the Unit Owner's use and occupancy of a Residential Unit shall be subject to examination, inspection and copying by the Town or its authorized agent upon reasonable advance notice. The Town or its authorized agent shall also have the right to enter into or upon a Residential Unit for the purpose of determining compliance with the provisions of this Covenant; provided, however, that the Town or its agent shall first attempt to secure the permission of any occupants of the Residential Unit prior to making entry.

C. For so long as the Developer owns any of the Property, the Developer shall submit any information, documents or certificates requested from time to time by the Town with respect to the occupancy and use of the Property which the Town reasonably deems necessary to substantiate the Developer's continuing compliance with the provisions of this Covenant. Such information shall be submitted to the Town within such reasonable time period as the Town may establish. Without limiting the generality of the foregoing, for so long as the Developer owns any of the Property, not later than December 31st of each year the Developer shall submit to the Town verification, under oath, of Developer's continuing compliance with the provisions of this Covenant.

D. A Unit Owner shall submit any information, documents or certificates requested from time to time by the Town with respect to the occupancy and use of the Unit Owner's Residential Unit which the Town reasonably deems necessary to substantiate the Unit Owner's continuing compliance with the provisions of this Covenant. Such information shall be submitted to the Town within such reasonable time period as the Town may establish.

8. Default; Notice. In the event of any failure of the Developer or a Unit Owner to comply with the provisions of this Covenant, the Town may inform the Developer or the defaulting or non-complying Unit Owner by written notice of such failure and provide the Developer or the defaulting or non-complying Unit Owner a period of time in which to correct such failure. If any such failure is not corrected to the satisfaction of the Town within the period of time specified by the Town, which shall be at least thirty (30) days after the date any notice to the Developer or the defaulting or non-complying Unit Owner is mailed, or within such further time as the Town determines is necessary to correct the violation, but not to exceed any limitation set by applicable law, the Town may without further notice declare a default under this

Covenant effective on the date of such declaration of default; and the Town may then proceed to enforce this Covenant as hereafter provided.

9. Equitable Relief. Developer and each Unit Owner agrees that in the event of the Developer's or a Unit Owner's default under or non-compliance with the terms of this Covenant, the Town shall have the right of specific performance of this Covenant, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for in this Section 9 may be sought singly or in combination with such legal remedies as the Town may be entitled to, either pursuant to the provisions of this Covenant or under the laws of the State of Colorado.

10. Liquidated Damages. Each Unit Owner acknowledges that the unavailability of adequate employee housing within the Town of Breckenridge requires the expenditure of additional Town funds to provide required governmental services and thereby results in an economic loss to the Town. The Town and each Unit Owner further recognize the delays, expense and unique difficulties involved in proving in a legal proceeding the actual loss suffered by the Town in such circumstance. Accordingly, instead of requiring such proof, the Town and each Unit Owner agree that a Unit Owner who violates the Occupancy Restrictions shall pay to Town the sum of \$100 per day for each day in which Unit Owner's Residential Unit is not used in strict compliance with the Occupancy Restrictions. Such amount is agreed to be a reasonable estimate of the actual damages which the Town would suffer in the event of a violation of the Occupancy Restrictions. The provisions of this Section 10 shall not apply to any violation of this Covenant other than a violation of the Occupancy Restrictions. The liquidated damages provided herein shall commence as of the date on which the Property is first used in violation of the Occupancy Restrictions, and not on the date when the Town learns of such violation or on the date when the Town gives notice of default as provided in Section 8. Further, the total amount of liquidated damages payable to the Town under this Section 10 shall in no event exceed the then-current value of the Residential Unit owned by the defaulting or noncomplying Unit Owner. The liquidated damages provided for in this Section 10 may be collected by the Town personally from the defaulting or noncomplying Unit Owner, either singly or in combination with an action for equitable enforcement of this Covenant as provided in Section 9 of this Covenant.

11. Town Authority To Enforce. The restrictions, covenants and limitations created herein are for the benefit of the Town which is given the sole power to enforce this Covenant in the manner herein provided.

12. Waiver; Termination; Modification Of Covenant.

A. For so long as the Developer owns any of the Property, the restrictions, covenants and limitations of this Covenant may be waived, terminated or modified only with the written consent of both the Developer and the Town in order to: (i) provide clarification to any provisions hereof which may be unclear or subject to differing interpretations; (ii) correct any

errors identified herein; or (iii) amend the Affordability Restrictions in any way that makes this Covenant less restrictive on the Unit Owners.

B. Once Developer no longer owns any of the Property, the Town shall have the unilateral right to amend the restrictions, covenants and limitations of this Covenant in order to: (i) provide clarification to any provisions hereof which may be unclear or subject to differing interpretations; (ii) correct any errors identified herein; or (iii) amend the Affordability Restrictions in any way that makes this Covenant less restrictive on the Unit Owners.

