

Mail Original to:
Cattail Creek Community Association
P.O. Box 11842
Bozeman MT 59719



CATTAIL CREEK
A Community Development
by Sandan, L.L.C.

Second Amended & Restated Covenants
Phases 1, 2 & 3

Prepared By:
~~Intrinsic Architecture, Inc.~~

Prepared For:
~~Sandan, LLC & the Cattail Creek~~
~~Community Association (CCCA)~~

Date: _____



Second Amended & Restated Covenants
Phases 1, 2 & 3

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~~DECLARATION OF~~**SECOND** AMENDED & RESTATED PROTECTIVE
COVENANTS & RESTRICTIONS FOR CATTAIL CREEK PHASES 1, 2 &
3**SUBDIVISION**

THIS ~~DECLARATION OF THIS~~**SECOND** AMENDED AND RESTATED PROTECTIVE COVENANTS is made this _____ day of _____, ~~2008~~**2016**, by Sandan, LLC and the Cattail Creek Community Association, hereinafter referred to as "~~Declarant~~**Association**";

W I T N E S S E T H :

WHEREAS, ~~Sandan, LLC and the Cattail Creek Community Association (hereinafter referred to as Declarant)~~ are, or represents; the owners of the real property located in Cattail Creek Subdivision for the lands more particularly described in Exhibit A, which are located in the City of Bozeman, Gallatin County, Montana; and

WHEREAS, on August 20, 2002, ~~Declarant~~ Sandan, LLC recorded Covenants Cattail Creek Subdivision, Phase 1 as Document Number 2078633 in the office of Gallatin County Clerk and Recorder. With the recording of said ~~those~~ covenants, Phase 1 established the Community Association for Cattail Creek Subdivision ~~Phase 1~~; and

WHEREAS on November 12, 2003, ~~Declarant~~ Sandan, LLC recorded Covenants Cattail Creek Subdivision, Phase 2 as Document Number 2131569 in the office of Gallatin County Clerk and Recorder, ~~With the recording of said those~~ covenants, Phase 2 established the Community Association for Cattail Creek Subdivision ~~Phase 2~~; and

WHEREAS on October 20, 2005, ~~Declarant~~ Sandan, LLC recorded Covenants Cattail Creek Subdivision, Phase 3 as Document Number 2206253 in the office of Gallatin County Clerk and Recorder. ~~With the recording of said those~~ covenants, Phase 3 established the Community Association for Cattail Creek Subdivision ~~Phase 3~~; and

WHEREAS, on _____, **March 26**, 2008, Phases 1, 2 and 3 of Cattail Creek Community Associations conducted an election and received ballots by more than 75% of their respective members affirmatively voting to consolidate the covenants for each phase of Cattail Creek Subdivision, the Bylaws for each phase of Cattail Creek subdivision and ~~determining for the betterment of all Phases of Cattail Creek Subdivision, the governing Community Associations should be consolidated into one Community Association~~**creating separate design regulations for the subdivision**; and

WHEREAS, on May 15, 2008 the Association recorded the Declaration of Amended & Restated Covenants & Restrictions for Cattail Creek Phases 1, 2 & 3 in the office of the Gallatin County Clerk and Recorder as Document no. 2300076,

which consolidated the ~~owners' associations~~covenants for the three phases of the subdivision into one ~~entity and revised the~~set of covenants applicable to all of the phases; and

WHEREAS, ~~Declarant~~~~the Association~~ intends to continue to ~~fostering the~~ development of the land with single family residences, multi-family residences, neighborhood commercial enterprises, compatible light industrial uses, parks, private open space and a variety of uses, and the purpose of this declaration is to ~~create and~~keep the community area desirable, attractive, beneficial and suitable in architectural design, materials and appearance; and to guard against unnecessary interference with the natural beauty of the community area for all the mutual benefit and protection of owners within the community area; and

WHEREAS, ~~Declarant~~~~Association~~ affirms and further re-declares that all land described in Exhibit "A" shall be held, sold, conveyed, encumbered, leased, occupied and improved, subject to these ~~S~~second Amended and ~~R~~restated Cattail Creek Covenants, meaning the limitations, covenants and restrictions set forth in this declaration and any subsequent amendments hereto, or related documents authorized by the filing of these Covenants, all of which are intended to enhance the desirability and attractiveness of the land. These limitations, covenants and restrictions shall run with the land and shall be binding upon all persons having, or who acquire, any right, title or interest in and to the land, and shall inure to the benefit of the ~~Declarant~~, the Association and each person who becomes an owner of the land; and

~~WHEREAS, Declarant desires to continue to subject all of said real property, together with the lots, phases and subdivisions contained therein, to the covenants, conditions, restrictions and reservations herein set forth and referred to as "Covenants"; and~~

~~WHEREAS, the Declarant~~ ~~Association~~ now records the ~~Second~~ Amended and Restated Protective Covenants for Cattail Creek Subdivision, Phases 1, 2 and 3; and

NOW THEREFORE, ~~Declarant~~~~Association~~ does hereby amend the previously recorded ~~Covenants for each Phase of Cattail Creek Subdivision~~ ~~Amended & Restated Covenants & Restrictions for Cattail Creek Phases 1, 2 & 3~~ , as more particularly described above, and impose upon the property the following ~~Second~~ Amended and Restated Covenants, which shall run with the land and shall be binding upon and be for the benefit and value of the ~~Declarant~~~~Association~~ and persons ~~claiming under them~~ ~~owning real property within the subdivision~~, their grantees, successors and assigns, and shall be for the purpose of maintaining a uniform and stable value, character, architectural design, use and development of the property. These ~~Second~~ Amended and Restated Protective Covenants shall apply to the entire property and to all improvements placed or erected thereon,

unless otherwise specifically excepted, and shall have perpetual existence, unless terminated by law or amended as herein provided.

Article 1: Purpose

The purpose of these Covenants is to protect and enhance the Cattail Creek neighborhood and to provide for the maintenance of shared common areas.

Article 2: Property Subject to Covenants

The land described in Exhibit “A” attached hereto shall be held, sold, conveyed, leased, encumbered, occupied and improved subject to this Declaration. The Covenants shall inure to and pass with each and every parcel, tract, lot or division.

Article 3: Relationship to other Documents

3.1 Local Land Use Regulations

All zoning, land use regulations and other laws, rules and regulations of any governing body or agency with jurisdiction over Cattail Creek shall be in full force and effect, including amendments thereto, in addition to these Covenants. All owners of land in Cattail Creek shall be subject to those regulations, laws, rules and regulations. The Bozeman Unified Development Ordinance (UDO) can be found online at www.bozeman.net.

In the event there is a conflict between the Covenants or Design Regulations and any land use regulations, the most restrictive provision shall control.

3.2 Cattail Creek Community Association Bylaws

The procedures and processes for the Cattail Creek Community Association are outlined in a separate document entitled “Cattail Creek Community Association Amended Bylaws” which is authorized by the filing of ~~were~~ **amended by the membership at the same time as** these Covenants. The Association Bylaws have a separate provision for amendments.

3.3 Cattail Creek Design Regulations

The procedures and processes for the Cattail Creek Design Committee (CCDC) and for all development within Cattail Creek are outlined in a separate document entitled “Cattail Creek Design Regulations” which is authorized by the filing of these Covenants. The Design Regulations have a separate provision for amendments.

