

# INTRODUCING VALLEY WEST SQUARE



Community Commercial Development

ZONE: B-1

*Part of the Valley West PUD*



**BERKSHIRE  
HATHAWAY**  
HomeServices

Montana Properties

**W** VALLEY WEST  
SQUARE

# FOR SALE

	LOT SIZE	BUILDABLE SQ FT	PRICE
<b>LOT 1</b>	11,961 sf	9,250	\$850,000
<b>LOT 2</b>	11,961 sf	9,250	\$850,000
<b>LOT 3</b>	12,491 sf	9,250	\$975,000
<b>LOT 4</b>	13,585 sf	9,250	\$850,000
<b>LOT 5</b>	11,118 sf	1,500	\$375,000

## Excellent visibility on the fast growing west side.

On the NE corner of West Babcock and North Cottonwood.  
B-1 zoning provides for a mix of retail and office uses with easy  
neighborhood accessibility. Common Parking.

LOT 1      LOT 2      LOT 3      LOT 4      LOT 5  
MLS# 374561    MLS# 374559    MLS# 374557    MLS# 374556    MLS# 374554



**MIKE BASILE**

Broker/Owner

Berkshire Hathaway HomeServices Montana Properties  
2001 Stadium Drive Ste A Bozeman, MT 59715

**406-579-6530**

**mike.basile@bhmt.com**



**BERKSHIRE  
HATHAWAY**  
HomeServices

Montana Properties



SIGNATURE PAGE for that Warranty Deed from:

TONTINE, LLC, a Montana limited liability company, the Grantor, to:


KARDAR, LLC, a Montana limited liability company, the Grantee, for the following described premises in Gallatin County, Montana, to-wit:

Tract 3A of the Amended Plat of the Remainder of Tract 3, Block 1, Valley West Subdivision, located in the NW¼ of Section 10, Township 2 South, Range 5 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 of Gallatin County, Montana. [Plat No. J-320A]

DATED this 12 day of July, 2017.

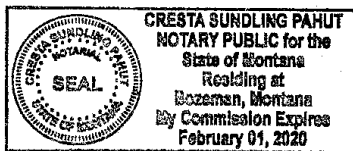
TONTINE, LLC, a Montana limited liability company, by

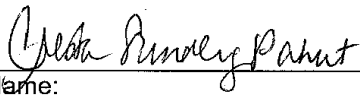
COUGAR PROPERTIES, LLC, Member, by

  
\_\_\_\_\_  
Mike McKenna, Member

STATE OF MONTANA     )  
  : ss.  
County of Gallatin     )

On this 12 day of July, 2017, before me, a Notary Public in and for said State, personally appeared MIKE MCKENNA, Member of COUGAR PROPERTIES, LLC, Member of TONTINE, LLC, a Montana limited liability company, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that the company executed the same.



  
\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My commission expires: \_\_\_\_\_

**2683426**Page 1 of 14 05/29/2020 12:56:17 PM Fee: \$98.00  
Eric Semerad - Gallatin County, MT MTG

RETURN DOCUMENT TO:  
 American Land Title Company  
 1800 W. Koch, Bozeman, MT 59715  
 Order No. 13-02010 LB/15B  
 document electronically recorded

WHEN RECORDED MAIL TO:  
 Stockman Bank of Montana  
 Missoula Office  
 321 W Broadway  
 P.O. Box 7789  
 Missoula, MT 59807

FOR RECORDER'S USE ONLY

**DEED OF TRUST**

**MAXIMUM LIEN.** The total principal indebtedness that may be outstanding at any given time which is secured by this Deed of Trust is \$138,547.00.

**THIS DEED OF TRUST** is dated May 14, 2020, among Kardar LLC, whose address is 2001 Stadium Dr Ste A, Bozeman, MT 59715-0617 ("Grantor"); Stockman Bank of Montana, whose address is Missoula Office, 321 W Broadway, P.O. Box 7789, Missoula, MT 59807 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and AMERICAN LAND TITLE COMPANY, whose address is PO BOX 396, BOZEMAN, MT 59771-0396 (referred to below as "Trustee").

**CONVEYANCE AND GRANT.** For valuable consideration, Grantor conveys to Trustee for the benefit of Lender as Beneficiary all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Gallatin County, State of Montana:

Tract 3A of the Amended Plat of the Remainder of Tract 3, Block 1, Valley West Subdivision, located in the NW $\frac{1}{4}$  of Section 10, Township 2 South, Range 5 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 of Gallatin County, Montana. [Plat No. J-320A]

The Real Property or its address is commonly known as the above-described property located in, MT.

**CROSS-COLLATERALIZATION.** In addition to the Note, this Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

**FUTURE ADVANCES.** In addition to the Note, this Deed of Trust secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Deed of Trust secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**DEED OF TRUST  
(Continued)**

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**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property. The Real Property does not exceed forty (40) acres, and this instrument is a Trust Indenture executed in conformity with the Small Tract Financing Act of Montana.

**Duty to Maintain.** Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed of Trust, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Deed of Trust and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold

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compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any restructuring of the legal entity (whether by merger, division or otherwise) or any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Montana law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Deed of Trust.

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to

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Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain flood insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan. Flood insurance may be purchased under the National Flood Insurance Program, from private insurers providing "private flood insurance" as defined by applicable federal flood insurance statutes and regulations, or from another flood insurance provider that is both acceptable to Lender in its sole discretion and permitted by applicable federal flood insurance statutes and regulations.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**TAX AND INSURANCE RESERVES.** Subject to any limitations and consistent with any requirements set by applicable law, Lender may require Grantor to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by an initial deposit and subsequent monthly payments, or payments at such other interval as payments under the Note may be due, of a sum estimated by Lender to be sufficient to pay the total annual taxes, assessments, and insurance premiums Lender reasonably anticipates to be paid from these reserves. The reserve funds shall be held by Lender as a general deposit from Grantor, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantor as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Deed of Trust shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantor shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantor, and Lender is not Grantor's agent for payment of the taxes and assessments required to be paid by Grantor.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the



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Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon the occurrence of any Event of Default.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Deed of Trust:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the Indebtedness secured by this Deed of Trust; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided

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above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Deed of Trust, and the Related Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness, including without limitation all future advances, when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Any reconveyance fee required by law shall be paid by Grantor, if permitted by applicable law.

