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SECOND RESTATED AND AMENDED DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
CHURN CREEK ESTATES MINOR SUBDIVISION NO. 445,
THE HOMESTEAD FIRST MINOR SUBDIVISION NO. 470,
THE AMENDED PLAT OF HOMESTEAD MINOR SUBDIVISION NO. 470A, AND
HOMESTEAD 5A MINOR SUBDIVISION PLAT NO. 499

THIS SECOND RESTATED AND AMENDED DECLARATION is made this
4 day of December, 2017, by Churn Creek Partners, LLC, hereinafter
referred to as "Declarant;"

WITNESSETH:

WHEREAS, Declarant is currently the owner of the following described twelve (12)
parcels of real property situated in Gallatin County, Montana:

**Lots 2 and 3 of Churn Creek Estates Minor Subdivision No. 445, located in
the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 29, Township 1 South, Range 6 East, P.M.M., Gallatin
County, Montana, according to the official plat thereof on file and of record
in the office of the County Clerk and Recorder, Gallatin County, Montana.
("Lot 2" and "Lot 3" herein)**

Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana:
Section 29: W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$
("Lot 6" herein)

Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana:

Section 29: E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$

("Lot 7" herein)

Lots 1, 2, 3, and 4 of The Homestead First Minor Subdivision No. 470, located in the SW $\frac{1}{4}$ of Section 29, Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

("Lots 10, 11, 12, and 13" herein respectively)

and

Lots 1, 2, 3, and 4 of Homestead 5A Minor Subdivision Plat No. 499, being a subdivision of Lot 5A of Amended Subdivision Plat Minor 470A, located in the SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 29, Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

("Lots 14, 15, 16, and 17" herein, respectively)

and

WHEREAS, Declarant has previously sold and conveyed the following five (5) parcels of real property which are also subject to these Covenants to third parties:

Lot 1A of Amended Subdivision Plat Minor 470A, located in the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

("Lot 1" herein)

Lots 4 and 5 of Churn Creek Estates Minor Subdivision No. 445, located in the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 29, Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

("Lot 4" and "Lot 5" herein)

Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana:

Section 29: W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$

("Lot 8" herein)

Township 1 South, Range 6 East, P.M.M., Gallatin County, Montana:

Section 29: E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$

("Lot 9" herein)

and

WHEREAS, in 2014 Declarant and all of the then-current third party lot owners executed that certain *Restated and Amended Declaration of Protective Covenants, Conditions, and Restrictions for Churn Creek Estates Minor Subdivision No. 445 And Including The Homestead First Minor Subdivision No. 470*, which instrument was recorded on December 12, 2014, as Document No. 2499466, official records of Gallatin County, Montana (the "Restated Covenants"), which instrument replaced and superseded in its entirety the previous covenants of record, as twice amended, for the subject integrated development then consisting of fourteen (14) lots collectively known and referred to as "The Homestead;" and

WHEREAS, in 2015 Declarant and all of the then current third party lot owners further executed that certain *First Amendment to Restated and Amended Declaration of Protective Covenants, Conditions, and Restrictions for Churn Creek Estates Minor Subdivision No. 445 And Including The Homestead First Minor Subdivision No. 470*, which instrument was recorded on March 27, 2015, as Document No. 2507076, official records of Gallatin County, Montana (the "First Amendment to Restated Covenants"); and

WHEREAS, in connection with Declarant's subdivision into four lots of the single lot formerly described as Lot 5A of Amended Subdivision Plat Minor 470A to create Lots 14, 15, 16, and 17 as defined above, Declarant is required by the governing body of Gallatin County to subject such resulting lots to certain covenants required by the County as part of the subdivision process; and

WHEREAS, Declarant intends to develop, market, and sell all of the above-described real property as a unified residential development now consisting of seventeen (17) lots at present, all to be governed under the same Covenants and Homeowner Association regime, to be collectively and commonly referred to as "The Homestead;" and,

WHEREAS, to this end, Declarant desires to subject *all* of said real property, together with the lots contained therein, to these comprehensively restated and amended covenants, conditions, restrictions and reservations herein set forth and referred to interchangeably as the "Covenants" or "Second Restated Covenants," which shall supersede and replace in their entirety, and act as a novation to, the Restated Covenants recorded December 12, 2014, and the First Amendment to Restated Covenants recorded March 27, 2015; and

WHEREAS, Article X, Section 1 of the Restated Covenants, as amended, provides for the amendment of same by the Declarant at the Declarant's sole option within the first fifteen years since the date of recording of same, so long as the Declarant holds at least one lot or parcel for sale in the ordinary course of business; and

WHEREAS, no covenant set forth under Article IV, Section 4 or under Article VII or under Article IX (the "County-Required Covenants"), which provisions were required by the governing body of Gallatin County to be included in the Restated Covenants as a condition of subdivision plat approval for Minor Subdivision No. 445 and for Minor Subdivision No. 470, respectively, is being altered, amended, or revoked by this Second Restated Covenants instrument, and therefore the approval and consent of the governing body of Gallatin County is not required to this instrument in that regard;

NOW, THEREFORE, by virtue of such power of amendment as set forth in the Restated Covenants, as amended, Declarant does hereby re-establish, dedicate, declare, publish and impose upon all the property – all seventeen (17) parcels as described above - the following Second Restated and Amended Protective and Restrictive Covenants, which shall run with the land, and shall be binding upon and be for the benefit of all persons claiming such property, their grantors, legal representatives, heirs, 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. Such Covenants shall apply to the entire property, and all improvements placed or erected thereon, unless otherwise specifically excepted herein. The Covenants shall inure to and pass with each and every parcel, tract, lot or division of land within.

Said Covenants shall be as follows:

ARTICLE I
DEFINITIONS

Section 1. The term "Association" shall mean The Homestead at Valley Ridge Owners' Association, Inc., its successors and assigns. The Association may be incorporated as a Montana nonprofit corporation, with its members as the lot owners.

Section 2. The term "member" shall mean a member of the Association, which is equivalent to an owner of a lot within the Subdivision. Each member agrees to abide and be bound by these Covenants, the Articles of Incorporation, and the Bylaws and the Resolutions of the Homeowners' Association, if any.

Section 3. The term "owner" or "lot owner" shall mean any person or entity owning a fee simple interest in a lot, or a contract purchaser, whether one or more persons or entities, owning or purchasing a lot, but excluding those having a mortgage or an interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of a lot for value, the term "owner" shall mean the Declarant or its successors or assigns. The term "person" hereinafter shall include any person, persons or entities.

Section 4. The term "contract purchaser" shall mean a person buying a lot pursuant to a Contract for Deed.

Section 5. The terms “properties” and “lots” and “subdivision” shall generally mean and refer to *all* of the real property herein described, which shall include (i) the five lots of Churn Creek Estates Minor Subdivision No. 445; (ii) the four aliquot part lots labeled as Lots 6-9 inclusive herein; (iii) the three remaining original lots 2, 3, and 4 of The Homestead Minor Subdivision No. 470; (iv) Lot 1A of Amended Subdivision Plat Minor 470A; and (v) the four lots created out of Lot 5A of the Amended Plat of Homestead Minor Subdivision 470A, as well as any additional lots resulting from any further permitted divisions or subdivisions thereof, all according to the official plats thereof filed of record in the office of the Clerk and Recorder of Gallatin County, Montana, as applicable.

