



**Restrictive Covenant  
For Affordable/Employee Housing at  
Monarch Townhomes**

THIS RESTRICTIVE COVENANT ("Covenant") is entered by and between RGB/CB, LLC ("Owner") and the Board of County Commissioners, Summit County, Colorado ("County"), a body politic of the State of Colorado (collectively the "Parties") on this 24th day, of May, 1999.

**Recitals**

A. Owner is the owner of record of the hereafter described real property situated in Summit County, Colorado further described on Exhibit 1, attached hereto and incorporated by this reference ("Property"); and

B. Owner intends to construct, operate and sell an affordable/employee housing complex on the Property, consisting of thirteen (13) residential units ("Units"), to be known as the Monarch Townhomes; and

C. Pursuant to the Old Ironsides Planned Unit Development Designation ("PUD"), Owner is required to restrict the use and sale of the units to affordable/employee housing units consistent with the Summit County Land Use and Development Code in a form satisfactory to the County through a restrictive covenant running with the land; and

D. Under this Covenant Owner intends, declares and covenants that the following restrictive covenant set forth herein governing the use of the Property and Units shall be and is a covenant running with the land and intended to be and shall be binding upon Owner and all subsequent owners of the Property or individual Units.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Owner, the Parties agree as follows:

**Restrictions**

1. Development. The Units shall be developed to address the shortage of affordable housing in the community, which are authorized and approved pursuant to the PUD and the Summit County Land Use and Development Code.

2. Employee Housing. The Units located on the Property shall be used and occupied solely and exclusively by a person or persons who are eighteen (18) years of age or older who earns his or her living by working in Summit County, Colorado at least thirty (30) hours per week on an annual basis, together with such person's spouse and minor children, if any, or a natural person age fifty-five (55) years or older who earns his or her living by working in Summit County, Colorado at least fifteen (15) hours per week on an annual basis, together with such person's spouse and minor children, if any.

3. Sale or Conveyance. Owner may sell or convey the Units to subsequent owners ("Unit Owner") for an amount not to exceed the affordability limits at or below 100% of area median income at the time Construction of the Units begins as most recently determined by the U.S. Department of Housing and Urban Development ("HUD") or the closest published index in the event HUD ceases to issue such figures.

4. Subsequent Sale or Conveyance by Unit Owner. In the event a Unit is sold or conveyed, such Unit(s) shall not be sold by a Unit Owner for an amount in excess of the sale price, subject to the restrictions, limitations, and exceptions, as stated in Section IV *Resale Restrictions*, including all subsections, of the "Restrictive Covenant for Monarch Townhomes", dated April 13, 1999, between Owner and the Town of Breckenridge, attached hereto as Exhibit 2 and incorporated herein.

5. Recording and Filing. This Covenant shall be placed of record in the real property records of the Clerk and Recorder of Summit County, Colorado, and except as otherwise provided herein, the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to Owner, Owner's successors and assigns, and all subsequent owners and the County, its successors and assigns.

6. Term. The term of this Covenant shall be for a period of ninety-nine (99) years, commencing with the date of the recording of this Covenant in the records of the Summit County Clerk and Recorder.

7. Subordination. Owner covenants to obtain and record the subordination to this Covenant of the relative recording priority of any prior recorded lien on the Property, and such subordination and evidence thereof satisfactory to the County shall be a condition precedent to the issuance of any development permit required for the development of the Units. This Covenant is intended to be an encumbrance on the Property which is superior to all other liens and encumbrances, except those for general property taxes and the "Restrictive Covenant for Monarch Townhomes", dated April 13, 1999, between Owner and the Town of Breckenridge, attached hereto as Exhibit 2.

8. Owner's Covenant of Title and Authority. Owner covenants, represents and warrants to the County that Owner has good and marketable title to the Property and full and complete legal authority to execute and deliver this Covenant to the County subject only to the lien of general property taxes and the Restrictive Covenant for Monarch Townhomes, dated April 13, 1999, between Owner and the Town of Breckenridge, noted in Paragraph 8 above.

9. Default; Notice. In the event of any failure of Owner to comply with the provisions of this Covenant, the County may inform Owner by written notice of such failure and provide Owner a period of time in which to correct the failure. If any such failure is not corrected to the satisfaction of the County within the period of time specified by the County, which shall be no less than twenty (20) days after the date of any notice to Owner is mailed, or within such further time as is reasonably necessary to correct the violation, but not to exceed any limitation set by law, the County may without further notice declare a default under this

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

10. Remedies. County shall have any and all remedies provided by law for violation or other breach, or prospective breach, default, or prospective default, of this Covenant or any of its terms, including but not limited to specific performance, injunction, and damages and costs, including reasonable attorney's fees, for enforcing this Covenant.