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Deed of Trust:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

**Default on Other Payments.** Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by

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Grantor or on Grantor's behalf under this Deed of Trust or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Death or Insolvency.** The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**Foreclosure.** With respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the

**DEED OF TRUST  
(Continued)**

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Page 8

proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Note or available at law or in equity.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees, paralegal fees, and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**Rights of Trustee.** Trustee shall have all of the rights and duties of Lender as set forth in this section.

**POWERS AND OBLIGATIONS OF TRUSTEE.** The following provisions relating to the powers and obligations of Trustee are part of this Deed of Trust:

**Powers of Trustee.** In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

**Obligations to Notify.** Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

**Trustee.** Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

**Successor Trustee.** Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Lender and recorded in the office of the recorder of Gallatin County, State of Montana. The instrument shall contain, in addition to all other matters required by state law, the names of the original Lender, Trustee, and Grantor, the book and page where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance

**DEED OF TRUST  
(Continued)**

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of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

**NOTICES.** Any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender's address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**COUNTERPARTS.** This document may be executed in any number of counterparts, including via facsimile or electronic mail delivery of scanned copies, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute one instrument. The signatures of all of the parties need not appear on the same counterpart. This document may also be executed in identical counterparts to facilitate recording of this document on Real Property in multiple counties. All recorded copies shall together constitute a single document.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Deed of Trust:

**Amendments.** This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

**Caption Headings.** Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

**Merger.** There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Governing Law.** This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Montana without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Montana.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

**DEED OF TRUST  
(Continued)**

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**Successors and Assigns.** Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the Indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Deed of Trust.

**Waive Jury.** All parties to this Deed of Trust hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Montana as to all Indebtedness secured by this Deed of Trust.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Beneficiary.** The word "Beneficiary" means Stockman Bank of Montana, and its successors and assigns.

**Borrower.** The word "Borrower" means Kardar LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Deed of Trust.** The words "Deed of Trust" mean this Deed of Trust among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents. This Deed of Trust is intended to be a trust indenture as provided for in the Small Tract Financing Act of Montana.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Deed of Trust in the events of default section of this Deed of Trust.

**Grantor.** The word "Grantor" means Kardar LLC.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Trustee or Lender to enforce Grantor's obligations under this Deed of Trust, together with

**DEED OF TRUST  
(Continued)**

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interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Deed of Trust.

**Lender.** The word "Lender" means Stockman Bank of Montana, its successors and assigns.

**Note.** The word "Note" means the promissory note dated May 14, 2020, in the original principal amount of \$138,547.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of the Note is November 18, 2021.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness; except that the words do not mean any guaranty or environmental agreement, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

**Trustee.** The word "Trustee" means AMERICAN LAND TITLE COMPANY, whose address is PO BOX 396, BOZEMAN, MT 59771-0396 and any substitute or successor trustees.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND GRANTOR AGREES TO ITS TERMS.**

**GRANTOR:**

**KARDAR LLC**

By:

  
Dan Ermatinger, Member of Kardar LLC

By:

Michael A Basile, Member of Kardar LLC

Loan No: 6040023295

**DEED OF TRUST  
(Continued)**

12  
Page 11

interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Deed of Trust.

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**Trustee.** The word "Trustee" means AMERICAN LAND TITLE COMPANY, whose address is PO BOX 396, BOZEMAN, MT 59771-0396 and any substitute or successor trustees.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND GRANTOR AGREES TO ITS TERMS.**

**GRANTOR:**

KARDAR LLC

By:   
Dan Ermatinger, Member of Kardar LLC

By:   
Michael A Basile, Member of Kardar LLC



DEED OF TRUST  
(Continued)

Loan No: 6040023295

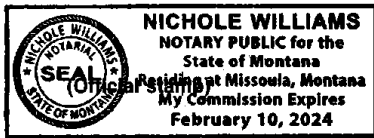
Page 12

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Montana )  
 ) SS  
COUNTY OF Missoula )

This record was acknowledged before me on May 18<sup>th</sup>, 2020 by Dan Ermatinger, Member of Kardar LLC.

Nichole Will  
(Signature of notarial officer)



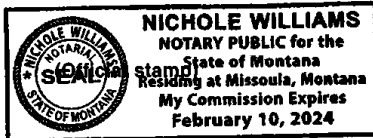
Printed name and title of officer  
(if not shown in stamp)

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Montana )  
 ) SS  
COUNTY OF Missoula )

This record was acknowledged before me on May 26<sup>th</sup>, 2020 by Michael A Basile, Member of Kardar LLC.

Nichole Will  
(Signature of notarial officer)



Printed name and title of officer  
(If not shown in stamp)

**DEED OF TRUST  
(Continued)**

Loan No: 6040023295

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**REQUEST FOR FULL RECONVEYANCE**

(To be used only when obligations have been paid in full)

To: \_\_\_\_\_, Trustee

The undersigned is the legal owner and holder of all Indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Note secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Date: \_\_\_\_\_ Beneficiary: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

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**New Search** **History** **Payoff** **PayTaxes** **Help****Property/Parcel TaxID:** RGG45422**Status:** Current**Receipt:** 34168**2020 Owner(s):**  
KARDAR LLC**Mailing Address:**2001 STADIUM DR STE A  
BOZEMAN, MT 597150617**Levy District:**

0350-08, 7C BOZEMAN(C)BZP

**2020 Value:****Market:** \$344,811  
**Taxable:** \$4,655 **Detail****2020 Taxes:** **View Pie Charts****First Half:** \$1,470.41 **Due:** 12/11/2020  
**Second Half:** \$1,470.39 **Due:** 6/1/2021  
**Total:** \$2,940.80 **Detail****2020 Payments:****First Half:** \$0.00  
**Second Half:** \$0.00  
**Total:** \$0.00

(May include penalty &amp; interest)

**2020 Legal Records:****Geo Code:** 06-0798-10-2-01-14-0000 **Instru#:** 2585648 **Date:** 2017-07-12**Subdivision:** (VWE) Valley West Subdivision **Block:** 1  
**TRS:** T02 S, R05 E, Sec. 10**Legal:** VALLEY WEST SUB, S10, T02 S, R05 E,  
BLOCK 1, ACRES 2.6572, TRACT 3A J-320-A**Note:**

If you are having trouble using this search page, please contact our office at 406-582-3030 - Extension #2.

