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PAULA ROBINSON FATHHEAD COUNTY MONTANA

SECOND AMENDMENT TO
DECLARATION OF CONDOMINIUM FOR WATERSIDE CONDOMINIUM
UNDER THE MONTANA UNIT OWNERSHIP ACT
DOCUMENT NO. 200521713500

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APPROVED 12/21/06
0011350 thru 0011382, 0461350, 0010876 thru 0010891

**SECOND AMENDMENT TO THE DECLARATION OF
CONDOMINIUM FOR WATERSIDE CONDOMINIUM
UNDER THE MONTANA UNIT OWNERSHIP ACT**

This Second Amendment to Declaration of Condominium for Waterside Condominium under the Montana Unit Ownership Act is executed this 8th day of December, 2006 by Waterside Development, LLC, a Montana Limited Liability Company in Kalispell, Montana (hereinafter referred to as "Declarant").

WHEREAS, Declarant caused to be filed that Declaration of Condominium for Waterside Condominium with the Flathead County Clerk and Recorder as Document No. 200521713500 (hereinafter sometimes "Original Declaration"); and

WHEREAS, pursuant to said Declaration, Declarant specifically reserved unto itself the right to amend said Declaration to, among other things, expand the number of Units to be included within said Declaration of Condominium; and

WHEREAS, Declarant previously amended said Declaration pursuant to that First Amendment to Declaration of Condominium for Waterside Condominium dated February 14, 2006 and recorded with the Flathead County Clerk and Recorder as Document No. 200604516100; and

WHEREAS, Declarant desires to amend said Declaration of Condominium and First Amendment to Declaration of Condominium to provide for an additional fifteen (15) Units, which Units shall be the final Units to be constructed and incorporated into Waterside Condominium.

NOW, THEREFORE, in consideration of the foregoing recitals and the amendment powers reserved unto Declarant as set forth in that Declaration of Condominium on file and of record in the office of the Flathead County Clerk and Recorder as Document 200521713500, Declarant hereby amends said Declaration as follows:

1. **Additional Units:** Declarant hereby expands the number of units to be included within said Declaration by adding one (1) three (3) story condominium building comprised of fifteen (15) Units (hereinafter sometimes "Building III"), all numbered as set forth on Exhibit B1 attached hereto and by this reference incorporated herein. The general location of said condominium buildings is depicted on Exhibit A1(b) of the original Declaration as "Phase 3 (FUTURE)." The general dimensions and designations of the units contained within the above described buildings are set forth on the following Exhibits attached hereto and by this reference incorporated herein.
 - a. Exhibit A12-Building III First floor plans depicting Units III-101 through III-105.
 - b. Exhibit A13-Building III Second floor plans depicting Units III-201 through III-205.
 - c. Exhibit A14-Building III Third floor plans depicting second levels of Units III-301 through III-305.

Each Unit, together with its appurtenant undivided interest in the common elements, shall comprise one unit, shall be inseparable, and may be conveyed, leased, devised, or encumbered only as a condominium unit. Each unit shall be bound as to both horizontal and vertical boundaries as shown on the floor plans set forth on Exhibits A12, A13 and A14, subject to any encroachments contained in the building whether they exist now or created by construction, settlement, or movement of the building or by permissible repairs, reconstruction or alterations. Each unit shall include all of the walls and partitions within the units perimeter boundaries, the interior decorated or finished surfaces of all walls, floors and ceilings within the units perimeter boundaries, and all fixtures attached to the property that are within the units perimeter walls.

2. **Common Elements:** The ownership interest of each Unit Owner is hereby amended pursuant to ¶ 5 of the Original Declaration. The Owner of each Unit shall have an undivided 1/65th interest in the Common Elements, subject to the interests of other Owners of Units in Waterside Condominium and subject to the amendment powers retained by Declarant in

attached to the Original Declaration is hereby amended and completely restated as set forth on Exhibit B1 attached hereto and by this reference incorporated herein.

The existing dock structure constructed on the boundary line separating Parcel C from Parcel D, both of which are depicted on Certificate of Survey No. 8202 on file and of record in the office of the Flathead County Clerk and Recorder, shall not compromise or be construed as a Common Element appurtenant to the real property subject to the original Declaration as amended and the Montana Unit Ownership Act. Said dock structure was intentionally omitted from Exhibit B2 attached to the original Declaration depicting the docks constructed by Declarant as General Common Elements. The existing dock structure constructed on the boundary separating Parcel C from Parcel D depicted on Certificate of Survey No. 8202 was never intended to be a Common Element appurtenant to each Unit and Unit Owner. No Unit Owner shall have any right, title or interest in said dock structure. Said dock structure is depicted on Certificate of Survey No. 8202 referenced herein, and the rights to said dock structure are hereby formally reserved unto Declarant.