No commercial or industrial building, residence(s), fence, wall, parking lot, garage, shed, outbuilding or other structure shall be made, erected, altered or permitted to remain upon the properties until written plans and specifications showing the design, nature, kind, color, dimensions, shape,

elevations, material, use and location have been submitted and approved, in writing, by the CCDC, as well as appropriate City of Bozeman review, permitting and fee payment. All plans submitted to the City of Bozeman Planning Department or Building **Inspection** Division must have the Cattail Creek Design Committee Form B stamp of approval. It is the responsibility of the property owner to ensure that he/she has the most recent copy of the Design Regulations. An application shall be processed consistent with the Designs Regulations that are in effect thirty (30) days prior to CCDC receipt of a complete Form A submittal as outlined in the Design Regulations.

Article 4: Cattail Creek Community Association

4.1 Function

The Cattail Creek Community Association, **acting through its Board of Directors**, is charged with the duties and empowered with the rights set forth herein and in the Cattail Creek Community Association **Amended** Bylaws.

~~The Association, acting through its Board of Directors, shall have the power and authority to take such actions as shall be necessary or reasonable to care for, protect and maintain the parks, open spaces, common areas and facilities, ponds, watercourses, easements, and boundary fences; to enforce these Covenants; to adopt a development review fee schedule; to collect assessments and fines; to adopt a fine schedule; to set annual and/or special meetings; and to act in any other matters set forth herein or which may serve the development, including the formation of special improvement districts, either public or private, for such improvements as the Association shall approve.~~

4.2 Membership

~~The **Cattail Creek** Community Association, which may be incorporated, is hereby established known as "Cattail Creek Community Association" hereinafter referred to as the "Association."~~**is a Montana nonprofit corporation in good standing in the office of the Montana Secretary of State**
~~The Association shall elect a nine-member Board of Directors whose duties are described in detail in the Bylaws.~~

Every owner or contract purchaser of a lot or unit shall be a member of the Cattail Creek Community Association. Membership shall be appurtenant to and may not be separate from the ownership of any lot or unit. Each Owner shall be responsible to advise the Association of the Owner's current mailing address and any changes to that address. Upon transfer of any Cattail Creek lot, the **new** Owner is responsible for advising the Association of the **his or her** name and address of the new Owner. The address of the Association shall be: P.O. Box 11842, Bozeman, Montana 59719. The address of the Association

may be changed by the Board of Directors upon notice to the owners.

For the purpose of determining membership, at any meeting, a person or entity shall be deemed to be a member upon the recording of a duly executed deed to that owner, or upon the recording of a Notice of Purchaser's Interest or an Abstract of Contract for Deed showing a contract purchase by an owner. The legal title retained by the vendor selling under contract shall not qualify such vendor for membership. Nothing contained herein shall grant multiple owners of a single lot more than one vote per lot.

Foreclosure of a mortgage, trust indenture or the termination or foreclosure of a contract for deed wherein title is vested in the mortgagee, trust indenture beneficiary or original seller on a contract, or repossession for any reason of a lot or unit sold under a contract shall terminate the vendee's membership, whereupon all rights to such membership shall vest in the legal owner.

Other specifics concerning ~~V~~voting and membership interests ~~is~~are addressed in Article 6 of the Cattail Creek Community Association Bylaws.

4.3 Board of Directors

The Cattail Creek Community Association shall elect a Board of Directors. The Board shall be comprised of ~~up to~~ **up to** nine members of the Cattail Creek Community Association, ~~including three (3) members from each phase~~ **elect** ~~at-large from within the Association. The number of members of the Board shall be determined from time-to-time by majority vote of the membership.~~ **at-large from within the Association. The number of members of the Board shall be determined from time-to-time by majority vote of the membership.** ~~The Declarant shall have the option to be a member of the Board of Directors so long as he or she owns property in any phase of Cattail Creek.~~

The Board of Directors shall have the power and responsibility of acting on behalf of the Association and its members as shall be reasonably necessary to carry out the purposes of the Association, including, but not limited to, ~~the~~ **power to** take such actions as shall be necessary or reasonable to care for, protect and maintain the parks, open spaces, common areas and facilities, ponds, watercourses, easements, and boundary fences; to enforce these Covenants; to adopt a development review fee schedule; to collect assessments and fines; to adopt a fine schedule; to set annual and/or special meetings; and to act in any other matters set forth herein or which may serve the development, including the formation of special improvement districts, either public or private, for such improvements as the Association shall approve.

The Directors shall act by majority vote.

~~The Board of Directors~~ **Each of the Directors** shall serve for a term as set by

the Bylaws and which may be modified according to the amendment procedures set forth in the Bylaws. The staggering of terms shall be accomplished as set forth in the Bylaws.

Any vacancy on the Board of Directors occurring before the next annual meeting of the members shall be filled by the remaining directors, **by means a vote of a simple majority of the directors. Such replacement director shall serve until the next annual meeting of the Association, at which time the position shall be filled by majority vote of the owners eligible to vote at such meeting.** ~~nominating a replacement director (who must be from the same phase as the open position) and the nomination being ratified by a simple majority vote from the corresponding phase of the Community Association. A vacancy in any office of the Association (President, Vice President, Secretary, or Treasurer) shall be filled by majority vote of the Directors appointment by the Board of Directors until the next annual meeting or the successor is duly appointed or elected. In the event that the Board of Directors is unable to replace the vacancy for a specific phase of Cattail Creek, the Board, in its discretion and after a documented attempt to fill the vacancy from the specific phase, may appoint a person from any phase of Cattail Creek Subdivision to fill the vacancy until the term expires. This filling of the vacancy in an officer position does not require ratification by the membership.~~

4.4 Meetings

The Association shall hold annual meetings. Meeting times, locations, formats and voting shall occur as specified in the Cattail Creek Community Association Bylaws.

4.5 Voting & Membership Interest

Voting and membership interests shall be as specified in the Cattail Creek Community Association Bylaws.

4.6 Annual & Special Assessments

The purposes of annual and specials assessments levied by the Association are to promote the recreation, health, safety, convenience and welfare of the owners, including but not limited to the improvement, repair, operation, and maintenance of easements, parks and common areas, community and park street lights, and for any other purposes, expressed or implied, in these Covenants.

Each owner, whether or not it shall be so expressed in any deed or contract, is deemed to have agreed to these Covenants, and to pay to the Association:

Annual assessments or charges and fines as may be adopted by the Board of Directors; and

Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, **or collection agency fees if the obligation is assigned to a collection agency**, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with the interest, costs and reasonable attorney's fees, shall be the personal obligation of the owner of such property at the time when the assessments are due, **but any lien for unpaid assessments shall remain effective until the payment of the assessment(s) represented by such lien.** ~~Assessments shall begin to accrue upon closing on the purchase of a lot.~~

The following subsections address the details of assessments:

- (a) ~~The Declarant for each lot owned by it within Cattail Creek hereby covenants, and~~ **Each Owner of any lot by acceptance of a purchase and sale agreement; or deed or lease** therefore, whether or not it shall be so expressed in any such deed, ~~lease or any other conveyance, shall be deemed to covenant and agree to pay to the Association the Owner's proportionate share of assessments established and collected from time to time as hereinafter provided.~~
- (b) Each owner or member will be assessed a proportionate share based on the number of dwelling units built per developed residential lot and on a dwelling unit equivalent on vacant, commercial and industrial properties as specified below:

Zone	Assessment(s)
R-1 Lot	1 share
R-2 Lot	1 share (if undeveloped)
	-OR-
R-3 Lot	1 share per unit (if developed) 8 shares per acre (if undeveloped)
	-OR-
R-O Lot	1 share per unit (if developed) 10 shares per acre (if undeveloped)
	-OR-
B-1 Lot	1 share per unit (if developed)
M-1 Lot	4 shares per acre

~~Assessments to Owners will commence immediately after the transfer of title from the Declarant to the Owner. No assessments will be levied against lots owned by the~~

~~Declarant to any lot or lots.~~ **Assessments to owners are an ongoing responsibility and are not based upon the date of sale of a property. In the event that it becomes necessary to file a notice of assessment lien against any property within the subdivision, such notice of lien shall encumber the title of the Owner at the time of filing, property, regardless of the ownership of the lot at the time of making the assessment. It shall be the**

responsibility of the buyer and seller of any lot to determine the appropriate proration of any outstanding assessment at the time of closing.