If you believe there is an error on the property owner's name, geo-code, address, etc., or have questions regarding your market and/or taxable value, please contact the Montana Department of Revenue – Bozeman Office, at 406-582-3400.

\*The accuracy of this data is not guaranteed. Property tax data was last updated 11/17/2020 12:30 PM.

**Payments can be sent to:**  
Gallatin County Treasurer



Shopping Cart: 0 items [\$0.00]

**New Search** **Detail** **Help****Property/Parcel TaxID:** RGG45422**Status:** Current**Type:** RE**Owner:** KARDAR LLC**Value Breakdown:**

Year	Property/Parcel TaxID	Class Code	Description	Market Value	Taxable Value
2020	RGG45422	2201	Residential City/Town Lots	\$344,811	\$4,655

**Current Market Value: \$344,811****Current Taxable Value: \$4,655****Note:**

If you are having trouble using this search page, please contact our office at 406-582-3030 - Extension #2.

If you believe there is an error on the property owner's name, geo-code, address, etc., or have questions regarding your market and/or taxable value, please contact the Montana Department of Revenue – Bozeman Office, at 406-582-3400.

\*The accuracy of this data is not guaranteed. Property tax data was last updated 11/17/2020 12:30 PM.

**Payments can be sent to:**

Gallatin County Treasurer  
311 West Main, Room 103  
Bozeman, MT 59715

Please include your parcel/taxpayer ID# and your phone number on your check.

**Please direct any questions to:**

(406)582-3030 or [treasurer@gallatin.mt.gov](mailto:treasurer@gallatin.mt.gov)

Office Hours: Monday - Friday 8:00 AM to 5:00 PM – closed on all legal holidays



Shopping Cart: 0 items [\$0.00] 🛒

**New Search** **Detail** **View Pie Charts** **Help****Tax Year:** 2020    **Property/Parcel TaxID:** RGG45422**Status:** Current**Type:** RE**Owner:** KARDAR LLC**Tax Breakdown:**

Stat#	Kind	Description	1st Half	2nd Half
34168	CITY/RURAL	CITY/RURAL TAXES	\$385.49	\$385.48
34168	COUNTY	COUNTY TAXES	\$111.28	\$111.28
34168	PUBLIC SAFETY	PUBLIC SAFETY	\$115.86	\$115.86
34168	SCHOOL	LOCAL SCHOOL TAXES	\$607.67	\$607.67
34168	SPECIAL: 0110	GALLATIN CONSRV DIST	\$2.12	\$2.12
34168	SPECIAL: 0300	OPEN SPACE BONDS	\$9.41	\$9.40
34168	STATE SCHOOL	STATE SCHOOL TAXES	\$221.12	\$221.12
34168	UNIVERSITY	UNIVERSITY/COLLEGE	\$17.46	\$17.46

1st Half Total: \$1,470.41

2nd Half Total: \$1,470.39

**Total Tax: \$2,940.80****Note:**

If you are having trouble using this search page, please contact our office at 406-582-3030 - Extension #2.

If you believe there is an error on the property owner's name, geo-code, address, etc., or have questions regarding your market and/or taxable value, please contact the Montana Department of Revenue – Bozeman Office, at 406-582-3400.

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 Bozeman, MT 59715

Please include your parcel/taxpayer ID# and your phone number on your check.

**Please direct any questions to:**

(406)582-3030 or [treasurer@gallatin.mt.gov](mailto:treasurer@gallatin.mt.gov)



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- [New Search](#)
- [Detail](#)
- [Payoff](#)
- [Help](#)

**Property/Parcel TaxID:** RGG45422

**Status:** Current

**Type:** RE

**Owner:** KARDAR LLC

**History:**

Tax Year	Statement#	Bill Date	Bill Amount	Date Paid	** Paid Amount	Notes
<a href="#">2020</a>	34168	11/05/2020	\$2,940.80		\$0.00 \$0.00	
<a href="#">2019</a>	<a href="#">45422</a>	10/30/2019	\$3,007.87	11/19/2019 11/19/2019	\$1,503.94 \$1,503.93	
<a href="#">2018</a>	45422	10/31/2018	\$3,646.51	11/27/2018 11/27/2018	\$1,823.26 \$1,823.25	
<a href="#">2017</a>	45422	10/31/2017	\$3,408.75	11/20/2017 11/20/2017	\$1,704.39 \$1,704.36	
<a href="#">2016</a>	45422	11/16/2016	\$3,260.20	12/29/2016 5/29/2017	\$1,630.10 \$1,630.10	
<a href="#">2015</a>	45422	10/31/2015	\$3,263.72	12/1/2015 5/19/2016	\$1,631.87 \$1,631.85	
<a href="#">2014</a>	45422	10/31/2014	\$2,934.95	11/15/2014 4/27/2015	\$1,467.48 \$1,467.47	
<a href="#">2013</a>	45422	10/31/2013	\$2,720.99	11/14/2013 5/7/2014	\$1,363.80 \$1,357.19	
<a href="#">2012</a>	45422	10/24/2012	\$2,439.36	11/28/2012 5/29/2013	\$1,219.69 \$1,219.67	
<a href="#">2011</a>	45422	10/31/2011	\$2,181.87	11/18/2011 5/12/2012	\$1,090.95 \$1,090.92	
<a href="#">2010</a>	45422	10/31/2010	\$1,910.06	11/3/2010 5/19/2011	\$955.04 \$955.02	
<a href="#">2009</a>	45422	10/31/2009	\$1,572.40	11/2/2009 5/26/2010	\$786.20 \$786.20	
<a href="#">2008</a>	120748	12/20/2008	\$1,295.33	11/2/2009	\$0.00 \$1,385.12	
<a href="#">2008</a>	45422	10/31/2008	\$1,186.50	5/27/2009 11/2/2009	\$632.11 \$634.37	
<a href="#">2007</a>	45422	10/18/2007	\$1,060.88	11/10/2007 5/3/2008	\$530.45 \$530.43	
<a href="#">2006</a>	45422	10/18/2006	\$1,028.27	11/23/2006 9/19/2007	\$514.14 \$536.80	