Section 6. The term “Directors” or “Board” may be used interchangeably and shall mean and refer to the Board of Directors of the Association, which shall consist of not less than three (3) directors.

Section 7. The term “Declarant” shall mean and refer to Churn Creek Partners, LLC, and its successors and assigns.

Section 8. The term “Design Review Committee” or “DRC” shall mean the Committee as defined in Article IV of these covenants and the Design Review Regulations.

Section 9. Other definitions may be found throughout these covenants and those definitions are binding upon all owners. Any term not specifically defined shall be deemed to have a common and ordinary meaning.

ARTICLE II HOMEOWNERS’ ASSOCIATION

Section 1. An association is hereby established known as “The Homestead at Valley Ridge Owners’ Association, Inc.” and hereinafter referred to simply as the “Association.” Said Association may be incorporated as a not-for-profit corporation under this or a different name as may be approved by the Montana Secretary of State. Said Association was originally established in 2011 under the name of, and is formerly known as, Churn Creek Estates Homeowners’ Association, Inc. The name of the Association has been changed as set forth herein to be consistent with the overall new name of this integrated development project – “The Homestead.”

Section 2. Every owner or contract purchaser of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any lot. Each owner shall be responsible for advising the Association of their acquisition of ownership, of their mailing address, and of any changes of ownership or mailing address. The Association shall be entitled to rely upon the mailing address of each owner as set forth in the public record. The initial address of the Association shall be 1007 E. Main St. Suite 202, Bozeman, Montana

59715. The address of the Association may be changed by the Board of Directors upon notice to the owners.

Section 3. 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.

Foreclosure of a mortgage, trust indenture or the termination or foreclosure of a contract for deed wherein title is vested in the mortgage, 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.

Section 4. There shall be one class of voting membership in the Association. Each of the seventeen (17) lots, regardless of acreage, shall be entitled to one (1) vote in Association matters. Where more than one individual holds an ownership interest in a lot, the vote for such lot shall be cast as the owners, amongst themselves, shall determine, but in no event shall more than one vote be cast per lot, nor shall the vote for any lot be fractionalized.

Section 5. The annual meeting of the Association shall occur on the 30th day of September of each year, or an alternate date in the fall as may be selected by the Board.

Any special meetings may be called by the President, or in the absence of the President, by the Vice-President. In addition, a special meeting shall be held upon call of a majority of the owners. Special meetings shall require not less than seven (7) days' advance notice in writing. Notice of annual and special meetings shall be mailed to owners at the address for each owner as provided pursuant to Section 2 of this Article.

The presence of members, in person or by written proxy, representing 51% of the total votes of the membership shall constitute a quorum.

At the annual meeting, the members shall review and approve a budget for the next year, shall elect Directors to fill any expired term or vacant position, and shall conduct such other business as shall be reasonable or necessary to carry out the purpose of the Association. The number of Directors shall not be less than three.

Section 6. The annual meeting of the Board of Directors shall be held immediately after the annual meeting of the members. At the annual meeting, the Directors shall elect a President, Vice-President and Secretary-Treasurer for the Association from among the Directors, except that the Secretary-Treasurer need not be a member or a Director.

Section 7. The Board of Directors shall serve for a term to be set by a simple majority of the membership, which term shall not be for less than one year. Each director shall serve until replaced by his or her successor. Any vacancy on the Board of Directors occurring before the next annual meeting of the members shall be filled by the remaining directors, or by the Declarant pursuant to its power of appointment set forth below as applicable.

Until all but one of the lots in the entire integrated The Homestead development have been sold by the Declarant or seven (7) years after the final plat approval for The Homestead First Minor Subdivision 470, whichever occurs later, the Declarant shall have the right to appoint the Board of Directors (and remove members therefrom at will), who shall not be required to be lot owners or members of the Association.

Section 8. 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 take such actions as shall be necessary or reasonable to care for, protect, and maintain the easements, roads, trails, boundary fences, drainage easements; to enforce these Covenants; to collect assessments; 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.

Section 9. The duties of each of the offices shall be as follows:

A. President. The President shall preside over all meetings of the Association. He or she shall call the membership together whenever necessary. The President shall be the general administrative and executive officer of the Association, and shall perform such duties as may be specified, and exercise such powers as may be delegated to the office of President by the Board of Directors.

B. Vice-President. The Vice-President shall exercise the powers of the President in the absence of the President.

C. Secretary-Treasurer. These offices may be held by separate individuals or combined and held by one individual. The Secretary shall give notice of all meetings of the Association, and shall keep a record of the proceedings of the meetings of the Association. The Secretary shall be authorized to sign on behalf of the Association, all records, documents and instruments when such are authorized to be signed by the Association.

The Treasurer shall keep and maintain adequate and correct accounts of the accounts, properties, and business of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains and losses of the Association. The Treasurer shall prepare and report such periodic accountings as shall be required by the Association.

Section 10. A vacancy in any office of the Association shall be filled by appointment by the Board of Directors until the next annual meeting or until the successor is duly appointed or elected.

Section 11. Liability Insurance; Indemnification for Fire Fill Site.

The Association shall at all times maintain in effect a policy of comprehensive general liability insurance with commercially reasonable policy limits and from a carrier as determined

by the Board, which shall cover the Association's activities in administering any and all common roadways, easement areas in favor of the Association, and other subdivision infrastructure for which the Association is responsible, specifically including, but not limited to, the fire fill site within the designated easement area therefor on Lots 4 and 5. The owner(s) of record of Lots 4 and 5 shall be named as additional insureds on such liability policy.

The Association shall indemnify and hold harmless the Lot Owner(s) of Lots 4 and 5 from and against any and all claims, demands, suits, actions, damages, loss or other liability of any kind or nature arising out of, or in connection with, the Association's construction, use, operation, repair, and or maintenance of the fire fill easement area, fire fill pond, associated well(s), pumps, pipelines, and all other related infrastructure for such fire fill site as is located upon said Lots 4 and 5 as shown upon the plat of Minor Subdivision No. 445, excepting only any damages, loss, or liability arising out of, or as is caused by, the fault or negligence of said indemnified Lot Owner(s) or their guests, invitees, tenants, or other occupants of either such Lot.

ARTICLE III ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Assessments.

Each owner, whether or not it shall be so expressed in any deed or contract, is deemed to have agreed to these Covenants, to the assessment liability created herein, and to the lien of the Association for unpaid assessments duly levied by the Association, and hereby agrees to pay to the Association:

- (1) Annual assessments or changes; and,
- (2) Special assessments for capital improvements and reserve assessments, such assessments to be established and collected as hereinafter provided; and
- (3) Fines, as levied pursuant to these Covenants and, if remained uncollected, may be assessed by the Association, and filed as a lien against the real property of the owner.

The annual, special and reserve assessments, and fines, together with interest, costs and reasonable attorney's fees, 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 assessment are due.