The Board shall have the right to determine and refine the specifics and timing of assessments within the parameters of the preceding statements.

- (a) At least 30 days prior to the commencement of each fiscal year, the Board shall fix the amount of the assessment for such fiscal year and shall, at that time, prepare a roster of the lots and assessments applicable thereto. Written notice of the assessment shall be sent to every Owner subject thereto.
- (b) The assessments levied by the Board on behalf of the Association shall be used exclusively for the purpose of financing the Association functions and duties.
- (c) If at any time, and from time to time during any fiscal year, the assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy, which shall be assessed to the Owners in the manner set forth herein.
- (d) In addition to the assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the pParks, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who vote in person or by proxy at a meeting duly called for this purpose.
- (e) The Board shall also levy an assessment against any Owner, as a direct result of whose acts or failure or refusal to act, or otherwise to comply with the Cattail Creek Covenants, for monies expended by the Association in performing ~~its~~ such Owner's functions under Cattail Creek Covenants and Board Bylaws. Such assessment shall be in the amount so expended and shall be due and payable to the Association when levied. Monies so expended shall include, without limitation, reasonable engineers', architects', attorneys' and accountants' fees and extraordinary manager's fees incurred by the Association.
- (f) Each assessment shall be a separate, distinct and personal debt and obligation of the Owner against whom it is assessed, and each Owner, by acceptance of a purchase and sale agreement, deed or lease, shall be deemed to covenant and agree to pay the same to the Association. If the Owner does not pay such assessment or any installment thereof when due, the Owner shall be deemed in default and the amount of the assessment not paid, together with the amount of any subsequent default, plus interest at 12 percent per annum and costs, including reasonable attorney's fees, shall be and become a lien upon the lot of such Owner, from the date that payment of such assessment is due, which may be represented upon recordation by the Association of a notice of default assessment lien. The Association assessment lien may be foreclosed through suit by the Association in like manner as a mortgage of real property, and the Association shall have power to bid on the lot at foreclosure sale and to acquire and hold, lease, mortgage or convey the lot, following such acquisition. A suit to recover a money judgment of unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same, or the obligation may be assigned to a collection agency, which may then be authorized to take the necessary steps to collect the amount owed. In the event that the obligation is assigned to a collection agency, the fees charged by such collection agency shall also be recoverable from the defaulting Owner, to the extent allowed by law. The foregoing remedies shall be in addition to any other remedies

provided by law for the enforcement of such assessment obligation.

- (g) The pParks as defined herein and such portions of Cattail Creek as may be conveyed or dedicated to and accepted by a municipality, public utility, State of Montana, the County of Gallatin shall be exempt from assessments.
- (h) When requested by an Owner, the Association shall execute a certificate stating the indebtedness **owed for assessments, including any assessments** secured by ~~the~~**-an** Association lien upon the lot of the Owner, and such certificate shall be conclusive upon the Association and the Owners in favor of such persons who rely therein in good faith as to the amount of such indebtedness, as of the date of the certificate. The Association shall be entitled to a reasonable fee as a condition to issuing the certificate.

Article 5: General Restrictions & Notices

5.1 General Use Restrictions

The following general use restrictions shall apply to Cattail Creek:

- (a) No construction, development, excavation, landscaping, or like activities shall occur on any lot within Cattail Creek without prior

written approval from the Cattail Creek Design Committee (CCDC).

- (b) Each building or other structure shall be constructed, erected and maintained in strict accordance with the plans and specifications approved by the CCDC.

- (c) No animals, livestock or poultry of any kind shall be raised, bred, or kept on any land in the subdivision, except that a reasonable number of cats, dogs or other common household pets may be kept; provided, however that they are not kept, bred or maintained for any commercial purpose. Exterior Dog kennels are strongly discouraged: ~~If needed, kennels must be in an inconspicuous location and screened from neighbor's property.~~ **and shall only be allowed upon approval of the Design-Review CommitteeCCDC, upon submission of the plans and specifications to the Design-Review CommitteeCCDC and payment of the appropriate review fee.**

- (d) All pets shall be on a leash at all times when off the owner's property. Cattail Parkway contains considerable wildlife habitat, and all pets must be restrained and controlled when near ponds, creeks, in open space, in parks or on the trail system. NO dogs are allowed in creeks or ponds.

- (e) No hunting of, shooting at, or harassing of birds, animals, **ground squirrels (gophers)** or any wildlife will be permitted. Skunks, gophers and rodents may be trapped **following approval of such activity by the Board, but ~~however~~**, poison may not be used.

- (f) With ongoing construction and permanent residents occupying finished projects, it is imperative to keep construction materials covered and/or tied down, and debris and trash contained until properly disposed ~~of~~. **Disposal of building materials shall take place no less often than every 10 days during construction, and not more than 10 days following the issuance of a certificate of occupancy for the structure, or the first day of its occupancy, whichever occurs first. "Debris" shall include not only garbage, but also**

concrete and excess soils, which may not be dumped on, or tracked onto any other lot within the subdivision, or any roadway or alley. In the case of dirt or mud tracked onto the streets or alleys within the subdivision, the contractor responsible for such dirt or mud shall cause it to be cleaned daily. In the event that the need for cleanup results from activities of a contractor who is not the owner of the lot upon which construction activities are taking place, and the contractor does not conduct a timely cleanup of such materials, resulting in the need for the Association to carry out such cleanup, the owner of the lot upon which such construction activities are taking place shall be responsible for the cost of cleanup. ~~Violations will be subject to cleanup fees and/or fines of up to \$500 per occurrence.~~ In the event that a contractor is hired to conduct such cleanup, an administrative fee shall be added to the cost of such cleanup, which shall be equal to 10% of the cost of such contract, or \$50, whichever is the greater.

(g) No building materials, trash, gravel, excess soils, job trailers, or dumpsters are allowed to obstruct the public rights-of-way unless necessary permits are obtained from the City of Bozeman Engineering Office and the Association Board of Directors. ~~The privilege to obstruct the public rights-of-way shall be conditioned the required upon the proper placement of barricades/safety markers are in place.~~ Violations will be subject to fines of up to \$500 per occurrence.

(h) ~~Other than motorized wheelchairs and similar methods of transportation, no motorized means of transportation may be operated within Cattail Creek unless such conveyance is street legal. . No snowmobiles, recreational ATV's, or trail bikes shall be operated within Cattail Creek Subdivision, except for those utilized by park maintenance personnel; provided, however, that:~~ and ATV's used on an owner's property for the purpose of snow removal are acceptable. In any event, ATVs within the subdivision shall be housed in the owner's garage or other approved enclosure which shields the ATV from view from outside the yard of the owner when such ATV is not in use.