3. **Garage Allocation:** Garage Numbers 30 through 68 depicted on Exhibit B5 attached hereto are Limited Common Elements reserved and allocated to the following Units of Building III and Building IV:

<u>Unit No.</u>	<u>Parking No.</u>
III-101	59
III-102	47
III-103	48
III-104	57
III-105	53
III-201	60
III-202	49
III-203	50
III-204	58
III-205	56
III-301	66
III-302	54
III-303	55
III-304	64
III-305	65
IV-101	40
IV-102	32
IV-103	35
IV-104	42
IV-105	67
IV-106	51
IV-107	68
IV-201	30
IV-202	33
IV-203	37
IV-204	63
IV-205	61
IV-206	46
IV-207	44
IV-301	31
IV-302	36
IV-303	41
IV-304	62
IV-305	45
IV-306	43
IV-307	52

4. **Future Amendment:** Declarant, consistent with the original Declaration amended hereby, specifically reserves the rights contained in said Declaration to further amend said Declaration by altering the allocation of the limited common elements, specifically, the garages. All

amendment powers set forth in the original Declaration are hereby reserved unto Declarant, including but not limited to the power to add additional units, reallocate ownership of common elements, allocate limited common elements such as boatslips and garages, as well as additional amendments to the Declaration all as set forth in said Declaration of the Condominium referenced herein.

- 5. **Terms of Original Declaration:** All terms and conditions set forth in the Original Declaration, with the exception of those amended hereby and amended pursuant to that First Amendment to Declaration of Condominium for Waterside Condominium recorded with the Flathead County Clerk and Recorder as Document No. 200604516100, shall remain in full force and effect subject to the amendment powers reserved unto Declarant contained in said Original Declaration and reaffirmed hereby.

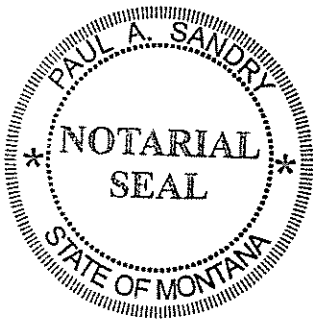
8th IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this day of December, 2006.

WATERSIDE DEVELOPMENT, LLC
BY PEAK DEVELOPMENT, LLP

By: [Signature]
Matthew J. Waatti, Partner

STATE OF MONTANA)
) ss.
County of Flathead)

This instrument was acknowledged before me on the 8th day of December, 2006 by **Matthew J. Waatti as Partner of Peak Development, LLP, a Member of Waterside Development, LLC.**



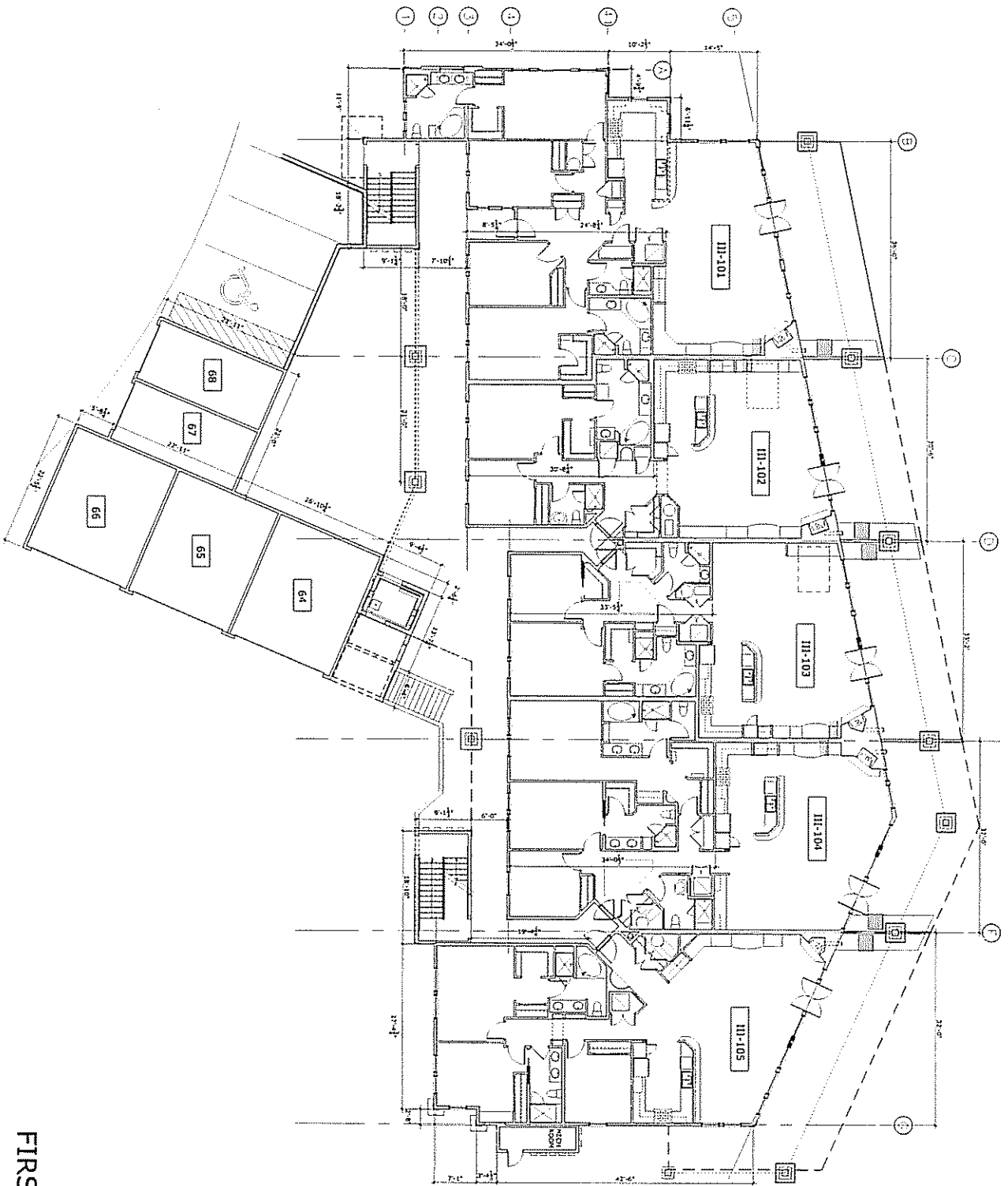
[Signature]
PAUL A. SANDRY (printed name)
Notary Public for the State of Montana
Residing at KALISPELL
My Commission expires 9/25/2010