Section 2. Purpose of Assessments.

The assessments (and any fines levied by the Association) shall be used to promote the recreation, health, safety, convenience and welfare of the owners, for the improvement, roads,

repair and maintenance of easements, trails, and for any other purposes, expressed or implied, in these Covenants.

Section 3. Amount and Approval of Assessments.

The maximum assessment per lot which may be made by the Association in every calendar year shall not substantially exceed the projected and budgeted actual and reasonable costs to be incurred by the Association during the coming year in carrying out the purposes herein set forth, and may include a reasonable reserve for contingencies. The amount of the annual assessments shall be fixed by the Board of Directors of the Association in the following manner:

At each annual meeting of the members of the Association, the Directors shall present a proposed budget of the estimated expenses for the Association for the coming year to the members for review, discussion, amendment, comment and approval. The members shall approve or amend the proposed budget by a majority vote of the members present or voting by proxy. After the annual meeting, the Board of Directors shall set the amount of the assessments and the date(s) due for the coming year to cover the budget approved in the manner herein set forth.

Section 4. Special Assessments for Capital Improvements and Reserve Assessments.

In addition to the annual assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or other capital improvements on the properties, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds (2/3) or more of all of the votes of the members who are present, in person or by proxy, at a meeting duly called for that purpose. Special assessments may be levied to be paid over one or more years.

The Association may levy reserve assessments for the replacement and upkeep of the improvements enjoyed by the Association members. Reserve assessments need not be levied against all lots during any budget cycle provided that any such assessment shall have the approval of two-thirds (2/3) or more of all the votes of the members being assessed, who are present, in person or by proxy, at a meeting duly called for that purpose.

Section 5. Rate of Assessment.

Annual assessments shall be fixed at the same rate for each lot, thus, each of the seventeen lots will be assessed one-seventeenth of the total annual budget. Special assessments which benefit less than all of the lots shall be fixed by the Directors at a rate that is reasonably related to the benefit received by the assessed lot.

Section 6. Date of Commencement of Annual Assessments: Due Dates.

Except as herein provided, the annual and special assessments provided for herein shall be due on the date determined by the Board of Directors. The Board of Directors shall fix the amount of the annual assessments against each lot at least thirty days in advance of the due date of each annual assessment, and at least ninety days in advance of a special assessment and reserve assessments. Written notice of the annual and special assessments shall be mailed or personally delivered to every member subject thereto, at their last known mailing address.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the owners obligated to pay the same or foreclosure the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the open space or by abandonment of their lot.

Upon delivery of the notice of assessment to the owner, the assessment shall be a lien upon the owner's lot until paid. The Association may record a notice of the lien with the Clerk and Recorder of Gallatin County, Montana. In the event of non-payment within thirty (30) days after the recording of the notice of lien, the Association may foreclose the lien in the manner set forth under Montana law for the foreclosure of liens against real property. The Association is entitled to collect during an action for delinquent assessments any and all reasonable attorney's fees and costs accrued prior to and in association with the collection of delinquent assessments.

Section 8. Sale or Transfer of a Lot.

The sale, transfer or encumbrance of any lot shall not affect the assessment lien if recorded in the records of Gallatin County, Montana, or the personal liability of the owner responsible for the assessment. No sale or transfer to a third party with actual or constructive knowledge of an assessment shall relieve such new owner from the liability for any outstanding assessments, or from any assessments thereafter becoming due, or from the recorded lien thereof. A person or entity purchasing a lot shall be responsible for checking with the Association for any outstanding assessments against said lot before the closing upon the purchase.

ARTICLE IV
ARCHITECTURAL REGULATIONS AND LANDSCAPE DESIGN

Section 1. Design Review Regulations

All structures shall be built in conformance with the Design Review Regulations, a separate document, adopted to govern the building of any and all structures in The Homestead. The Design Review Regulations are incorporated by reference herein and are enforceable as if they are a part of this document.

Specific design guidelines required in addition to requirements of Design Review Regulations:

Except as expressly provided herein, no structure shall be constructed on any lot outside of the designated Building Envelope, as depicted in Exhibit "A", attached hereto and incorporated herein by this reference. There shall be one Building Envelope for each lot.

These properties, like the greater portion of the Gallatin Valley floor, are located in a seismic area formerly referred to as Seismic Zone 3. All structures shall be constructed in compliance with the State of Montana adopted building code, including codes for Seismic Zones 3 or equivalent regulations as amended.

Prior to the commencement of construction of any improvement or structure on any lot within The Homestead, the owner must obtain written approval from the DRC.

All construction and landscaping provisions of the Fire Protection Plan, set forth hereinbelow at Article IV, Section 4, shall be incorporated into the design plans submitted and reviewed by the DRC. In addition, any fire protection provisions contained in the County-Required covenants of Article IX pertaining to Lots 10-17, to the extent that such provisions differ in any way from Article IV, Section 4, shall also be incorporated into the design plans for any structures to be constructed on Lots 10-17.

The Design Review Committee ("DRC") is hereby created and shall carry out all duties bestowed upon it by these Covenants and the Design Review Regulations, and any amendments made thereto. The DRC has the obligation to enforce the design regulations and any fire protection plans attached to and incorporated in these Covenants. The members of the DRC shall be appointed by the Board of Directors of the Association, to serve at the pleasure of the Board.

The procedures for application, consideration, and approval of any building or improvement on a lot are set forth in the Design Review Regulations.

The DRC may charge a reasonable review fee in connection with an application.

No construction of any improvement or structure shall commence without the signed approval of the DRC, unless the DRC has not responded in writing to the owner within thirty (30) days of submission of an application, in which case the application shall be deemed approved. Each improvement must be constructed in compliance with the Design Review Regulations, including but not limited to, location, square footage requirements, color, building materials and all requirements of the Design Review Regulations.

Section 2. Landscape Design

All landscaping shall be installed in conformance with the environmental and site guideline regulations section of the Design Review Regulations.

The procedures for application, consideration and approval of any landscaping are set forth in the Design Review Regulations.

No landscaping shall be installed without the signed approval of the DRC, unless the DRC has not responded in writing to the owner within thirty (30) days of submission of an application, in which case the application shall be deemed approved. All landscaping must be installed within the first growing season following the completion of the residential structure.

Section 3. Variances.

Upon written application from a lot owner and upon good cause shown therefor, the DRC may allow reasonable variances and adjustments of the foregoing covenants, conditions and restrictions and or to the Design Review Regulations in order to overcome practical difficulties and prevent unnecessary hardships in the application of the covenants contained herein, or for the purpose of enhancing views, utilizing a tract to better advantage, preventing the removal of trees, and enhancing the placement of improvements on the property, provided this shall be done in conformity with the intent and purpose hereof, and also provided in every instance that the DRC shall determine in its sole discretion that such grants or adjustments shall not be materially detrimental or injurious to other property or improvements in The Homestead. In this connection, the DRC shall have the discretion to permit variances to the placement of structures within the designated Building Envelope for a lot and may modify the shape of such Building Envelopes to accommodate construction needs, provided that at least 50% of the square footage of the primary residence must be contained within the originally designated Building Envelope. Outbuildings as are permitted under these Covenants may only be placed outside of the designated Building Envelopes with the prior express consent of the DRC under this variance provision. Notwithstanding the foregoing provision, no variance shall be allowed which has the effect of creating additional lots.