(i) No vehicle, or vehicle part may be stored in open view upon any residential lot, driveway or road. Passenger cars and trucks, including work vehicles, which can be moved under their own power and which are driven to points outside Cattail Creek Subdivision at least three days in each calendar week shall not be deemed stored, even if regularly parked in driveways or upon streets. Recreational vehicles, motor homes, campers, toppers, ATVs, boats, trailers, snowmobiles, and ~~other~~ rolling equipment, other than ~~automobiles and pick-up trucks~~ passenger cars and trucks described in the preceding sentence, ~~shall not~~ may be stored-parked in open view on any residential lot, driveway, or road if the owner is in the process of readying such vehicle or item for use outside Cattail Creek Subdivision, or readying such vehicle or item for return to storage after use, and for no other purpose. The terms "readying such vehicle or item for use" and "readying such vehicle or item for return to storage" include loading and unloading such vehicle or item, performing minor tasks to insure the road worthiness of such vehicle, such as checking tire pressure, checking oil, winterizing, etc. It shall not include mechanical repairs or any action requiring disassembly of any component of such vehicle. Furthermore, the terms "readying such vehicle or item for use" and "readying such vehicle or item for return to storage" shall not be construed to allow such vehicle to remain parked within Cattail Creek Subdivision for more than 24 consecutive hours, or more than a cumulative total of 48 total hours in a seven day period. Except as stated above, any vehicle, vehicle part or other item placed upon a lot shall be deemed "stored." Parked ~~cars~~ vehicles, trailers, etc. shall not be placed on, or extend over, any portion of a sidewalk or crosswalk, or otherwise obstruct pedestrian traffic, nor shall they be parked

upon any lot anywhere other than upon driveways or parking areas approved by the CCDC. The term “open view” shall mean any object placed in a yard or upon a street which can be seen and readily identified during daylight hours by any person standing on ground level outside the yard within which the object is located, ~~the sidewalk or street in front of such house or yard,~~ regardless of whether such object is partially obscured. Vehicles, vehicle parts or other items parked in violation of these Covenants will be notified by means of a verbal notice to the vehicle owner or verbal notice to the lot owner, or by written notice from the CCDC stating that the vehicle is in violation of these Covenants and requesting immediate removal of the vehicle, part or other item. If the violation is not corrected within twenty-four (24) hours of notification, the CCDC may cause the vehicle to be towed and impounded at the expense of the vehicle’s owner. The Homeowner’s Association may cause a vehicle to be towed immediately without notification if the CCDC determines the vehicle impedes emergency vehicles or, in any way, represents a threat to health and safety.

(j) The Owners, ~~Declarant~~ Association and Association are hereby prohibited and precluded from engaging in any activity that would affect or impact any downstream water user facilities and irrigation ditches for downstream water rights.

(k) All properties and existing waterways are subject to City of Bozeman applicable ordinances pertaining to watercourse setbacks.

(l) There is “No Parking” along Davis Lane and Catamount Street. See Final plat for additional information.

(m) City sewer and water lines, power, natural gas, cable television, and telephone primary service lines are provided to each lot. ~~However, e~~ Each lot owner is responsible for the costs of connecting to the main utility lines to his or her improvements from the primary line near his or her lot, including any additions to the primary line that may be required by location of the improvements on the lot. All utility lines shall be underground.

(n) No signs shall be erected on the property or lot thereof, except to identify the owner of the property. ~~Typical "For Sale" signs shall be allowed during the sale of a lot,~~ or to indicate that the property is for sale or lease. “For sale” or “for lease” signs may not exceed 100 square feet in total area and only one such sign shall be allowed on a lot. Additional signage details are addressed in the Design Regulations.

(o) There are reserved, as shown in the plat, and as may otherwise be reserved, easements for the purposes of constructing, operating, maintaining, enlarging, reducing, removing, laying or relaying utility lines and related facilities and equipment ~~for utilities,~~ including, but not limited to, those providing gas, communication and electrical power. Fencing, hedges and other items allowed by the Covenants may be placed along and in the easements, with permission from the City of Bozeman Engineering Division, as long as the intended uses of such easements are not prevented.

5.2 Restricted Size Lots (RSL) & Units (RSU)

Lots 5 and 6, Block 21, Phase 3 are designated “RSL” and must comply with appropriate City restrictions for square footage restrictions.

5.3 Notice of Adjacent Agricultural Uses

Property owners and residents of Cattail Creek are informed that adjacent uses may be

agricultural. Lot and unit owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, ~~and~~ noise, smoke, flies, and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. All new fences bordering agricultural lands shall be maintained by the property owners in accordance with state law.

5.4 Notice of Water Features

- (a) Notice: Each owner of property within Cattail Creek, as individuals and as members of the Association, acknowledges the presence of water features within the subdivision. Each owner of property within Cattail Creek, as ~~an~~ individuals and as ~~a~~ members of the Association, acknowledges that water could pose a danger to humans, animal life and property. By this acknowledgment, each owner of property within Cattail Creek, as ~~an~~ individuals and as ~~a~~ members of the Association assumes the normal and ordinary consequences of their actions when in, next to or in the vicinity of water features within Cattail Creek. _____
- (b) Hold Harmless: Each owner of property within Cattail Creek, as ~~an~~ individuals, agrees by acceptance of this covenant to hold harmless ~~Covenant Investments, Inc., its officers and directors, and successors in interest, the~~ Community Association ~~and~~; adjacent property owners, ~~and the Farmer Canal Company and its successors in interest~~ for any water related injury to persons, property and animals and damage due to acts of God and nature, including but not limited to a flood from the canal and other water features resulting from circumstances beyond the control of the parties listed herein.
- (c) Insurance: Each owner of property within Cattail Creek acknowledges that it is advisable to seek insurance to protect the owner's property in the case of a water event relating to the water features.

5.5 Weed Control

The control of noxious weeds by the Community Association on those areas for which the Community Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153), and the rules and regulations of the Gallatin County Weed Control District.

~~The **Each** landowner shall be responsible for the control of **all weeds upon** the state and county declared noxious weeds on his or her own lot, **regardless of whether such weeds have been declared noxious by any state agency, Gallatin County, or the City of Bozeman. For purposes of this Section 5.5, the term "weeds" shall include any plant not part of an approved landscape plan for such lot, regardless of whether such lot is** Both unimproved and ~~or~~ improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after ten (10) days notice from the Community Association, the Community Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment.~~

~~The Community Association is responsible for control of state and county declared noxious weeds in the subdivision parks, open spaces, community areas, trails, and roadways. **The control of weeds within the subdivision is a concern for the Community Association and the owners of individual lots. The Community Association shall be responsible for weed control on those areas for which the**~~

Community Association is responsible, including parks, open spaces, community areas, trails and roadways. Control of weeds on individual lots shall be the responsibility of the owners of such lots. Control of weeds shall include not only those weeds declared noxious by state, county and city governing bodies, but any vegetation not specifically approved for a particular lot by means of an approved landscaping plan. In the event that any conflict exists between state statutes, administrative regulations, county ordinances or regulations, city ordinances or these covenants, the more restrictive statute, regulation, ordinance or covenant shall apply.