11/17/2020

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<a href="#">2006</a>	80339	02/19/2007	\$5,180.20	9/19/2007 9/19/2007	\$2,860.29 \$2,678.76
<a href="#">2005</a>	45422	10/24/2005	\$978.59	12/28/2005 1/5/2006	\$489.30 \$489.29
<a href="#">2004</a>	45422	10/18/2004	\$19.50	11/26/2004 5/24/2005	\$9.75 \$9.75
<a href="#">2003</a>	45422	10/20/2003	\$20.99	11/21/2003 11/21/2003	\$10.50 \$10.49

**\*\* Paid Amount may include penalty & interest**

**Note:**

If you are having trouble using this search page, please contact our office at 406-582-3030 - Extension #2.

If you believe there is an error on the property owner's name, geo-code, address, etc., or have questions regarding your market and/or taxable value, please contact the Montana Department of Revenue – Bozeman Office, at 406-582-3400.

\*The accuracy of this data is not guaranteed. Property tax data was last updated 11/17/2020 12:30 PM.

**Payments can be sent to:**

Gallatin County Treasurer  
311 West Main, Room 103  
Bozeman, MT 59715

Please include your parcel/taxpayer ID# and your phone number on your check.

**Please direct any questions to:**

(406)582-3030 or [treasurer@gallatin.mt.gov](mailto:treasurer@gallatin.mt.gov)

Office Hours: Monday - Friday 8:00 AM to 5:00 PM – closed on all legal holidays



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Shopping Cart: 0 items [\$0.00]

- [New Search](#)
- [Detail](#)
- [History](#)
- [Help](#)

**Property/Parcel TaxID:** RGG45422

**Status:** Current

**Type:** RE

**Owner:** KARDAR LLC

**Payoff Calendar:**

This calendar is for inquiry purposes only. Property taxes can only be paid online using today as the transaction date. To begin paying your taxes, click the "Detail" button above (Or the back arrow on your browser).

Oct		November 2020					Dec
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
25	26	27	28	29	30	31	
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
		1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	
22	23	24	25	26	27	28	
1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	
29	30	1	2	3	4	5	
1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80	1st: \$1,470.41 2nd: \$1,470.39 ----- Tot: \$2,940.80						

**Note:**

If you are having trouble using this search page, please contact our office at 406-582-3030 - Extension #2.



# Property Record Card

## Summary

### Primary Information

**Property Category:** RP **Subcategory:** Residential Property  
**Geocode:** 06-0798-10-2-01-14-0000 **Assessment Code:** 00RGG45422  
**Primary Owner:** **PropertyAddress:**  
 KARDAR LLC  
 2001 STADIUM DR STE A **COS Parcel:**  
 BOZEMAN, MT 59715-0617  
*NOTE: See the Owner tab for all owner information*

### Certificate of Survey:

**Subdivision:** VALLEY WEST SUB

### Legal Description:

VALLEY WEST SUB, S10, T02 S, R05 E, BLOCK 1, ACRES 2.6572, TRACT 3A J-320-A

**Last Modified:** 10/13/2020 11:23:58 AM

### General Property Information

**Neighborhood:** 206.010.B **Property Type:** VAC\_U - Vacant Land - Urban  
**Living Units:** 0 **Levy District:** 06-035008-7C 08  
**Zoning:** **Ownership %:** 100  
**Linked Property:**

No linked properties exist for this property

### Exemptions:

No exemptions exist for this property

### Condo Ownership:

**General:** 0 **Limited:** 0

### Property Factors

**Topography:** **Fronting:**  
**Utilities:** **Parking Type:**  
**Access:** **Parking Quantity:**  
**Location:** **Parking Proximity:**

### Land Summary

Land Type	Acres	Value
Grazing	0.000	00.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
<b>Total Ag Land</b>	<b>0.000</b>	<b>00.00</b>
<b>Total Forest Land</b>	<b>0.000</b>	<b>00.00</b>
<b>Total Market Land</b>	<b>2.657</b>	<b>344,811.00</b>

### Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
7/12/2017			7/14/2017	2585648	Warranty Deed
4/24/2015			4/24/2015	2509511	Special Warranty Deed

11/17/2020

PrintPropertyRecordCard

8/26/2010		9/9/2010	2369673	Sheriff's Certificate/Certificate of Redemption/Sheriff's Deed
4/22/2002	2066	878D		

## Owners

Party #1

**Default Information:** [KARDAR LLC](#)  
[2001 STADIUM DR STE A](#)

**Ownership %:** 100

**Primary Owner:** "Yes"

**Interest Type:** [Fee Simple](#)

**Last Modified:** [8/29/2017 2:47:25 PM](#)

Other Names

Other Addresses

Name

Type

## Appraisals

### Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2020	344811	0	344811	COST
2019	344811	0	344811	COST
2018	387392	0	387392	COST