Any variances or adjustments of these conditions, covenants and restrictions granted by the DRC, or any acquiescence or failure to enforce any violation of the conditions and restrictions herein, shall not be deemed to be a waiver of any of the conditions and restrictions in any other instance, and shall not constitute a precedent which must be followed in any other future instance

In the event that the DRC fails to respond to an owner within thirty (30) days of receipt of a written *variance* request or application, the request or application shall be deemed *denied*.

Section 4. Fire Protection Plan.

A. Purpose.

The Declarant in conjunction with the Central Valley Fire District, the fire protection authority having jurisdiction or "FPAHJ," has developed a fire protection plan, which addresses the fire protection needs and emergency service needs for rural living in Gallatin County. The following requirements are imposed in accordance with such plan.

B. Sprinkler Systems.

Fire suppression interior sprinkler systems shall be required in all residential structures, and shall be installed in accordance with the NFPA. Such fire suppression sprinkler systems shall be maintained by the owners in good and operable condition.

C. Smoke Detectors.

Smoke detectors shall be installed on every level of all dwelling units. Such smoke detectors shall be kept in a good and operable condition by the owner of the property.

D. Roofing Materials and Spark Arrestors.

All structures built on a lot must be roofed with a Class A or B fire-rated roofing material. Spark arrestor screens shall be installed on all fireplace and woodstove chimneys.

E. Maintenance of Fire Protection Water Supply Features; Fire Department Use.

Fire protection features within the subdivision intended for the common use and benefit of all lots must be maintained to their original performance capability in perpetuity by, and at the expense of, the owners. Performance of all fire protection features shall be certified annually, by the use of field measures, by the FPAHJ or by a professional engineer licensed in Montana. If a professional engineer is used, a written report shall be submitted to the FPAHJ to ensure continued specified capability. The annual certification by the professional engineer shall be at the expense of the property owners. The professional engineer shall be approved by the FPAHJ.

The fire department shall have unrestricted use on perpetuity, at no cost to the fire department, of the fire protection features in the subdivision, including, but not limited to, all water sources, pumps, and hydrants.

F. Separation Distance Between Structures; Vegetation.

The minimum separation distance between structures protected by approved fire sprinkler systems and all detached, non-sprinkler protected buildings or structures shall be fifty feet (50'). The vegetation reduction and clearance guidelines of the Fire Protection Guidelines for Wildland Residential Interface Development shall be adhered to.

G. Driveway Standards.

To allow for emergency vehicle access to structures, in addition to any other requirements set forth herein, each owner must provide a driveway meeting the following requirements as approved by the FPAHJ:

- (i) A minimum unobstructed driving surface of 12 feet in width for driveways less than 300 feet long, and a minimum unobstructed driving surface of 16 feet in width for driveways over 300 feet long (Note: if a driveway less than 16 feet wide and longer than 300 feet in length is approved by the FPAHJ, turn-outs shall be designed and constructed every 300 feet along the driveway's length);
- (ii) A vertical clearance of 15 feet;
- (iii) A four-foot zone of reduced vegetation on each side of the driving surface;
- (iv) For all driveways leading to buildings or structures which are over 300 feet in length, the owner shall provide a turnaround every 300 feet, such as

by way of example, a drive-through, cul-de-sac, or hammerhead design, which turnaround shall be located within 50 feet of the building when there is not a community water system with fire hydrant, and which turnaround shall be located within 150 feet of the building when there is a community water system with fire hydrant;

- (v) All gates, bridges, culverts, cattle guards, and all related constructs affecting access shall be a minimum of two feet wider on each side of the driveway. The entire driveway shall have a 30-ton minimum rating for two-axle trucks, including bridges, culverts, cattle guards and all other constructs of the driveway; and
- (vi) Residential street address numbers shall be visible from the internal subdivision access roads.

ARTICLE V PROPERTY USE

Section 1. No Further Subdivision.

No lot within The Homestead may be further divided or subdivided.

Section 2. Residential Use.

The property and each lot therein shall be used primarily for residential purposes and related activities (including permitted commercial home occupations as defined herein below). No more than one (1) primary single family dwelling shall be permitted on each lot.

Except as may be otherwise expressly provided herein, not more than two (2) detached accessory outbuildings and improvements such as by way of example but not limitation, detached garage(s), carport(s), barn(s) or shop(s), and or guest house(s), or any combinations thereof, shall be permitted on Lots 1-13 and Lot 17, provided that the use thereof is limited to the use normally connected with such structures, and shall not be used for any other purpose prohibited by these Covenants or applicable law.

Not more than one (1) detached outbuilding, whether the same is a garage, barn, shop, guest house or combination thereof, in addition to the main residence shall be permitted on each of Lots 14, 15, and 16, provided that the use thereof is limited to the use normally connected with such type of structure, and shall not be used for any other purpose prohibited by these Covenants or applicable law.

For all purposes under this provision, any improvement which is physically and structurally connected to the main residence on a lot is not considered a detached outbuilding.

In addition to the foregoing, one (1) outdoor, uncovered, natural surface equestrian riding arena and one (1) non-residential barn structure (in addition to the two other permitted detached accessory outbuildings) may be located on Lot 17 outside of its designated Building Envelope, with the size, design, and specific building site for such arena and or barn structure being subject

to the prior review and approval by the DRC pursuant to the provisions of Article IV hereinabove.

Any and all buildings and improvements constructed on a lot shall be subject to all other applicable federal, state, and local regulations, including any zoning ordinance as may apply to the property, which regulations shall take precedence over these Covenants if more restrictive.

Section 3. Prohibited Commercial Use.

No residence or other structure erected on the real property which is the subject of this Declaration shall be used for any commercial endeavor or activity, excluding cottage industry type businesses and or home occupations. Home occupations on the property are permitted so long as the same are conducted in a portion of the primary residence, or in accessory buildings, such as offices, studios, shops, or work rooms. The activity must be clearly incidental to, and secondary to the use of the lot for residential purposes, and shall not change the character or appearance of the residence, and shall be limited in location to the primary residence, attached appurtenances, or accessory buildings. Such commercial use shall not result in any significant increase in traffic to the premises either by the Owner or customers/clients. It is the express intent of the Declarant that the real property which is the subject of this Declaration be primarily for residential use. Notwithstanding the foregoing, the residential rental of any lot or structure thereon for a term longer than six (6) months is not a prohibited commercial use of the property under this provision. However, short-term rentals of less than six (6) months, or “vrbo” or “Air B-n-B” or similar arrangements, are expressly prohibited commercial uses of a lot under this provision.

Section 4. Building Envelopes.

Except as expressly provided under the variance provision of Article IV, Section 3 hereinabove or elsewhere herein, no structure (exclusive of driveway and permitted fencing improvements) shall be constructed on any lot outside of the designated Building Envelope for such lot, as such Building Envelopes are depicted on Exhibit “A”, attached hereto and incorporated herein by this reference.