No owner shall allow any noxious weeds to propagate or go to seed on such owner's property and no owner shall allow any other weeds of vegetation not approved as part of a landscaping plan to reach of height in excess of 12 inches.

In the event that any owner fails to properly control the weeds and other vegetation on such owner's property, the Community Association may provide notice to such owner of the failure to control the weeds and vegetation. Such notice shall provide that the failure to control weeds and other vegetation must be cured within ten calendar days of the date that such notice is deposited with the United States Postal Service, regardless of the date of actual delivery. In the event that any owner fails to cure the problem within the ten day period allowed for such cure, the Community Association shall have the authority to enter upon the lot or lots of such owner and effect a cure. In the event that the Association finds it necessary to effect a cure, the property owner(s) shall be responsible for the cost of such work, together with an administrative fee of 10%, or \$50, whichever is the greater, to be paid to the Community Association. Failure to pay such charges could result in the filing of a lien against the property of the offending owner and collection efforts in accordance with the provisions of these covenants. Any owner failing to cure upon receipt of written notice shall be deemed to waive any claims that the work could be performed for a lesser price and shall also be deemed to waive any claim of trespass for entry upon such owner's land to perform the necessary work.

Owners are advised that in addition to enforcement activities by the Community Association, interested governmental agencies, including the Gallatin County Weed Control District and the City of Bozeman, through its code compliance officer, may also become involved in enforcement. In such case, the offending owner could be charged with a misdemeanor and possibly convicted, or could incur charges for remediation by such governmental agency.

5.6 Garbage

Property owners and residents of the neighborhood are informed that all garbage must be promptly removed from the property. There shall be no incineration or burning of garbage, trash or other waste or debris on, or coming from any lot. No junk, garbage, trash, equipment, non-working or out-of-use vehicles, parts, metals, lumber, debris or other waste shall be allowed to accumulate on any lot, or originate from any lot, during construction, **or at any other time**. All garbage and trash requirements of the City of Bozeman shall be observed. Garbage containers shall be kept in the garage, or other enclosures, **or placed against a structure on the lot in such a manner that it is protected from the wind**, except on garbage pick-up day. Each lot owner shall maintain the alley right-of-way adjacent to the owner's property. Such maintenance shall include, but not be limited to, picking up and appropriately disposing of debris and garbage, mowing and trimming of the alley right-of-way.

All **garbage totes**, ~~construction~~ dumpsters, **trash, garbage**, or construction materials placed on a lot or in the street adjacent to a lot, must be protected from wind. "Protected from wind" means a screened or solid cover that will prevent materials from blowing out of the **garbage tote**, dumpster, or the pile of **trash, garbage**, or construction materials, regardless of the wind level. It shall be the responsibility of each Owner to insure that **trash, garbage**, dumpsters and construction materials are properly covered, or ~~in the case of construction materials,~~

properly secured in a fashion that prevents them from blowing onto common areas or nearby properties. Owners with totes, dumpsters, trash, garbage or building materials not properly covered or unsecured dumpsters or building materials will be subject to fines.

In the event an owner shall not control waste on or coming from their property, the Association, after ~~ten (10) days~~ **24 hours** written notice to an owner to control the same, may cause the waste to be controlled or collected, and will assess the lot owner for the costs thereof, **together with an administrative fee of 10% of the cost of such work or \$50, whichever is the greater, and/or the Owner will be fined. In the event that the Owner is assessed for the cleanup and fails to pay such assessment within 30 days of the date of the assessment, the Community Association shall have the right to file a lien, or to initiate a court action to collect, as provided elsewhere in these covenants.**

Refuse within the parks and open space will be collected by a service retained by the Community Association.

5.7 Sidewalks

All lot owners are required to install city standard concrete sidewalks, along all lot street frontages, ~~at the time of construction (prior to occupancy) or by July 1, 2008, whichever occurs first~~ **prior to first occupancy of the structure located upon such lot, or within one year of commencement of construction upon such lot, whichever occurs first.**

Every lot owner shall be responsible for maintenance of the sidewalk located on, adjacent to and between the owner's lot and the nearest right-of-way. Maintenance shall include, but not be limited to, **all necessary repairs, as well as snow and ice removal. Any sidewalk which has fallen into a state of disrepair such that a person cannot safely and easily travel upon such sidewalk, whether unassisted, on crutches, a walker or wheelchair, shall be promptly repaired by the homeowner.**

The Community Association shall be responsible for maintenance of the sidewalks located on and adjacent to parks and open space. Maintenance shall include, but not be limited to snow and ice removal.

Article 6: Common Areas

6.1 Use

Each property or unit owner has the right to use and enjoy the common properties or facilities. No property owner shall have the right to occupy or possess any of the open space ~~and or~~ common area by reason of owning a lot in Cattail Creek. No Owner, guest or invitee may use or occupy the common area, trails, roads, open space, parking area or any lot in such a manner as to disturb or interfere with the peaceful use, occupancy or enjoyment of any other owner, guest or invitee. General use restrictions are listed in Article 5. In addition to the other restrictions stated herein, no motorcycles, snowmobiles or similar means of transportation are permitted in parks or common areas. Motorized vehicles ~~are allowed exclusively for snow removal~~ **may only be used within the parks or common areas by the Community Association and its contractors for maintenance of such areas, including, but not limited to, snow removal, or by persons with a genuine disability requiring the use of a motorized vehicle for mobility.**

Violations shall be enforced as provided for in Article 7 of these Covenants.

The Open Space within Cattail Creek as designated on a final plat or approved site plan shall be preserved in perpetuity. Open space shown on the approved final plan or plat shall not be used for the construction of any structures not shown or approved in the final parks plan. The Board, among its other duties, shall establish assessments for the taxes, insurance, and maintenance of all open spaces, parks, trails, roads, medians and easements.

6.2 Control and Management

The Association shall have the exclusive right and obligation to manage, control and maintain the Open Spaces and Common Areas.

6.3 Maintenance

Parks and open space shall be maintained as specified in the Cattail Creek Parks Master Plan.

The Community Association shall be responsible for liability insurance, local taxes and maintenance of recreation and other facilities in the common space areas. The assessments levied by the Board for the maintenance, upkeep, repair and operation of common areas, like all other assessments, become a lien on each lot within the Cattail Creek. The Board may, in its discretion, adjust the assessments to meet the changing needs of the community and the areas serving the community.

The Community Association will be responsible for park maintenance until such time as a City wide Park Maintenance District is created. The Community Association shall also be responsible for the maintenance of all common properties, paths and trails, facilities, centers, and adjacent sidewalks and/or landscaping in street boulevards.

6.4 Maintenance Guarantee

In the event the organization or any successor organization established to own and maintain commonly owned open spaces, recreational areas, facilities, private streets, and parking lots common areas and facilities, shall at any time fail to maintain the common areas or facilities in reasonable order and condition in accordance with the approved plan, the City Commission may cause written notice to be served upon such organization or upon the owners of property in the development. The written notice shall set forth the manner in which the common areas or facilities have failed to be maintained in reasonable condition. In addition, the notice shall include the demand that the deficiencies noted be cured within thirty days thereafter and shall state the date and place of a hearing to be held within fourteen days of the notice. At the time of hearing, the City Commission may modify the terms of the original notice as to deficiencies, and may extend the time within which the same may be cured. If the deficiencies set forth in the original notice or modifications are not cured within the time set, the City may enter upon such common facilities and maintain the same for a period of one year, in order to preserve the taxable values of properties within the development and to prevent the common facilities from becoming a public nuisance. Such entry and maintenance shall not vest in the public any right to use the common facilities not dedicated to public use. Before the one year period expires, the Commission shall, upon its own initiative or upon written request of the organization theretofore responsible for maintenance, call a public hearing and give notice of such hearing to the organization responsible for maintenance, or the property owners of the development. At the hearing, the organization responsible for maintenance and/or the residents of the development may show cause why maintenance by the City should not be continued for a succeeding year. If the City Commission determines that it is not necessary for the City to continue such maintenance, the City shall cease such maintenance

at the time established by the City Commission. Otherwise the City shall continue maintenance for the next succeeding year subject to a similar hearing and determination at the end of each year thereafter.