C. The Town's and/or the Town and the Developer's determination (as applicable) that an amendment to this Covenant is authorized by this Section 12 shall be conclusive, and shall not be subject to judicial review.

D. No waiver, modification, or termination of this Covenant shall be effective until the proper instrument in writing shall be executed and recorded in the office of the Clerk and Recorder of Summit County, Colorado.

E. The Town may also terminate this instrument by recording a release in recordable form without the signature of Developer. For convenience, such instrument may run to "the owner or owners and parties interested" in the Property. If the Town desires to terminate this instrument as to one or more of the Residential Units, but less than all of the Residential Units, the Town's instrument may run to "the owner or owners and parties interested" in the specific Residential Units to be released from this Covenant.

13. Statute of Limitations. Developer and each Unit Owner hereby waive the benefit of, and agree not to assert in any action brought by the Town to enforce the terms of this Covenant, any applicable statute of limitation which might otherwise operate to bar the ability of the Town to enforce this Covenant, including, but not limited to, the provisions of §38-41-119, C.R.S., or any successor statute. In the event that any statute of limitations may lawfully be asserted by Developer or any Unit Owner in connection with an action brought by the Town to enforce the terms of this Covenant, it is agreed between Developer, each Unit Owner and the Town that each and every day during which any violation of the terms of this Covenant occurs shall be deemed to be a separate breach of this Covenant for the purposes of determining the commencement of the applicable statute of limitations period.

14. Developer's Covenant Of Title And Authority. Developer covenants, represents and warrants to the Town that Developer has good and marketable title to the Property and full and complete legal authority to execute and deliver this Covenant to the Town; subject only to the following liens or encumbrances: (i) a deed of trust dated June 1, 2005, 2006 and recorded June 7, 2005, 2006 under Reception No. 792163 of the records of the Clerk and Recorder of Summit County, Colorado; and (ii) taxes for 2006 and subsequent years. The consent of the beneficiary of the referenced deed of trust to this Covenant is attached hereto as **Exhibit D**.

15. No Conflicting Agreement. Developer covenants, represents and warrants to the Town that the execution and delivery of this Covenant to the Town will not violate any agreement now existing with respect to the Property. Developer shall not execute any other agreement with provisions contradictory to, or in opposition to, the provisions of this Covenant, and in any event, it is agreed that the provisions of this Covenant are paramount and controlling as to the rights, obligations and limitations herein set forth and shall supersede any other provision in conflict herewith.

16. Entire Agreement. This Covenant constitutes the entire agreement and understanding between the parties relating to the subject matter of this Covenant, and supersedes any prior agreement or understanding relating thereto.

17. Severability. In case one or more of the provisions contained in this Covenant or any application hereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Covenant and the application thereof shall not in any way be affected or impaired thereby.

18. Attorney's Fees. If any action is brought in a court of law by any party to this Covenant concerning the enforcement, interpretation or construction of this Covenant, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as well as costs, including expert witness's fees, incurred in the prosecution or defense of such action.

19. Notices. Except as otherwise provided, all notices provided for or required under this Covenant shall be in writing, signed by the party giving the same, and shall be deemed properly given when actually received or two (2) days after mailed, postage prepaid, certified, return receipt requested, addressed to the parties hereto at their addresses appearing on the signature page(s). Each party, by written notice to the other party, may specify any other address for the receipt of such instruments or communications. Notice to a Unit Owner shall be sent to the address to which tax notices for the Residential Unit are to be sent as reflected in the records of the office of the Treasurer of Summit County, Colorado.

20. Applicable Law. This Covenant shall be interpreted in all respects in accordance with the laws of the State of Colorado.

21. Recording. This Covenant shall be placed of record in the real property records of Summit County, Colorado.

22. Town of Breckenridge Affordable Housing Guidelines. This Covenant shall be interpreted in accordance with the Town of Breckenridge Affordable Housing Guidelines ("Guidelines"), as amended from time to time by the Town Council following a public hearing; provided, however, that to the extent the Guidelines are inconsistent with this Covenant, this Covenant shall control.