Section 5. Storage of Equipment.

No lot or adjacent street, roadway or alleyway shall be used for the storage of any inoperable vehicle, machinery or equipment. No lot shall be used for storage of any articles, vehicles, equipment or other personal property of any quantity in excess of the immediate needs and personal use of the owner of a lot or the occupants and guests thereof as the case may be, and shall not interfere with the use or enjoyment of neighboring lots.

Section 6. Commercial Vehicles.

No lot shall be used for the outside parking or storage of any commercial trucks, large commercial vehicles or other heavy equipment, except as may be necessary during reasonable

periods of construction. Nothing herein shall prohibit the storage of such vehicles within the confines of a garage approved by the DRC.

Section 7. Recreational Equipment.

All campers, trailers, motor homes, boats, and all other recreational equipment and the like shall only be parked on or adjacent to the owner's lot. In no event shall such equipment be parked on roads, nor shall any equipment be parked such that it is visible from the streets or adjacent lots for a period exceeding 3 days in any 30-day period. Storage or location of such equipment and vehicles, in excess of the requirements of this section, shall occur in an enclosed garage or other screened area with such garage or screen having been pre-approved in writing by the committee for design review.

Section 8. Offensive Activity.

- a. No noxious odors or offensive activity shall take place upon any portion of the above-described property, nor shall anything be done thereon which may be, or may become, an annoyance to the neighborhood.
- b. No fireworks of any kind may be bought, brought into, discharged or stored on the above-described property.
- c. No firearms shall be discharged on the above-described properties, with the sole exception that indoor, underground shooting ranges are permitted provided that the same are designed and constructed with adequate soundproofing and or noise suppression equipment such that no noise from such facility may be heard outside of the boundaries of the particular Lot upon which it is located.
- d. No trash, waste, garbage, or litter, shall be allowed to accumulate or remain on any lot. All waste shall be kept in sanitary containers and shall be disposed of promptly on a regular basis. No burning of trash shall be permitted on any lot, however, limited small-scale burning of unwanted vegetative matter derived from or grown on any lot is permitted in accordance with all applicable local, County, and State regulations.

Any violation of county ordinances or other regulations shall be a violation of these covenants and can be enforced by the Association or individual lot owners.

Section 9. Ditches and Water Courses.

Each owner of property within The Homestead, as individuals and as members of the Association, acknowledges that there may be irrigation ditches located within the subdivision and other water features may be located within The Homestead. Each owner of property within

The Homestead, as individuals and as members of the Association, acknowledges that water could pose a danger to humans, animal life, and property. By this acknowledgement, each owner of property within The Homestead, as individuals and as 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 The Homestead.

Section 10. Pets.

No livestock, poultry or other animals, except dogs, cats or small in-house pets and birds, are permitted on the properties. Each lot shall be restricted to no more than three (3) commonly recognized domesticated adult pets. All dogs, cats and other pets shall be strictly controlled by their owners so as not to annoy or interfere with the use of the properties by the other lot owners and to prevent any interference or harassment of wild birds or animals in the subdivision or on surrounding or adjacent properties. Dogs and cats shall be kept on the owner's own property and shall not be allowed to roam free. No commercial kennels or commercial pet breeding operations shall be permitted on the property.

Notwithstanding the foregoing, however, the owners of Lots 4, 5, 7, 8, 9, 12, and 17 shall be permitted to keep horses either seasonally or year-round only on that portion of their own lots as is designated as the "horse area" for each such lot in the "Designated Horse Area Exhibit" to the Design Review Regulations, all with the following restrictions:

a. No more than four (4) horses may be kept on any one such lot. A mare with foal shall be considered "one horse" for purposes of this provision until the foal is eighteen months old, at which time, the young horse shall be considered a separate horse for purposes of this provision. A pony breed or mule is considered a "horse" for purposes of this provision. A donkey is not considered a "horse" for purposes of this provision.

b. Only horses are permitted under this provision. Donkeys, cattle, llamas, goats, swine, and other livestock and alternative livestock are still prohibited.

c. No horses may be kept on one of these lots unless the lot owner or a caretaker is in full-time residence on such lot.

d. No owner shall permit his or her lot to become overgrazed, excessively dusty, muddy, or malodorous as a result of keeping horses on such lot. Manure shall be harrowed regularly, and shall not be permitted to accumulate to excessive levels in barns and or corrals. Owners shall take due care to protect any riparian areas, riparian vegetation, and or watercourses within the designated horse area on their lot from overgrazing, erosion, or other damage by the horses by using appropriate fencing techniques (permanent or temporary) with water gaps as may be reasonably required from time to time.

e. Corrals and other pasture fencing may be installed by such lot owners for keeping horses in the designated horse areas of Lots 4, 5, 7, 8, 9, 12, and 17. Such fencing location and type shall be subject to review and approval by the DRC. Natural color jackleg or wood post and rail fencing is encouraged; barb wire is discouraged; and woven wire (sheep fence), chain link, metal panel fencing, and white fencing whether wood or vinyl is prohibited. Fencing may not be constructed on the interior lot boundary

line common to Lots 4 and 5, however, as per the County-Required covenant in Article VII, Section 10, and may *not* be constructed on any interior lot boundary line of Lots 12 or 17 as per the County-required covenant in Article IX, Section 19. No such interior lot boundary fencing restriction exists as to Lots 7, 8, or 9.

f. No other portion of Lots 4, 5, 7, 8, 9, 12, or 17 may be used for the keeping or pasturage of horses other than that portion so designated in the Designated Horse Area Exhibit to the Design Review Regulations.

Section 11. Exterior Lighting.

All exterior lighting on a lot shall be directed downwards and shall not shine or reflect onto neighboring lots or roadways. All exterior lighting shall be full cut-off in design, in that the light source and associated lenses shall not protrude from the bottom of the lighting fixture. No 24-hour yard lights shall be permitted.

Section 12. Fencing.

Other than boundary fences between a lot and an adjacent property outside of the subdivision, which are to be maintained as set forth elsewhere herein, or fences as permitted for the designated horse areas on certain lots, no fences shall be erected along any internal boundary line between lots in the subdivision, or along the interior subdivision road.

Section 13. Excavation.

No owner may excavate any portion of his or her lot except as may be reasonably necessary for the construction of approved improvements or roads thereon. No gravel or topsoil or other mineral shall be removed from the property for commercial purposes or for use off of the particular lot from whence it originated. No ponds or other water features shall be constructed without the approval of the DRC.

Section 14. Water and Septic.

Each lot owner shall be responsible for the development of its own domestic water source and sewer or sanitation system, and all such wells, sewage systems and other like improvements shall be installed and maintained so as to comply at all times with the applicable laws, rules, and regulations of Gallatin County and the State of Montana.

Section 15. Utilities.

Each owner is responsible for the cost of bringing electricity and telephone services to the improvements on its lot. All electrical, telephone and other utility lines shall be installed underground.

Section 16. Driveways.