- (a) The cost of maintenance by the City shall be a lien against the common facilities of the development and the private properties within the development. The City Commission shall have the right to make assessments against properties in the development on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The City may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.
- (b) Should the ~~property owners~~ Association request that the City assume permanent responsibility for maintenance of facilities, all facilities shall be brought to City standards prior to the City assuming responsibility.

The assumption of responsibility must be by action of the City Commission and all costs to bring facilities to City standards shall be the responsibility of the ~~property owners~~ Association. The City may create special financing mechanisms so that those properties within the area affected by the ~~property owners~~ Association continue to bear the costs of maintenance.

- (c) These common areas and facilities shall include but are not limited to commonly owned open spaces, recreational areas, facilities, private streets and parking lots. These common areas and facilities shall also include, but are not limited to, public parks, squares, open space, recreation areas, and trails, as well as any public streets, avenues and alleys not accepted by the City for maintenance.
- (d) The City shall assume permanent responsibility for maintenance of public areas and facilities when a dedicated funding mechanism is adopted.

Article 7: Disputes, Enforcement, & Fines

7.1 Enforcement

Each Owner grants to ~~Declarant~~ Association and reserves to ~~Declarant~~ Association, a lien upon the lot of the Owner to secure the faithful performance by the Owner of the

requirements and restrictions contained in these Covenants and in the Design Regulations and Bylaws. If any Owner shall fail to comply with these Covenants, the Design Regulations, or the Bylaws within ten (10) days after ~~Declarant~~ Association shall have deposited in the United States postal system a notice to the Owner of the failure to comply, ~~Declarant~~ Association shall have the right to cause the necessary work to be done and to have a lien upon the land of the non-complying Owner for the reasonable cost of such work, plus an additional amount equal to ten (10) percent of the cost of such work, or \$50, whichever is the greater, to cover the overhead and expenses of Association if bringing about such work.

If, within thirty (30) days, the non-complying Owner does not pay to ~~Declarant~~ Association the sum secured by the lien, then ~~Declarant~~ Association may foreclose the lien in compliance with the mortgage foreclosure laws of the State of Montana for the aggregate of (I) the reasonable cost of such work (II) a sum equal to ten (10) percent of such work, and (III) all cost incurred

by ~~Declarant~~Association in foreclosing the lien, including a reasonable attorney's fee. ~~Declarant~~Association is in no way precluded from seeking any remedy available to ~~Declarant~~Association pursuant to the laws of Montana, including but not limited to immediate, temporary and permanent injunctive relief.

Enforcement of these Covenants by the ~~Declarant~~Association, CCDC, Board of Directors, Owner or any party having standing, shall include for the party seeking enforcement and prevailing in such enforcement, an award of costs, fees and reasonable attorney's fees.

Should any lawsuit or other legal proceeding be instituted by the Association, or an owner against an owner alleged to have violated one or more of the provisions of these Covenants, ~~the prevailing party shall be entitled to recover all reasonable court costs and attorney fees.~~ and should the Association or owner enforcing the provisions of the Covenants be wholly or partially successful in such proceedings, the offending owner shall be obligated to pay the costs of such proceeding, including reasonable attorney's fees for all time associated with the action.

The failure of ~~Declarant~~Association, the Association or an owner, to enforce any Covenant or restriction contained herein shall not be deemed a waiver, or in any way prejudice the rights to later enforce that Covenant, or any other Covenant thereafter, or to collect damages for any subsequent breach of Covenants.

~~The A~~ waiver, or approval of a variance of a Covenant provision by the Board of Directors or the Cattail Creek Design Review Committee, or non-action of the Association or CCDC or ~~Declarant~~ or in the event of a violation of a Covenant by a particular owner or lot, shall not be deemed to delete or waive the Covenant or enforcement thereof as it pertains to other owners or lots.

Invalidation of any one of these Covenants, Design Regulations, or Bylaws by judgment or by Court order shall in no way affect any of the other provisions, all of which shall remain in full force and effect.

In any conveyance of the above described real property or of any lot thereon, ~~it shall be sufficient to insert a provision in any deed or conveyance to the effect that the property is subject to protective or restrictive Covenants without setting forth such restrictions and Covenants verbatim or in substance in said deed nor referring to the recording data.~~ All of the above described real property and lots shall be subject to the restrictions and Covenants set forth herein, whether or not there is a specific reference to the same in a deed or conveyance.

A breach of any of the foregoing restrictions or Covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon any lot or portion of the real property, or any improvements thereon. ~~However, the~~These Covenants shall be binding upon and shall inure to the benefit of any subsequent owner whose title thereto was acquired by foreclosure, trustee sale or otherwise.

7.2 Fine Schedule

~~For any Violation of the terms, conditions, restrictions and protections contained within the Covenants, and upon written complaint signed by the author:~~

The Board shall be empowered to establish or modify from time-to-time, a schedule of fines to be imposed for violations of these covenants. Upon adoption by the Board, such fine schedule

shall be published and made available to the owners prior to the imposition of any fine.

Upon receipt of complaint of a violation of any of the terms and conditions of these Covenants and the finding of violation by the Board, the Association has the authority to assess fines. The Association shall notify the Owner upon receipt of a complaint of violation and allow a reasonable time for response by the Owner. ~~The Association's agent may determine if a violation occurred.~~ Upon determination of a violation, the Association shall notify the Owner of the violation, the fine and the date of payment for the fine and the ability of the Association to file a lien against the Owner's property without further notice.

Failure to pay the fine when due shall subject the Owner to interest on the unpaid portion of the fine at a rate of not less than ~~ten-twelve (102)~~ percent per annum. ~~Said rate may be amended without an amendment of this Declaration.~~

7.3 Dispute Resolution

If a dispute still exists after all proper procedures outlined in this document and in the Design Regulations have been exhausted, mediation should be the next step in dispute resolution before any lawsuits are filed. **The aggrieved party claiming to be aggrieved shall be required to take the initiative to bring about a mediation, which shall be done in writing. The request to mediate shall include the names of potential mediators and a suggested time. The parties shall be required to make a good faith effort to bring about mediation and shall further be required to mediate in good faith. If a party is requested to mediate and that party fails to mediate, either through refusal or inaction, it shall not be a defense to the claim of the aggrieved party that no mediation was conducted.**

Article 8: Term

All the limitations, conditions, and restrictions contained in these Covenants of Cattail Creek shall run with the land and shall be binding on all parties and persons claiming under them for a 10 year period beginning at the date of filing of this document; ~~at which time the expiration of each ten year period these same Covenants~~ shall be automatically extended for successive periods of 10 years, unless the record Owners of lots then within Cattail Creek having not less than three-fourths (3/4) of the total votes record an instrument terminating the Cattail Creek Covenants within one (1) year prior to the commencement of any such **renewal period; provided, however, that such termination is must be consistent with Article 9, below.** Any such termination shall take effect upon expiration of the period during which ~~it is given~~ **such termination is approved.** Prior to the expiration of these Covenants, the Association may vote, pursuant to the provisions allowing amendment hereto, to extend these Covenants.