## Market Land

Market Land Item #1

**Method:** [Sqft](#) **Type:** [Primary Site](#)

**Width:** **Depth:**

**Square Feet:** [115,749](#) **Acres:**

Valuation

**Class Code:** [2201](#) **Value:** [344811](#)

## Dwellings

### Existing Dwellings

[No dwellings exist for this parcel](#)

## Other Buildings/Improvements

Outbuilding/Yard Improvements

[No other buildings or yard improvements exist for this parcel](#)

## Commercial

### Existing Commercial Buildings

[No commercial buildings exist for this parcel](#)

## Ag/Forest Land

Ag/Forest Land

[No ag/forest land exists for this parcel](#)

# AMENDED PLAT OF THE REMAINDER OF TRACT 3, BLOCK 1, VALLEY WEST SUBDIVISION

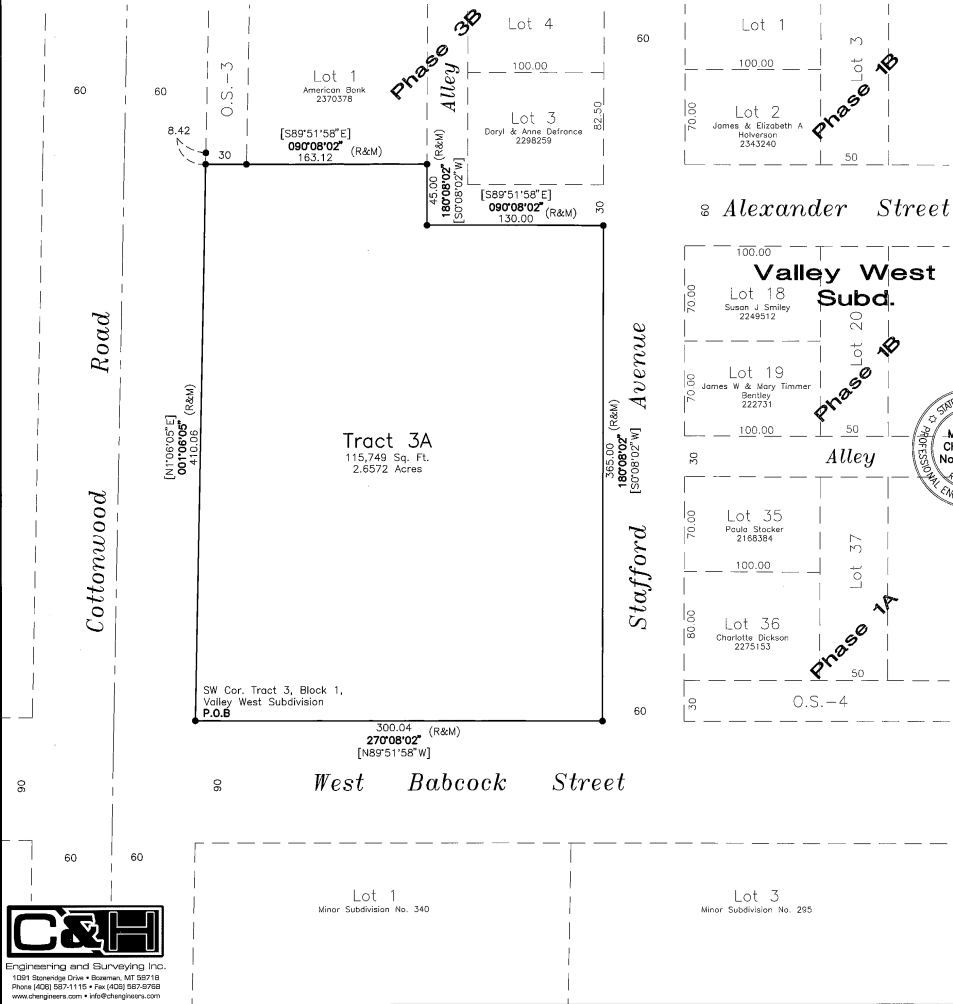
LOCATED IN THE NW 1/4 OF SEC. 10, T. 2 S., R. 5 E. OF P.M.M., CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA

J-320-A

J-320-A

AMD VALLEY WEST SUB

SURVEY REQUESTED BY OWNER TO RETRACE THE BOUNDARIES OF THE REMAINDER OF TRACT 3, BLOCK 1, VALLEY WEST SUBDIVISION  
OWNER: AMERICAN BANK  
DEED REF. DOC NO. 2369673



**LEGAL DESCRIPTION**

That part of Tract 3, Block 1, Valley West Subdivision, according to the plat thereof, on file and of record in the office of the Clerk and Recorder, Gallatin County, Montana, and located in the Northwest Quarter of Section 10, Township 2 South, Range 5 East of P.M.M., City of Bozeman, Gallatin County, Montana, described as follows:

Beginning at the southwest corner of said Tract 3; thence northerly  $001^{\circ}06'05''$ , assumed azimuth from north, 410.06 feet along the west line of said Tract 3; thence easterly  $090^{\circ}08'02''$  azimuth 163.12 feet along the south line of Valley West Subdivision Phase 3B; thence southerly  $180^{\circ}08'02''$  azimuth 45.00 feet along said south line; thence easterly  $090^{\circ}08'02''$  azimuth 130.00 feet along said south line; thence southerly  $180^{\circ}08'02''$  azimuth 365.00 feet along the west line of Stafford Avenue as dedicated on Valley West Subdivision Phase 1A and Valley West Subdivision Phase 1B; thence westerly  $270^{\circ}08'02''$  azimuth 300.04 feet along the south line of said Tract 3 to the point of beginning.

Area = 115,749 square feet, 2.6572 acres or 10,753.4 square meters. Subject to existing easements.

The above described tract of land is to be known and designated as AMENDED PLAT OF THE REMAINDER OF TRACT 3, BLOCK 1 VALLEY WEST SUBDIVISION, City of Bozeman, Gallatin County, Montana.