Each owner shall be responsible for the construction of its own private driveway from the interior subdivision road to the building envelope on the lot, and for all costs of maintenance and repair of such private driveway. All driveways shall be constructed in accordance with the design standards of Gallatin County relating to grade and width, as the same may be in effect from time to time, and in accordance with the Fire Protection provisions of these Covenants in Article IV above. Driveways need not be paved, but if not paved, shall be of an all-weather gravel surface.

Section 17. Waiver of Right To Protest Neighboring Development.

All current owners at the time of recording this Second Restated Declaration, by their acceptance of a deed to a lot in the subdivision subject to the Restated Declaration, as amended, have covenanted with the Declarant and its successors and assigns that they have waived any and all right to protest, contest, or object to any development, subdivision, or annexation process that might occur in the future on former Lot 14 (i.e. Lot 5A of The Homestead First Minor Subdivision 470A), and which subdivision has now, in fact, occurred.

Section 18. Storm Drainage Maintenance.

The Association shall be responsible for maintenance of the storm drainage facilities along the interior subdivision road including culverts, ditches, and detention basins. Maintenance includes visually checking culverts, detention basins, and road ditches quarterly. Culverts are to be inspected at the inlets and outlets for debris which could limit capacity. Road ditches are to be inspected for debris or obstructions that could limit capacity. Detention basins are to be inspected for excessive soil erosion at the inlet and outlet and any accumulated sediment is to be removed.

ARTICLE VI
RESERVED EASEMENTS AND RIGHTS OF DECLARANT

Section 1. Fire Fill Site.

The Declarant does hereby reserve unto itself and for its successors and assigns, and for the Association, a perpetual, non-exclusive easement for the construction, operation, repair, maintenance, and replacement of a fire fill site for the subdivision and water source therefor, which shall be located generally in the northwest corner of Lot 4 and the southwest corner of Lot 5, as depicted on the recorded plat for Churn Creek Estates Minor Subdivision. Any and all water rights for such fire fill pond/reservoir and or any groundwater well(s) associated with such fire fill site shall be reserved by the Declarant and shall be conveyed to and owned by the Association.

Such fire fill pond site and easement area is to be used strictly for its intended fire protection purposes, and nothing herein shall be construed to grant the Association, its members and other lot owners or other third parties (other than the owners of Lots 4 and 5) a right to use the fire fill site for any recreational or other purpose. The Association's use of the fire fill site shall be limited to those activities directly connected to fire prevention. The fire fill easement area is on private property, Lots 4 and 5, and the scope of this reserved non-exclusive easement does not include any right of access upon or use of the easement area for recreational or other purposes not strictly connected with the fire protection purposes by the Association or any lot owner, other than the respective owners of Lots 4 and 5. Any such unauthorized use of or entry upon the fire fill easement area on Lots 4 and 5 by any third parties shall be deemed a trespass, and either the Association or the owner(s) of Lots 4 and 5 may seek all available legal and equitable remedies for such trespass and to prevent same. The Association may post such signage and take such other steps as it deems reasonable and prudent in its discretion to deter any such unauthorized use of the fire fill easement area and pond thereon, provided however, that the Association is under no duty or obligation to the owners of Lots 4 and 5 to police the fire fill easement area or insure that no such unauthorized use or trespass ever occurs.

Section 2. Utilities Easements.

The Declarant does hereby reserve for itself, and its successors and assigns, and does hereby grant unto each lot owner, a perpetual, non-exclusive easement for the placement of underground utilities serving each lot within the subdivision, or serving other adjacent lands thereto, which easement shall be in the location(s) as depicted on the recorded plats for the subdivision.

ARTICLE VII
COUNTY-REQUIRED COVENANTS FOR LOTS 1-5 OF
CHURN CREEK ESTATES MINOR SUBDIVISION NO. 445 ("LOTS 1-5")

The Covenants included in this Section, all of which are included as a condition of preliminary plat approval, may not be altered or amended or revoked without the mutual consent of the Owners and the governing body for the County of Gallatin, State of Montana, in accordance with the amendment procedures set forth hereinbelow in Article X, Section 1.

Section 1. Building Codes.

All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zones 3 and the National Fire Protection Association Codes.

Section 2. Noxious Weeds.

The control of noxious weeds by the Homeowners Association on those areas of Churn Creek Estates Minor Subdivision for which the 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 (§§7-22-2101 through 7-22-2153 and subsequent amendments, Montana Code Annotated) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event the landowner does not control noxious weeds, after 10 days' notice from the Homeowners' Association, the 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.

Section 3. Driveway Access

All lots shall be limited to one driveway access.

Section 4. Subdivision Access Road

The Homeowners' Association shall be responsible for the operation and maintenance of the subdivision access road.

Section 5. Right to Farm.

Property owners of the subdivision are informed that nearby uses may be agricultural in nature. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.

Section 6. Exterior Fence Maintenance

The maintenance of all subdivision exterior boundary fences shall be shared equally with adjacent property owners.

Section 7. Wildlife Feeding Prohibited.

The artificial feeding of all big game wildlife shall be prohibited.

Section 8. Animal Proof Garbage Containers.

All garbage shall be stored in animal-proof containers or be made unavailable to animals.

Section 9. Acceptance of Wildlife Damage.

Owners acknowledge that wildlife damage to landscaping will occur. Owners accept that risk and shall not file claims against the Homeowners Association or any other governing body for such damages.

Section 10. Lot Boundary Fencing.

Fencing along the exterior boundaries of lots shall be prohibited.

Section 11. Taking of Wildlife Prohibited.

The taking of any wildlife species within the property is prohibited, except for the removal of problem animals which endanger human health and safety.

Section 12. Pets.

Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. Also see Article V, Section 10 regarding pets.

ARTICLE VIII
SPECIAL COVENANTS APPLICABLE TO "LOTS 6-9" INCLUSIVE

Section 1. All the covenants contained within this Covenants instrument shall apply to the four aliquot-part non-subdivided parcels, labeled Lots 6, 7, 8, and 9, *WITH THE EXCEPTION THAT:*

a. Article IV, Section 4, subsection B requiring interior fire sprinkler systems for residences shall not be applicable to Lots 6, 7, 8, and 9. All other provisions of Article IV, Section 4 shall be applicable, however.

b. Those certain "County-Required" covenants in Article IV, Section 4 pertaining to fire-protection standards, and or in Articles VII and or IX which are hereby made applicable to Lots 6, 7, 8, and 9, are not technically "County-Required" with respect to these four parcels since these parcels were not part of the minor subdivision process for either Churn Creek Estates Minor Subdivision or The Homestead First Minor Subdivision or Homestead 5A Minor Subdivision, and therefore any covenant in Article IV, Section 4, or in Articles VII or IX which is hereby made applicable to these four parcels may nonetheless be amended or revoked merely by the required percentage of majority vote of the lot owners as set forth in these Covenants, and *without* the additional necessity of the approval or consent of the governing body of Gallatin County, and *without* any requirement of notice to or consultation with the FPAHJ. The consent of the governing body of Gallatin County, Montana shall still be required, however, as to any change or revocation of the covenants in Article IV, Section 4, and or Article VII as to Lots 1-5 of The Homestead (being Lots 1-5 of Churn Creek Estates Minor Subdivision No. 445), and or with respect to any change or revocation of the covenants in Article IX as to Lots 10-17 of The Homestead (being Lots 1-5 of The Homestead First Minor

Subdivision No. 470 which also now includes Lots 1-4 of Homestead 5A Minor Subdivision Plat No.499).