Article 9: Amendments

Any covenant which is required as a condition of the preliminary plat approval and required by the City Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in the Covenants, and the City Commission.

The Cattail Creek Covenants, may, at any time, be amended or replaced upon the happening of all the following events:

- A. The vote of Owners having not less than two-thirds (2/3) of the total votes within Cattail Creek, **whether** at a meeting of the Association duly held, **or through a mail ballot**. The notice of the meeting, **or the notice of the mail ballot** shall state that the purpose of the meeting **or ballot** is to consider the amendment or repeal of the Cattail Creek Covenants, giving the substance of any proposed amendments or indicating the provisions to be repealed, as the case may be; and
- B. The recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth in full the amendment or amendments to the Cattail Creek Covenants so approved, including any portion or portions thereof repealed, and certifying that said amendment or amendments have been approved by vote of the Owners pursuant these Covenants.
- C. The President or Vice-President shall execute and record the amendment, change or addition with the Clerk and Recorder of Gallatin County, Montana.

Any change of these Covenants shall be effective upon the filing and recording of such an instrument in the office of the Gallatin County Clerk and Recorder. No improvements that were constructed and approved in accordance with **these** Covenants shall be required to be changed because such standards are thereafter amended. All lots within all phases of Cattail Creek shall be required to adhere to these Covenants.

In the event that a mail ballot is employed, the Board shall establish the process for a mail ballot in advance of such ballot and such process shall be stated in writing and provided to each member at the time of conducting such mail ballot.

Article 10: Definitions

The words and terms used in this document shall be defined as in the latest edition of the City of Bozeman Unified Development Ordinance, unless defined below. If not defined below or in the Unified Development Ordinance, words and terms shall have their customary dictionary definitions.

Architect shall mean a person registered to practice architecture in the State of Montana.

Association shall mean the Cattail Creek Community Association, and its successors and assigns which shall serve and may be referred to as the Homeowners' Association. The Association ~~may be~~ **is** incorporated as a Montana nonprofit corporation, with its members as

the lot owners.

Board shall mean the Board of Directors of the Association. (Also see “Directors” definition below.)

Bylaws shall mean the bylaws of the Association.

Cattail Creek Design Committee, also referred to as CCDC, shall consist of the Design Liaison (from the Board of Directors), an at-large member of the Association appointed by the Board of Directors and an architect. The CCDC has the right to exercise control over all construction in the Cattail Creek Subdivision, **except as otherwise specifically provided herein**. The architect member of the committee shall conduct all design reviews (Form A, Form B & Form C) with consultation, as desired or necessary, from the other members of the CCDC.

Cattail Creek shall include all land described in Exhibit “A.”

Contract purchaser shall mean a person buying a lot pursuant to a contract for deed, Montana Trust Indenture or mortgage.

~~Declarant shall mean SANDAN, LLC or such other person entity or corporation who SANDAN, LLC may be, by a recorded document, designated as the Declarant.~~

Development shall mean any building, construction, renovation, or material change in the use or appearance of structures or land. Development includes the construction of fences and paving and significant landscape changes.

Directors shall mean the Board of Directors of the Association, comprised of nine members of the Cattail Creek Community Association, ~~including three (3) members from each phase. The Declarant Association shall have the option to be a member of the Board of Directors so long as he or she owns property in any phase of Cattail Creek. Directors shall be elected at the annual meeting by a simple majority of the members of the Association. Power and Duties of the Board of Directors.~~

Lot shall mean and refer to only that land so divided into a lot, tract or parcel that is (a) described in ~~Exhibit “A”~~ **a plat for Cattail Creek Subdivision** and (b) designated ~~as the Declarant Association~~ for residential, commercial or industrial use. The term lot does not include any portion of the **p**Parks or open space.

Member shall mean any owner or lot owner. Each member or owner agrees to abide and be bound by these Covenants, the Articles of Incorporation, Design Regulations, Bylaws and the Resolutions of the Community Association, if any.

Open space means those areas set aside for the use of all of the owners and the public, including roads, trails, easements, parks, open spaces, and medians. The terms “open space” and “common area” or “common open space” are used interchangeably.

Owner, also referred to as lot owner, member and home owner, shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to, or leasehold interest in any land which is a part of Cattail Creek, including contract purchasers, but excluding those having such interest merely as security of the performance of an obligation.

Parks shall mean all land and interest therein which has or may be conveyed to the

Association or City of Bozeman, including but not limited to all lands identified as common open space, trails, public park, park, private open space, and detention / retention ponds as delineated on the final plats for Phases 1, 2 and 3 of Cattail Creek Subdivision. The word park when used herein in the singular form may be referring to a portion of the total parks delineated on the final plats of Cattail Creek Subdivision. Any portion of the designated parks not specifically designated as common open space may be transferred to an appropriate organization subject to the restriction governing the maintenance and improvements of parks contained herein. Common open space, including the detention / retention ponds, shall remain in the ownership and control of the Association. Parks shall be maintained and improved consistent with the provisions of these Covenants governing maintenance of parks and improvements of parks. All pParks are hereby declared to be dedicated to be public use and available for the use and enjoyment of the public.

Properties and "lots" shall mean all of the real property herein described and subsequently surveyed and platted into lots as Cattail Creek or a phase thereof, according to the official plats thereof filed of record in the office of the Clerk and Recorder of Gallatin County, Montana.

UDO shall mean the current City of Bozeman Unified Development Ordinance or other current land use regulations as adopted by the City of Bozeman.

IN WITNESS WHEREOF, Declarant _____ as the president and secretary of the Cattail Creek Community Association have hereunto set ~~its~~ ~~their~~ hands ~~hand~~ ~~as of~~ this _____ day of _____, ~~2008~~20168.

~~DECLARANT~~ASSOCIATION:

Sandan, LLC
Title: _____president

STATE OF _____)
:SS
County of _____)

On this _____ day of _____, ~~2008~~20168, before me, a Notary Public of the State of _____, ~~Montana~~, personally appeared _____ known to me to be the person described in and who executed the foregoing instrument as _____president of Sandan, LLC Cattail Creek Community Association whose name is subscribed to the within instrument and acknowledged to me he/she executed the same for and on behalf of Sandan, LLC Cattail Creek Community Association.

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

Printed Name: _____
NOTARY PUBLIC for the State of: _____
Residing at: _____
Commission expires _____ (use 4 digits) _____, 20__

~~DECLARANT~~ ASSOCIATION:

Cattail Creek Community Association Phase 1
Authorized Representative

secretary

STATE OF _____)

:SS

County of _____)

On this _____ day of _____, 2008~~2016~~8, before me, a Notary Public of the State of _____, ~~Montana~~, personally appeared _____ known to me to be the person described in and who executed the foregoing instrument as ~~an authorized representative of Cattail Creek Community Association, Phase 1~~ secretary of Cattail Creek Community Association, whose name is subscribed to the within instrument and acknowledged to me he/she executed the same for and on behalf of Cattail Creek Community Association Phase ~~1~~.