**CERTIFICATE OF SURVEYOR**

I, Mark A. Chandler, Professional Engineer and Land Surveyor No. 9518ES, do hereby certify that between December 20, 2011 and January 11, 2012 this Amended Plat was surveyed under my direct supervision, and I have plotted the same as shown on the accompanying plat and as described, in accordance with the provisions of the Montana Subdivisions and Platting Act, Sections 76-3-101 through 76-3-825 M.C.A., and the Bozeman Unified Development Ordinance.

Dated this 11<sup>th</sup> day of January, 2012.

*Mark A. Chandler*  
Mark A. Chandler  
Montana Registration No. 9518ES



**CLERK AND RECORDER**

I, Charlotte Mills, Clerk and Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office on the 11<sup>th</sup> day of January, 2012, and recorded in Book 111 of Plats, on page 320-A, records of the Clerk and Recorder, Gallatin County, Montana.

Doc # 2405694

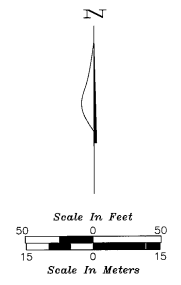
By: *Charlotte Mills*  
Charlotte Mills  
Deputy Clerk and Recorder

2405694  
2012 JAN 11 09:29:59 PM Fee: \$5.50  
PLAT

**LEGEND**

- (R) RECORD DISTANCE OR AZIMUTH
- (M) DISTANCE OR AZIMUTH
- I SECTION QUARTER CORNER
- FOUND 5/8 INCH REBAR MARKED (MORRISON MAIERLE INC.) OR NOTED OTHERWISE
- SET 5/8 INCH REBAR WITH 1 1/4 INCH PLASTIC CAP MARKED (C&H ENGR. #9518ES)

BASIS FOR AZIMUTHS FROM NORTH: THE EAST LINE OF BLOCK 1, VALLEY WEST SUBDIVISION BEING  $001^{\circ}06'05''$  [N45°00'00"E] BEARING COMPUTED FROM AZIMUTH SHOWN



**C&H**  
Engineering and Surveying Inc.  
1201 Bowditch Drive • Bozeman, MT 59718  
Phone (406) 557-1115 • Fax (406) 557-2788  
www.chengineers.com • info@chengineers.com

Phase 3B  
Alley 3B

60

O.S.-3

Lot 1  
American Bank  
2370378

Lot 4

60

Lo

100.

8.42

[S89°51'58"E]  
090°08'02" (R&M)  
163.12

Lot 3  
Daryl & Anne DeFrance  
2298259

82.50

70.00

Lot  
James & I  
Halve  
2343

30

45.00 (R&M)  
180°08'02" (R&M)  
[S0°08'02"W]

[S89°51'58"E]  
090°08'02" (R&M)  
130.00

30

60 Ale

100.

70.00

Lot  
Susan J  
2246

[N1°06'05"E]  
001°06'05" (R&M)  
410.06

Tract 3A  
115,749 Sq. Ft.  
2.6572 Acres

365.00 (R&M)  
180°08'02" (R&M)  
[S0°08'02"W]

Stafford Avenue

70.00

Lot  
James W & I  
Ben  
222

30

100.

70.00

Lot  
Paula S  
2168

100.

80.00

Lot  
Charlotte  
22751

SW Cor. Tract 3, Block 1,  
Valley West Subdivision  
P.O.B

60

300.04 (R&M)  
270°08'02" (R&M)  
[N89°51'58"W]

90

West Babcock Street

60

Lot  
Subdivis

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**VALLEY WEST SQUARE**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND BYLAWS  
FOR VALLEY WEST SQUARE SUBDIVISION**

This Declaration, made on the date hereinafter set forth by the Declarant, VALLEY WEST SQUARE, LLC, hereinafter referred to as “Declarant”.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Gallatin, State of Montana, which is more particularly described as:

(“Property”).

NOW, THEREFORE, Declarant hereby declares that the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I.  
DEFINITIONS**

1. “Architectural Design Guidelines” shall mean those guidelines established and adopted by the Declarant and/or the Board of Directors of the Association to establish the architectural and landscape design standards for buildings, structures, improvements and landscaping and to control the development of the Lots within the Property. The Architectural Guidelines shall contain minimum standards for the architectural design and construction of all buildings and structures within the Property, the landscaping of all Lots within the Property and other guidelines as the Declarant or the Board, in its judgment, deems appropriate. The Architectural Guidelines may be requested at any time by contacting the Association.
2. “Design Review Panel” or “DRP” shall mean the VALLEY WEST SQUARE Design Review Panel as established and set forth herein, and shall initially be the Declarant.

3. "Association" shall mean and refer to VALLEY WEST SQUARE Owners Association, a Montana Non-Profit Corporation, its successors and assigns.
4. "Board" or "Board of Directors" shall mean the elected or appointed Board of Directors of the Association.
5. "Bylaws" shall mean the Bylaws promulgated by the Association.
6. "Common Areas " shall include but not be limited to common walkways (but excluding walkways to individual businesses on each lot), sidewalks, irrigation well and sprinkler system (but excluding sprinkler systems on individual Lots), bike racks, benches, streets/access drives, parking lots, snow storage areas, refuse areas and required receptacles, drainage easements, storm water facilities, common lighting, landscaping, monument or directional signage and other common use areas as shown on the Plat for VALLEY WEST SQUARE SUBDIVISION first filing as recorded in the records of the Gallatin County Clerk and Recorder's Office in Gallatin County, Montana.
7. "Common Area Expense" the actual and estimated expenses incurred or anticipated to be incurred by the Association for the maintenance, repair and replacement of the Common Areas and/or the general benefit of all Owners including any reasonable reserve as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Area Expenses shall include but not be limited to expenses relating to the maintenance, repair and/or replacement of common streets, storm water facility maintenance (as described in Exhibit A), access drives, snow plowing, parking lots and sidewalks, garbage, electrical bills, landscaping, mowing, insurance, trash bins, refuse areas and real estate taxes for Common Areas.
8. "Declarant" shall mean the developer of VALLEY WEST SQUARE SUBDIVISION, namely KARDAR, LLC and its successors and assigns.
9. "Governing Documents" is a collective term referring to this Declaration and any applicable Supplemental Declarations, the Bylaws, the Design Guidelines and any rules and regulations promulgated by the Association all as may be amended. The Governing Documents establish, as part of the general plan of development for the Property, a framework of affirmative and negative covenants, easements and restrictions which govern the property. Within that frame work, the Board and Members have the ability to respond to unforeseen problems and changes in circumstances, desires, trends and technology which inevitably will affect VALLEY WEST SQUARE and its Owners through rules and regulations promulgated by the Board or through amendments to the Governing Documents.
10. "Lot" shall mean and refer to the individual Lots shown upon any recorded subdivision plat of the Property and originally referring to Plat, on file and of record with the Gallatin County Clerk and Recorder's Office, Gallatin County, Montana, and

as it may be amended.