ARTICLE IX
COUNTY-REQUIRED COVENANTS FOR
LOTS 1-5 OF THE HOMESTEAD FIRST MINOR SUBDIVISION NO. 470,
ALSO INCLUDING
LOTS 1-4 OF HOMESTEAD 5A MINOR SUBDIVISION PLAT NO. 499 .
(“LOTS 10-17”)

The Covenants included in this Section, all of which are included as a condition of preliminary plat approval, may not be altered or amended or revoked without the mutual consent of the Owners and the governing body for the County of Gallatin, State of Montana, in accordance with the amendment procedures set forth hereinbelow in Article X, Section 1.

Section 1. Building Codes.

All structures shall be constructed in compliance with Montana State adopted codes for construction; including codes for pertinent Seismic Zone, and current fire codes as adopted by the State of Montana.

Section 2. Noxious Weeds.

The control of noxious weeds by the Homeowners' Association on those areas for which the 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 (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District.

The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days' notice from the Homeowners' Association, the Association may cause the noxious weed 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 30 days of the mailing of such assessment.

Section 3. Driveway Access.

All lots shall be limited to one driveway access. Each lot access shall be at least seventy-five (75) feet from the nearest intersection County road.

Section 4. Subdivision Access Road.

The Homeowners' Association shall be responsible for the operation and maintenance for the subdivision access road.

Section 5. Right to Farm.

Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flied and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical spray and the use of machinery early in the morning and sometimes late into evening.

Section 6. Exterior Fence Maintenance.

The maintenance of all subdivision exterior boundary fences shall be shared equally with adjacent property owners.

Section 7. Fire Sprinkler Systems for Dwellings.

All dwellings shall be constructed with an automatic fire sprinkler system meeting the requirement of the NFPA 13D/Uniform Fire Code. The Fire District shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours' notice, during construction and after completion.

Section 8. Class A Roofing.

All structures shall be constructed with Class A roof covering or a Class A roof assembly. For roof coverings where the profile allows for a space between the roof covering and the roof decking, the space at the eave ends shall be fire stopped to preclude the entry of flames and embers.

Section 9. Fire Protection Perimeter

Each owner shall maintain a defensible area of not less than thirty feet (30') around the perimeter of any structure as measured horizontally at a ninety degree angle from the exterior walls of any structure. The defensible area shall not contain combustible material, and shall consist of non-combustible ground cover such as a maintained and well irrigated lawn of no more than three inches. The defensible area may contain fire-resistant vegetation including trees. All structures shall be completely surrounded by 30 feet of non-combustible materials (or maintained, well irrigated lawn of three inches or less) measured out from the exterior walls of the structure.

Section 10. Non-Combustible Materials Surrounding Structures.

All structures shall be completely surrounded by 3 feet of non-combustible materials, such as washed rock or similar substances, measured out from the exterior walls of the structure.

Section 11. Spark Arrestors.

Spark arrestor screens shall be placed on all fireplace and woodstove chimneys.

Section 12. Smoke Detectors.

Smoke detectors shall be installed on each level of dwelling units.

Section 13. Open Fire Prohibition.

Open fires shall be prohibited, except for outdoor barbecues.

Section 14. Driveway Fire Protection Requirements.

All driveways longer than 150 feet shall comply with NFPA/Uniform Fire Code 18.1 regarding fire apparatus access roads.

Section 15. Street Address Signage.

Address for all structures shall be clearly posted at the street-driveway intersection in reflective forms of no less than 4 inches in size.

Section 16. Wildlife Feeding Prohibited.

The artificial feeding of all big game wildlife shall be prohibited.

Section 17. Animal Proof Garbage Containers.

All garbage shall be stored in animal-proof containers or be made unavailable to animals.

Section 18. Acceptance of Wildlife Damage.

Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Homeowner's Association or any other governing body for such damages.

Section 19. Lot Boundary Fencing.

Fencing along the exterior boundaries of lots shall be prohibited.

Section 20. Taking of Wildlife Prohibited.

The taking of any wildlife species within the property is prohibited, except for the removal of problem animals which endanger human health and safety.

Section 21. Pets.

Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision.

Section 22. Wildlife Attracting Vegetation.

The planting of wildlife attracting vegetation shall be prohibited.

ARTICLE X
TERM, ENFORCEMENT, APPLICABILITY AND CHANGE

Section 1. The term of the provisions of these Covenants shall be binding for a term of fifteen (15) years from the recording date of these Covenants and may be modified, altered or amended during that period only by the Declarant at the Declarant's sole option so long as the Declarant holds at least one lot or parcel for sale in the ordinary course of business, or by a vote of a 75% majority of the lot owners (at least thirteen of the seventeen lots/parcels) which 75% majority must include the Declarant so long as the Declarant holds any lot for sale in the ordinary course of business, *except* (i) as to those covenants in Article VII pertaining to the five minor subdivision lots in Churn Creek Estates Minor Subdivision No. 445 that were required by Gallatin County as mitigation of impacts for the minor subdivision approval, and or (ii) as to those covenants in Article IX pertaining to the original five minor subdivision lots in The Homestead First Minor Subdivision No. 470 and the four minor subdivision lots of Homestead 5A Minor Subdivision Plat No. 499, any and all of which shall *also* require County approval to amend or terminate. Notwithstanding the foregoing, the Declarant may not unilaterally amend these Covenants in any manner which materially and adversely affects the rights of any other lot owner(s), nor may the easements for roads, utilities be changed or terminated without the unanimous written consent of all of the owners affected by the change. In addition, the Covenants permitting the keeping of horses on any particular lot may not be altered or amended or revoked in any manner either by the Declarant or by a 75% vote of the lot owners without the express consent of those lot owners owning a designated "horse lot" hereunder, and the execution of such amendment instrument by such affected "horse lot" owners. Finally, Article VI, Section 8(c) may not be amended or revoked except with the express consent of the owner(s) of Lot 4; and neither Article II, Section 10 nor Article VI, Section 1 may be amended or revoked without the express consent of both the owner(s) of Lots 4 and 5.

After the initial fifteen (15) year period from the recording date of these Covenants, these Covenants as amended shall be automatically extended for an additional fifteen-year period, and shall continue to be automatically extended and renewed in perpetuity

for successive fifteen-year periods thereafter, *unless* an instrument agreeing to amend, revoke or terminate these Covenants has been signed and acknowledged by the Owners of at least seventy-five percent (75%) of the lots subject to these Covenants (and by the governing body of Gallatin County as applicable concerning the County-Required Covenants), and such instrument has been recorded with the Gallatin County Clerk and Recorder. Any buildings, structures, and improvements upon, or uses of, any lot existing at the expiration of this initial or any subsequent fifteen-year period as were permitted under these Covenants during the preceding fifteen-year period shall continue to be permitted and shall be deemed “grandfathered,” notwithstanding any alteration or amendment or revocation of these Covenants affecting such structure or use occurring after such fifteen-year period.