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

Printed Name: _____
NOTARY PUBLIC for the State of: _____
Residing at: _____
Commission expires _____ (use 4 digits) _____, 20__

DECLARANT:

Cattail Creek Community Association Phase 2
Authorized Representative

STATE OF _____)

:SS

County of _____)

On this _____ day of _____, 2008, before me, a Notary Public of the State of _____, personally appeared _____ known to me to be the person described in and who executed the foregoing instrument as an authorized representative of Cattail Creek Community Association, Phase 2, whose name is subscribed to the within instrument and acknowledged to me he/she executed the same for and on behalf of Cattail Creek Community Association Phase 2.

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

Printed Name: _____
NOTARY PUBLIC for the State of: _____
Residing at: _____
Commission expires _____ (use 4 digits)

~~Exhibit A: Legal Description of Subdivision~~

~~Description of Cattail Creek – Phase 1~~

~~A parcel of land being Lot B of Minor Subdivision No. 45B, said parcel being located in the Northwest Quarter of Section 35, Township 1 South, Range 5 East, Principal Meridian Montana, City of Bozeman, Gallatin County, Montana and being more particularly described as follows:~~

~~Beginning at the southeast corner of said Northwest Quarter of Section 35, said corner being marked by a found 2" brass cap; thence South 89°41'58" West, along the south line of Lot 2A of Minor Subdivision No. 145A, a distance of 1126.15 feet; Thence in generally northwesterly and northerly directions through the following 10 courses:~~

~~North 30°22'19" West, 483.25 feet;
North 59°37'41" East, 87.36 feet; —
North 30°22'19" West, 65.00 feet; —
South 59°37'41" West, 87.36 feet; —
North 30°22'19" West, 236.99 feet; —
North 00°13'52" East, 893.36 feet; —
South 89°46'08" East, 58.43 feet; —
North 00°13'52" East, 60.00 feet; —
North 89°46'08" West, 58.43 feet; —
North 00°13'52" East, 194.08 feet~~

~~to a point on the south line of Tract 1 of Certificate of Survey No. 2050; thence North 89°44'23" East, along said south line, a distance of 1525.91 feet to a point on the east line of said Northwest Quarter of Section 35; thence South 00°13'52" West, along said east line, a distance of 1825.94 feet to the Point of Beginning.~~

~~The described parcel is along with and subject to any existing easements and contains 60.650 acres, more or less.~~

Description of Cattail Creek—Phase 2

A tract of land being Lot 1A of Minor Subdivision No. 145A and Lot A of Minor Subdivision No. 145B, and the property described on the plat of record Film 12, Page 1159, Gallatin County records; the herein described tract being located in the Northwest Quarter and the Southwest Quarter of Section 35, Township 1 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana, and being more particularly described as follows:

Beginning at the west 1/4 corner of said Section 35; thence North 89°41'24" East, along the generally westerly boundary of Lot 1A of Minor Subdivision No. 145A, a distance of 30.00 feet; thence North 00°09'17" East, along the west line of said Lot 1A, a distance of 360.24 feet, to a point on the south line of a plat recorded on Film 12, Page 1159 of Gallatin County records; thence North 89°48'56" West, along the south line of said plat, a distance of 30.00 feet; thence North 00°09'17" East, along the west line of Section 35, a distance of 149.89 feet; thence South 89°50'32" East, along the north line of said plat, a distance of 30.00 feet to the southwest corner of Lot A of Minor Subdivision No. 145B; thence North 00°09'17" East, along said west line of Lot A, a distance of 291.90 feet, to the southwest corner of Lot 1, Minor Subdivision No. 145; thence North 89°43'57" East, along the south line of said Lot 1, a distance of 223.37 feet; thence North 00°13'52" East, along the east line of said Lot 1, a distance of 195.10 feet, to the northeast corner of said Lot 1; thence South 89°42'52" West, along the north line of said Lot 1 and its westerly prolongation, a distance of 253.63 feet; thence North 00°09'17" East, along the west line of Section 35, a distance of 830.93 feet, to the southwest corner of Tract 1 of Certificate of Survey No. 2050; thence North 89°44'23" East, along the south line of said Tract 1, a distance of 1126.47 feet; thence along the westerly and southwesterly boundary of Lot B of Minor Subdivision No. 145B through the following 10 courses:

South 00°13'52" West, a distance of 194.08 feet;
South 89°46'08" East, a distance of 58.43 feet;
South 00°13'52" West, a distance of 60.00 feet;
North 89°46'08" West, a distance of 58.43 feet;
South 00°13'52" West, a distance of 893.36 feet;
South 30°22'19" East, a distance of 236.99 feet;

~~North 59°37'41" East, a distance of 87.36 feet;
South 30°22'19" East, a distance of 65.00 feet;
South 59°37'41" West, a distance of 87.36 feet;
South 30°22'19" East, a distance of 483.25 feet~~

~~to the southeast corner of said Lot A of Minor Subdivision No. 145B; thence South 89°41'58" West, along the south line of said Lot A, a distance of 198.91 feet; thence South 00°13'15" West, along the east line of Lot 1A, of Minor Subdivision No. 145A, a distance of 331.47 feet; thence South 89°41'44" West, along the south line of said Lot 1A, a distance of 1324.60 feet; thence North 00°10'12" East, along the west line of Lot 1A, a distance of 331.34 feet to the Point of Beginning.~~

~~The described tract is along with and subject to any existing easements and contains 59.03 acres more or less.~~

~~Description of Cattail Creek – Phase 3~~

~~A tract of land being Tract 1, Certificate of Survey No. 2050, said tract being located in the Northwest Quarter of Section 35, Township 1 South, Range 5 East, Principal Meridian Montana, City of Bozeman, Gallatin County, Montana.~~

~~The described tract is along with and subject to any existing easements and contains 50.58 acres more or less.~~

~~Exhibit B: Phase Exhibit~~



NOTE:
 AREAS, LAYOUTS, DIMENSIONS,
 FASTENERS AND STRUCKS ARE
 SUBJECT TO CHANGE DUE TO
 SCHEMATIC NATURE OF THIS PLAN.
 SEE CURRENT CITY LAND USE
 REGULATIONS, FIRM PLANS AND
 CURRENT COVENANTS, BYLAWS AND
 DESIGN REGULATIONS FOR SPECIFIC
 INFORMATION.

PHASE III

ZONING / LAND USE KEY

- M-1 LIGHT MANUFACTURING DISTRICT
- R-1 NEIGHBORHOOD BUSINESS DISTRICT
- R-2 RESIDENTIAL OFFICE DISTRICT
- R-3 RESIDENTIAL MEDIUM DENSITY DISTRICT
- R-4 RESIDENTIAL TWO-HOUSEHOLD MEDIUM DENSITY DISTRICT
- R-5 RESIDENTIAL SINGLE-HOUSEHOLD LOW DENSITY DISTRICT
- R-6 PARKS/COMMON OPEN SPACE
- R-7 WETLANDS/PONDS

Intrinsik
 ARCHITECTURE
 INCORPORATED

TD&H
 TRAFFIC DESIGN & HUMAN FACTORS

Peaks to Plains Design
 ARCHITECTURE & PLANNING

Schematic Master Plan
 January 2008 Draft Revised



CAPITAL CRITIK
 CONSULTANTS, INC.

A-5

PHASE II

PHASE I

B-4

A-5

B-2

B-2

B-2

B-2

B-2

B-2

B-2

B-2