11. "Manager" shall mean the Board, Manager or Management Company, or any other Person or group retained or appointed by the Association for the purpose of conducting the day to day operations of VALLEY WEST SQUARE .
12. "Member" shall mean and refer to each Lot Owner including the Declarant while Declarant owns Lots. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot.
13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Property. The term Owner shall also include the purchaser under a Contract for Deed.
14. "Person" shall mean a natural person, a corporation, a partnership, a trustee or any other legal entity.
15. "Property" shall mean and refer io that certain real property hereinbefore described.
16. "Structure" shall mean anything built or placed on, or above, ground level excluding ground level features such as streets, off street parking areas, driveways, sidewalks, pathways or low-profile patio or entrance slabs contiguous to structures.
17. "Subdivision" or "VALLEY WEST SQUARE SUBDIVISION" shall refer to the Property.

## **ARTICLE II. CITY OF BOZEMAN REQUIRED COVENANTS**

1. The control of Noxious Weeds by the Owners Association on those areas for which the Owners Association is responsible and the control of Noxious Weeds by individual owners on their respective lots shall be as required by the Montana Noxious Weed Control Act (§ 7-22-2101, MCA through § 7-22-2153, MCA as amended) and the rules, regulations and management Plans of the Gallatin County Weed District. Both unimproved and improved lots shall be managed for Noxious Weeds. In the event a Landowner does not control the Noxious Weeds after 10 days' notice from the Owners Association, the Owners 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 Owners Association is responsible for control of state and county declared Noxious Weeds in the subdivisions parks, open spaces, community areas, trails, and roadways. Nothing herein shall require or obligate the Gallatin County Weed District to undertake any management or enforcement on behalf of the Owners Association or Landowners that



is not otherwise required by law of the Gallatin County Weed District Management Plan.”

2. Lot owners are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, noise, flies, and machinery noises. Standard agricultural practice features the use of heavy equipment, burning, chemical sprays, and the use of machinery early in the morning and late into the evening.
3. The Association shall be responsible for maintenance of interior subdivision roads, parking lots and Common Areas, open space, pathways, landscaping of open areas outside of Lots and storm water facilities. The Association shall be responsible for maintaining the storm water facilities in accordance with the document titled “Inspection and Maintenance for Stormwater Management Facilities”, attached hereto as Exhibit A.
4. All fences bordering agricultural lands shall be maintained by the Association, in accordance with state law.
5. Membership in the Association shall be mandatory for each Lot. Each Lot Owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance and the maintenance of the Common Areas and. Each Owner is responsible for all maintenance, repairs, replacement, security and insurance for fire, all risk, theft, perils and liability insurance on their Lots, structures and improvements.
6. The Association shall be responsible for liability insurance and real estate taxes on the Common Areas in an amount to be determined by the board of directors of the Association.
7. Title to the Common Areas within the subdivision shall vest in the Association and be maintained and controlled by the Board of the Association. The Association shall be responsible for the operation and maintenance of parking areas and Common Areas within the subdivision once 80% of the Lots are sold, or until Declarant transfers ownership of the same to the Association, whichever occurs first. The Association shall be responsible for acquiring and maintaining appropriate liability insurance on the same.
8. Any covenant which is included herein as a condition of the preliminary plat approval and required by the City of Bozeman shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the Declaration, and the City Commission.

**ARTICLE III.  
BINDING EFFECT AND ENFORCEMENT**

All Property described above shall be owned, conveyed, and used subject to all provisions of this Declaration which shall run with the title to such Property. This Declaration shall be binding upon all persons having any right, title or interest in any portion of the Property, their heirs, successors, successors in title and assigns. This Declaration shall be enforceable by the Declarant, the Association, any Owner and their respective legal representatives, heirs, successors and assigns perpetually from the date this Declaration was recorded in the public records.

**ARTICLE IV.  
GOVERNING DOCUMENTS**

The Governing Documents create a general plan of development for VALLEY WEST SQUARE which may be supplemented by additional covenants, restrictions and easements.

Further, the Property shall be subject to the Valley West Subdivision Covenants recorded with the Gallatin County Clerk and Recorder's Office at document #2479575 and as may be amended from time to time and shall be responsible for payment of assessments to the Valley West Owner's Association and compliance with Valley West Architectural Design Guidelines.

In addition, the property is subject to any zoning or other land use regulations promulgated by the City of Bozeman.

All provisions of the Governing Document shall apply to all Owners and to all occupants of the Lots as well as the respective customers, tenants, guests and business invitees unless otherwise noted. Any lease on a Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of the Governing Documents.

The Property is subject to existing easements, covenants, Bylaws, terms, conditions, obligations, disclosures, reservations, restrictions, dedications and conditions shown and delineated in the plats, site plans, and other documents filed or recorded with the Clerk and Recorder of Gallatin County, Montana, or the State of Montana, and subject to applicable zoning ordinances and land use restrictions, if any, laws and regulations of the state of Montana and the United States of America, and also subject to taxes, assessments, and charges levied by Gallatin County, improvement districts, sewer and water districts, fire districts and any other district or taxing authority, if any.