Any covenant contained herein and required as a condition of preliminary subdivision approval for either the five minor subdivision lots in Churn Creek Estates Minor Subdivision No. 445 (as set forth in Article VII above), or for the original five minor subdivision lots in The Homestead First Minor Subdivision No. 470, including the four minor subdivision lots in Homestead 5A Minor Subdivision Plat No. 499 (as set forth in Article IX above), shall not be altered or amended or repealed without the prior written agreement of the governing body of Gallatin County, Montana. Further, any fire protection covenant required as a condition of the preliminary or final plat approval and or required by the FPAHJ for the five Churn Creek Estates Minor Subdivision No. 445 lots and or for the five Homestead First Minor Subdivision No. 470 lots, including the four minor subdivision lots in Homestead 5A Minor Subdivision Plat No. 499 (as set forth in Article IX above), may not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the Gallatin County Commission. The Gallatin County Commission shall consult the FPAHJ prior to adoption or amendment of the fire protection covenants.

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. Any change in these Covenants shall not affect existing structures and uses of the Lots.

Section 2. Enforcement of these Covenants shall be by proceedings either at law or in equity against any person or persons violating, or attempting to violate, any Covenant; and the legal proceedings may either be to restrain violation of these Covenants, to recover damages, or both. Any owner or the Association shall have standing to enforce these Covenants. In addition, the FPAHJ shall have standing under these Covenants only for the specific and limited purpose of enforcing any fire protection covenant included herein as a condition of final plat approval for a particular lot.

Should any lawsuit or other legal proceeding be instituted by the Association or an owner or by the FPAHJ against an owner alleged to have violated one or more of the provisions of these Covenants and should the Association or owner or FPAHJ 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, paralegal fees, and expert witness fees associated with the action.

Additionally, the Board of Directors of the Association may adopt and publish a series of fines to be imposed against lots in violation of these covenants. The Board must, at the time of adoption of the fines, specify the written notice that must be provided to a lot owner prior

to the imposition of any fine and shall provide that any lot owner who is fined by the Board for a violation of the Covenants pursuant to the published schedule shall have the right to a hearing before the Board on the matter within thirty (30) days of the imposition of the fine, at a reasonable time and place as set by the Board, else the fine may not be enforced. The fines shall be of such an amount and frequency of imposition as to encourage the lot owner to comply with the covenants.

Section 3. The failure of Declarant, the Association, the FPAHJ, or any 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 waiver or approval of a variance of a Covenant provision by the Board of Directors, or non-action of the Association or Declarant 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.

Section 4. Invalidation of any one of these Covenants by judgment or by Court order shall in no way affect any of the other Covenants or provisions, all of which shall remain in full force and effect.

Section 5. 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.

Section 6. 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 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.

Section 7. Additional real property may be annexed within and subjected to the jurisdiction of these Covenants and or included within the membership of the Association by the Declarant from time to time, provided that such real property is contiguous to the subject property, and is made subject to either this Declaration, or a separate Declaration of Covenants which is substantially similar to the present Declaration.

[End of Text; Signature Page Follows]

IN WITNESS WHEREOF, the Declarant has hereunto caused this instrument to be executed by its duly authorized representative(s) as of this 4 day of December, 2017.

CHURN CREEK PARTNERS, LLC

By: [Signature]
Jerry Locati
Its: Member

STATE OF MONTANA)
 :SS.
County of Gallatin)

On this 4 day of December, 2017, before me, the undersigned, a Notary Public of the State of Montana, personally appeared Jerry Locati, being known to me to be the person who executed the within instrument and acknowledged to me he executed the same, as the duly authorized and acting Member of, and for and on behalf of, Churn Creek Partners, LLC.

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



[Signature]
NOTARY PUBLIC for the State of Montana
Printed Name: Kirsten L. Smith
Residing at: Manhattan, Montana
My Commission expires: August 18, 2018

Second Restated and Amended Declaration of Protective Covenants, Conditions, and Restrictions for Churn Creek Estates Minor Subdivision No. 445, The Homestead First Minor Subdivision No. 470, The Amended Plat of Homestead Minor Subdivision No. 470A, and Homestead 5A Minor Subdivision Plat No. 499

SUBORDINATION AND CONSENT OF PRIOR LIENHOLDER

COMES NOW, AMERICAN BANK (the "Mortgagee"), as the Mortgagee under that certain Mortgage instrument dated May 2, 2005, and recorded on May 2, 2005, as Document No. 2186411, all in the official records of Gallatin County, Montana, and does hereby subordinate its interest as Mortgagee evidenced by said Mortgage instrument in the real property owned by Grantor described above, to the foregoing Second Restated and Amended Declaration of Covenants, Conditions, and Restrictions as are imposed upon the subject real property.

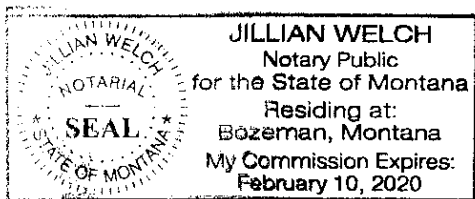
IN WITNESS WHEREOF, Mortgagee has caused this instrument to be executed by its duly authorized representative.

AMERICAN BANK

By: Scott P Mizner
SCOTT P MIZNER
Its CHIEF CREDIT OFFICER

STATE OF MONTANA)
 :SS.
County of Gallatin)

On this 6th day of December, 2017, before me personally appeared Scott Mizner (name), whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he/she executed the same, as the duly authorized Chief Credit Officer (capacity) of, and for and on behalf of, AMERICAN BANK.



Jillian Welch
Jillian Welch
(Print Notary Name)
Notary Public for the State of Montana
Residing at: Bozeman, Montana
My Commission Expires: February 10, 2020

Exhibit A

STAHLY
ENGINEERING & ASSOCIATES
PROFESSIONAL ENGINEERS & SURVEYORS

3550 GAYLUM AVE. DR.
BOZEMAN, MT 59715
Phone: (406) 442-8094
Fax: (406) 442-8097
E-Mail: info@stahly.com
BOZEMAN, MT 59715
Phone: (406) 522-8528
Fax: (406) 522-8288

ISSUE/REVISION

No.	DATE	BY	DESCRIPTION
1	7/18/17	JOS	

OVERALL PLAN

No.	DATE	BY	DESCRIPTION
2			

No.	DATE	BY	DESCRIPTION
3			

No.	DATE	BY	DESCRIPTION
4			

No.	DATE	BY	DESCRIPTION
5			

OVERALL SITE PLAN

HOMESTEAD PROPERTIES
CHURN CREEK PARTNERS, LLP
GALLATIN COUNTY MONTANA

DESIGNED: CDP
DRAWN: JOS
CHECKED: CDP
DATE: 7/18/17

SHEET **C1.0**