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

12. Attorney's Fees. If an action is brought to enforce this Covenant, the prevailing party shall be entitled to costs and reasonable attorney's fees.

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

14. Modification. This Covenant may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

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

16. Governmental Immunity. The County does not intend to waive by any provision of this Covenant, the monetary limits or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as may be amended.

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. Applicable Law. This Covenant shall be interpreted in all respects in accordance with the laws of the State of Colorado. Venue shall only be proper in Summit County, Colorado.

19. Waiver. The failure of either party to exercise any of its rights under this Covenant shall not be a waiver of those rights.

20. Terminology. Wherever applicable, the pronouns in this Covenant designating the masculine or neuter shall equally apply to the feminine, neuter and masculine genders. Furthermore, whenever applicable within this Covenant, the singular shall include the plural, and the plural shall include the singular.

21. Notices. Except as otherwise stated herein, any notice or demand to be given under this Covenant shall be delivered in person or deposited in the United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed as follows:

Summit County Government  
Attn: Planning Department  
Post Office Box 5660  
Frisco, CO 80443

RGB/CB, LLC  
Attn: George Beardsley, Manager  
P.O. Box 2280  
Breckenridge, CO 80424

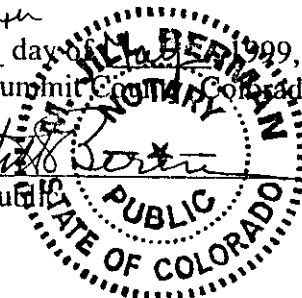
IN WITNESS WHEREOF the Parties have executed this Covenant on the date first written above.

**SUMMIT COUNTY**  
**Board of County Commissioners**

By: Thomas A. Long  
Thomas A. Long, Chair

STATE OF COLORADO )  
                                      ) ss.  
COUNTY OF SUMMIT )

The forgoing instrument was acknowledge before me this 24<sup>th</sup> day of May, 1999, by Thomas A. Long, as Chair of the Board of County Commissioners, Summit County, Colorado. Witness my hand and official seal.

M. J. Bern  
Notary Public  


MY COMMISSION EXPIRES: 3/10/2003

**OWNER**  
**RGB/CB, LLC**

By: George B. Beardsley  
Printed Name: George B. Beardsley  
Title: Manager

STATE OF COLORADO )  
                                      ) ss.  
COUNTY OF SUMMIT )

The forgoing instrument was acknowledge before me this 24 day of May, 1999, by George Beardsley as Manager of RGB/CB, LLC. Witness my hand and official seal.

M. J. Bern  
Notary Public

EXHIBIT 1

LEGAL DESCRIPTION:

THAT PORTION OF THE OLD IRONSIDES , BEN HARRISON, COUNTESS, AGGIE AND MAGGIE LODE MINING CLAIMS, U.S. SURVEY NO. 7388 , AND OF THE MONARCH AND BADGER LODE MINING CLAIMS, U.S. SURVEY NO. 7569 , DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER NO. 13 OF JUNIATA EXTENSION, U.S. SURVEY NO. 6989;  
THENCE N 09° 36' 00" E, 300.00 FEET; THENCE S 20° 30' 37" E, 198.00 FEET;  
THENCE S 69° 29' 23" W, 534.10 FEET; THENCE S 65° 03' 27" E, 192.90 FEET;  
THENCE N 60° 30' 51" E, 1489.96 FEET; THENCE N 21° 14' 16" W, 232.29 FEET;  
THENCE S 28° 27' 55" W, 390.19 FEET; THENCE N 61° 22' 13" W, 301.33 FEET;  
THENCE N 22° 35' 31" E, 37.12 FEET; THENCE S 60° 26' 00" W, 706.89 FEET;  
THENCE S 00° 21' 51" W, 10.39 FEET; THENCE N 89° 38' 09" W, 18.05 FEET;  
THENCE S 60° 26' 00" W, 299.67 FEET; THENCE S 20° 26' 51" E, 160.50 FEET;  
THENCE N 69° 31' 36" E 1.32 FEET; THENCE N 89° 38' 20" W, 419.39 FEET;  
THENCE S 69° 35' 13" W 62.50 FEET; THENCE S 80° 35' 15" E, 362.13 FEET;  
THENCE N 15° 59' 00" E 156.56 FEET, TO THE POINT OF BEGINNING.

COMPRISING 13.4 ACRES, MORE OR LESS BALDY RIGHT OF WAY OF 2.508 ACRES,  
LEAVING 10.982 NET ACRES.

THIS DESCRIPTION IS BASED ON A JUNE 29, 1981 PERIMETER SURVEY COMPLETED BY  
RAYMOND D. MCGINNIS L.S. NO. 9939, AND RECORD INFORMATION.