23. Binding Effect and Running with the Land. This Covenant shall be binding upon, and inure to the benefit of the parties, their respective heirs, successors, assigns, legal representatives and personal representatives, and all subsequent owners of the Property or any interest therein, and shall run with the land. Without limiting the generality of the preceding sentence, once a Residential Unit has been sold by the Developer, the provisions of this Covenant shall apply to each Unit Owner of such Residential Unit subsequent to the Developer. The Developer and each Unit Owner agree that this Covenant does not constitute an unreasonable restraint on alienation of the Property or any interests therein, and that any and all requirements of the laws of the State of Colorado to be satisfied in order for the provisions of this Covenant to constitute a restrictive covenant running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or in the alternative, that an equitable servitude has been created to insure that the covenants, conditions and restrictions set forth herein run with the land. Each and every contract, deed or other instrument hereafter executed conveying the Property, any portion thereof, or any Residential Unit, shall expressly provide that such conveyance is subject to this Covenant; provided, however, that the covenants, conditions and restrictions contained herein shall survive and be effective as to successors and/or assigns of all or any portion of the Property and any Residential Unit, regardless of whether such contract, deed or other instrument hereafter executed conveying the Property, any portion thereof, or any Residential Unit, provides that such conveyance is subject to this Covenant.

24. Vesting and Term. Developer and Town agree that the Town's rights and interests under this Covenant are vested immediately and that this Covenant, and any amendments hereto, shall be binding and in full force and effect in perpetuity, unless terminated as herein provided.

25. Section Headings. Section headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Covenant.

26. Terminology. Wherever applicable, the pronouns in this Covenant designating the masculine or neuter shall equally apply to the feminine, neuter and masculine genders. Furthermore, wherever applicable within this Agreement, the singular shall include the plural, and the plural shall include the singular. Defined terms shall have the meaning provided in the definition. Words and phrases that are not defined shall be read in context and construed according to the rules of grammar and common usage.

IN WITNESS WHEREOF the parties have executed this Covenant the date first written above.

VIC'S LANDING LLC, a Colorado limited liability company

By: Thomas M. Silengo
Thomas Silengo, Manager

Developer's Address:

P.O. Box 5684
Frisco, CO 80443
Attention: Thomas Silengo, Manager

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: Timothy J. Gagen
Timothy J. Gagen, Town Manager

ATTEST:

Mary Jean Loufek
Mary Jean Loufek, CMC,
Town Clerk

Town's Address:

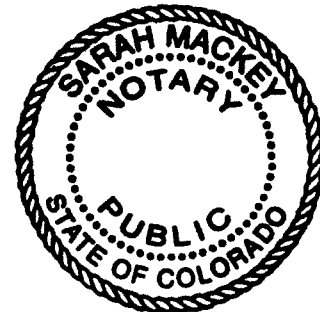
P. O. Box 168
Breckenridge, CO 80424

STATE OF COLORADO)
) ss.
COUNTY OF Summit)

The foregoing instrument was acknowledged before me this 3rd day of October, 2006 by Thomas Silengo, as Manager of Vic's Landing LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 7.10.2010



Sarah Mackey
Notary Public

My Commission Expires 07/10/2010

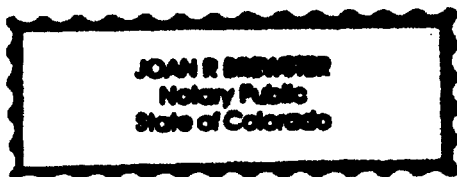
STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 5th day of October, 2006 by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My Commission Expires
May 3, 2007

My commission expires: _____



Joan R. Brewster
Notary Public

EXHIBIT A
TO
EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT

Description Of Property Subject To The Covenant

A PARCEL OF LAND LYING WHOLLY WITHIN THE BRADDOCK PLACER, M. S. 13465, SECTION 18, TOWNSHIP 6 SOUTH, RANGE 77 WEST OF THE 6TH PRINCIPAL MERIDIAN SITUATE IN THE COUNTY OF SUMMIT, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH 1/4 CORNER OF SECTION 18 AND RUNNING SOUTH 11 DEGREES 02 MINUTES 09 SECONDS EAST 1541.20 FEET THENCE SOUTH 77 DEGREES 14 MINUTES 20 SECONDS EAST 142.36 FEET TO A POINT WHICH POINT IS IN FACT THE TRUE POINT OF BEGINNING

THENCE SOUTH 77 DEGREES 14 MINUTES 20 SECONDS EAST 453.19 FEET, ROAD

THENCE SOUTH 12 DEGREES 45 MINUTES 40 SECONDS WEST 499.98 FEET,

THENCE NORTH 77 DEGREES 14 MINUTES 20 SECONDS WEST 453.19 FEET

THENCE NORTH 12 DEGREES 45 MINUTES 40 SECONDS EAST 499.98 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT B
TO
EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT

Appreciating Limiting Promissory Note
(the "Note")

FOR VALUE RECEIVED, _____^{Date} (the "Maker"), jointly and severally if more than one, promises to pay to the order of the TOWN OF BRECKENRIDGE, P.O. Box 168, Breckenridge, CO 80424 ("Town"), upon demand ("Due Date"), all sums that become due to Town from Maker after the date of this Note under the Vic's Landing Employee Housing Restrictive Covenant and Agreement, dated _____, 2006 and recorded _____, 2006 under Reception No. _____ of the records of the Clerk and Recorder of Summit County, Colorado (the "Vic's Landing Employee Housing Restrictive Covenant and Agreement").