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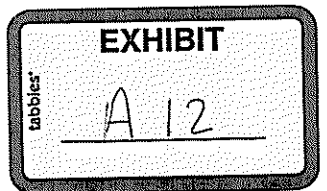
AMENDED ALLOCATION OF PERCENTAGE OWNERSHIP
OF COMMON ELEMENTS

<u>Unit No.</u>	<u>Percentage Ownership of Common Elements</u>
I-100	1.53846%
I-101	1.53846%
I-102	1.53846%
I-103	1.53846%
I-104	1.53846%
I-105	1.53846%
I-200	1.53846%
I-201	1.53846%
I-202	1.53846%
I-203	1.53846%
I-204	1.53846%
I-205	1.53846%
I-300	1.53846%
I-301	1.53846%
I-302	1.53846%
I-303	1.53846%
I-304	1.53846%
II-100	1.53846%
II-101	1.53846%
II-102	1.53846%
II-103	1.53846%
II-104	1.53846%
II-105	1.53846%
II-200	1.53846%
II-201	1.53846%
II-202	1.53846%
II-203	1.53846%
II-204	1.53846%
II-205	1.53846%
III-100	1.53846%
III-101	1.53846%
III-102	1.53846%
III-103	1.53846%
III-104	1.53846%
III-200	1.53846%
III-201	1.53846%
III-202	1.53846%
III-203	1.53846%
III-204	1.53846%
III-300	1.53846%
III-301	1.53846%
III-302	1.53846%
III-303	1.53846%
III-304	1.53846%
IV-101	1.53846%
IV-102	1.53846%
IV-103	1.53846%
IV-104	1.53846%
IV-105	1.53846%
IV-106	1.53846%
IV-107	1.53846%
IV-201	1.53846%
IV-202	1.53846%
IV-203	1.53846%
IV-204	1.53846%
IV-205	1.53846%

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FIRST FLOOR PLAN



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IV-206	1.53846%
IV-207	1.53846%
IV-301	1.53846%
IV-302	1.53846%
IV-303	1.53846%
IV-304	1.53846%
IV-305	1.53846%
IV-306	1.53846%
IV-307	1.53846%

Total 100%



1"=20'-0"

EXHIBIT
 B5

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LEGAL DESCRIPTION

A tract of land located in US Government Lot 4 of Section 7, Township 26 North, Range 20 West, Principal Meridian, Montana, Flathead County, Montana and more particularly described as follows:

Commencing at the Southwest corner Parcel D of Certificate of Survey No. 8202 and which point is the true Point of Beginning;

Thence on and along the boundaries of said Parcel D, the following eight (8) courses:

North 15°30'30" W, a distance of 337.59 feet to a point;

South 89°04'41" E, a distance of 56.70 feet to a point;

North 00°42'27" E, a distance of 95.57 feet to a point;

South 89°08'06" E, a distance of 423.09 feet to a point;

South 47°04'34" E, a distance of 190.03 feet to a point;

South 05°00'04" E, a distance of 281.20 feet to a point;

South 89°32'07" W, a distance of 265.50 feet to a point;

South 89°37'49" W, a distance of 288.83 feet to the true Point of Beginning.

This Tract contains 5.315 acres as shown on Certificate of Survey No. 16830.

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AMENDMENT APPROVAL BY DEPARTMENT OF REVENUE

The Waterside Condominium amendment has been reviewed by an agent of the Department of Revenue for Flathead County, Montana and includes all of the information required for approval.

Dated this 12th day of December 2006

Signature Jami Kingery

Printed Name Jami Kingery