This Note shall not bear interest until the Due Date. If this Note is not paid on or before the Due Date, it shall thereafter bear interest at the rate of eighteen percent (18%) per annum from the Due Date until fully paid.

The Maker and any surety, guarantor and endorser of this Note, jointly and severally, hereby waive notice of, and consent to any and all extensions of this Note or any part thereof without notice and each hereby waives demand, presentment for payment, notice of nonpayment and protest, and any and all notice of whatever kind or nature.

The Maker agrees to pay all costs of collection, including reasonable attorney's fees, incurred by Holder in the collection of this Note or any part thereof. If the Deed of Trust securing this Note is foreclosed, the undersigned also agrees to pay all costs and attorney's fees as provided therein.

No waiver by the Holder of any one or more of the terms and conditions herein contained shall be deemed a waiver of the other terms and conditions herein contained; nor shall any such waiver be considered for any reason as continuing or perpetual in nature.

This Note is secured by a deed of trust on the Residential Unit described as Lot __, Block __, Vic's Landing Subdivision, according to the Plat thereof filed in the Summit County, Colorado real estate records on the _____ day of _____, 2006 at Reception No. _____.

The undersigned hereby acknowledges receipt of a true copy of this Note.

THE MAKER'S INITIAL PURCHASE PRICE FOR THE RESIDENTIAL UNIT, AS DESCRIBED IN THE VIC'S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT, IS \$ _____ . SUCH SUM DOES NOT INCLUDE ANY REAL ESTATE COMMISSION PAID BY EITHER THE BUYER OR THE SELLER AT THE TIME OF MAKER'S PURCHASE OF THE RESIDENTIAL UNIT.

(Maker's Initial(s): _____)

Maker

Maker

EXHIBIT C
TO
EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT

Affordability Benchmarks

Purchase Price Affordable to Under 80% AMI	Purchase Price Affordable to Under 100% AMI
17 units	7 units

Up to 12 Units may be released from this Restrictive Covenant with such releases to occur at the rate of one Unit allowed to be released when three Units have been completed and sold within the price ranges set forth above.

THE PURCHASE PRICE AFFORDABILITY SHALL BE CALCULATED AS FOLLOWS:

Then current Area Median Income for the appropriate household size as determined by the US Dept. of Housing and Urban Development for Summit County, Colorado or successor index, or if no successor index, such other generally accepted index selected by the Town, ("AMI") \$ _____

Multiplied by applicable AMI percentage (80%, 100%, 120% or 150%) \$ _____

Divided by number of months in year (12) \$ _____

Multiplied by 30% (amount available for housing cost) _____

Less \$200 (amount for taxes, insurance, HOA fees and private mortgage insurance) \$ _____

Subtotal (amount available for Mortgage Payment) \$ _____

Mortgage Amortization Calculation (from
Amortization Table or calculator)

Amortization: 30 years
Interest Rate: then current 30 yr.
fixed rate or 7%,
whichever is lower *

Mortgage Payment calculated above

Equals Mortgage Amount \$ _____

Divided by .90 (Mortgage Amount plus 10%
down payment) equals Affordable Purchase
Price \$ _____

* Wall Street Journal national index, western region, or successor index, or if no successor index,
such other generally accepted index selected by the Town.

EXHIBIT D
TO
EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT

The undersigned, being the holder of a lien encumbering the real property described on **Exhibit A**, hereby consents to the execution and recording of this Phase II Vic's Landing Employee Housing Restrictive Covenant and Agreement ("Restrictive Covenant"), and further agrees that the lien or encumbrance owned or possessed by the undersigned against the real property described on **Exhibit A** shall be subordinated and made junior and subject to this Restrictive Covenant. In the event of the foreclosure of the lien or encumbrance owned or possessed by the undersigned, this Restrictive Covenant shall be treated as a prior and superior encumbrance, and any foreclosure sale shall be made subject to this Restrictive Covenant.

LIEN HOLDER:

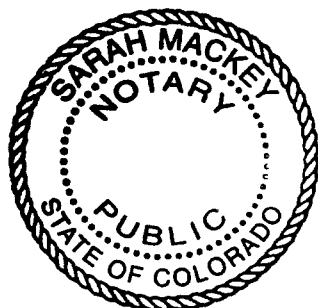
By Blake Davis
Senior Vice President
Title

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 3 day of October, 2006, by Blake Davis as Senior Vice President of FirstBank of Breckenridge.

WITNESS my hand and official seal.

My commission expires: 7.10.06



My Commission Expires 07/10/2010

Sarah Mackey
Notary Public

Exhibit "D"