**ARTICLE V.  
OWNERS' ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS**

**1. Formation & Assessment**

The Owners hereby establish a Property Owner's Association, which shall be a Montana non-profit corporation, for the purpose of promoting, developing and operating VALLEY WEST SQUARE. All Lot Owners shall be Members of the Association. This Association shall be called VALLEY WEST SQUARE Owners Association ("Association"). The Association shall adopt Bylaws for the administration of the Association. The Bylaws, as adopted and as properly amended, shall be binding upon l Owner's in the Subdivision. Every Owner of a Lot shall be a Member of the Association and membership is automatic and mandatory for Owners. Each Lot shall be entitled to one vote on any Association business. Multiple Owners of a single Lot have one collective vote. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Membership shall transfer with the sale of a Lot to the new Owner. Each Lot Owner shall be responsible for advising the Association of his or her acquisition of ownership, of his or her mailing address, and of any change in the same.

**2. Function.**

The function of the Association shall include but not be limited to the following:

- (a) Adopt bylaws for the governance of the Association;
- (b) Make provisions for the general management and/or repairs and maintenance of the Common Areas;
- (c) Levy assessments as provided for in this Declaration and the Bylaws;
- (d) Adopt and implement a policy for the affairs of the Association and Subdivision;
- (e) Represent the interests of the Owners in matters concerning the Owners Association;
- (f) Enter into contracts or hire personnel for the management of the affairs of the Association and the maintenance and repair of the Common Areas;
- (g) Be responsible for the perpetual maintenance of the Common Areas and to the extent such maintenance is required; and
- (h) Be responsible for the upkeep, maintenance, repair, refurbishing and remodeling of the Common Areas including the parking lot, lands, grounds, landscaping, shrubbery, and trees (which includes control of noxious weeds).

**3. Voting Interest.**

Unless a Lot Owner's vote is expressly excluded in a particular matter by this

Declaration, each Lot shall have one (1) vote on all matters to be decided by the Association. If a Lot is owned by more than one Person, such Persons shall appoint a representative to cast the vote for that Lot. Except as otherwise provided in this Declaration, or the Bylaws, a majority of the votes present at any meeting or by proxy shall be sufficient to act on matters brought before the Association. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association Bylaws.

**4. Failure to Comply.**

Each Lot Owner shall comply strictly with the provisions of the Governing Documents and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for a lien, for an action to recover sums due, for damages or injunctive relief or any combination of the above and for reimbursement of all costs, including attorney fees incurred which action shall be maintainable by the Manager in the name of the Association, on behalf of the Lot Owner, or in the proper case by an aggrieved Lot Owner.

**5. Board of Directors**

The term "Board of Directors" or "Board" shall mean the Declarant until 100% of the Lots have conveyed to third party buyers or until Declarant appoints three Members to serve, whichever shall occur first. Thereafter the Board shall consist of at least three Lot Owners who shall be elected at the annual meeting by a simple majority of the Members of the Association. That Board shall be elected for a term set by a simple majority of the Members but not less than one year and no longer than three. Each director shall serve until replaced by their successor. Any vacancy in the Board occurring before the next annual meeting of the Members shall be filled by appointment by the remaining Directors.

**6. Power of Association**

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 Common Areas, easements, parking lot, roads, storm water facilities (in accordance with Exhibit A), common utilities and other assets that are shared in common by all lot owners; 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 VALLEY WEST SQUARE .

**ARTICLE VI:  
COVENANT FOR MAINTENANCE ASSESSMENT**

**1. Creation of the Lien for Personal Obligation of Assessments**

The Owner of any Lot by acceptance of a contract of sale or a deed therefore, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association (a) annual assessments or charges; and (b) special assessments for capital improvements, such assessments to be established and collected as provided in the Bylaws. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such property at the time the assessment fell due. The Association has the authority to impose reasonable charges for interest and penalties for overdue payments. The Association Board of Directors must first obtain the approval of a majority of the Association membership before:

- a) making any assessment for a capital improvement costing in excess of \$10,000.00;
- b) mortgaging, encumbering or otherwise disposing of any Property of the Association in excess of \$10,000.00

## **2. Assessments - Purposes, Procedures**

The Association shall levy assessments upon the Lot Owners in the following manner and for the following reasons:

- a) Assessments shall be made as a part of the regular business of the Association at any regular or special meeting thereof as provided in the Bylaws of the Association. Notice of the assessment, amount thereof, and the purpose for which it is made whether regular or special, including an annual budget for expenditures and operations, shall be served on all Lot Owners affected by delivering a copy of the same to the Lot Owner personally or by mailing a copy of the notice to the Owners at their addresses of record at least ten (10) days prior to the date for such meeting.
- b) Assessments shall be made for the repair, replacement, general maintenance, management and administration of common elements, fees, costs and expenses of the Manager, taxes for common areas, if any, to establish a reserve fund and for the Lot Owners percentage share of any special improvement district assessments. Assessments shall be based on percentages per Lot set forth herein.
- c) Each Owner shall be assessed for Association expenses including but not limited to insurance, taxes, Common Area Expenses, the expenses of any properly created special improvement districts (SIDs) affecting the Property, including, but not limited to lighting districts, street maintenance and tree

maintenance. Such assessments, and assessments for Common Expenses, shall be collected and paid according to the terms and under the procedures more particularly set forth in the Bylaws. Lots 1-4 of the Subdivision shall each be responsible for their pro-rata share of expenses based upon square footage of each Lot compared to the total square footage of all Lots. The amounts of assessments described above, and any other assessments allowed by the Bylaws, this Declaration and by the State of Montana, shall be fixed by the Board of Directors. Notice of each Owners' assessments shall be mailed to the Owner at his or her address of record.

- d) Common Expenses and profits, if any, of the Subdivision shall be charged to and distributed among the Lot Owners per Lot.
- e) An initial assessment of \$250.00 for each Lot shall be collected at the initial transfer of each Lot from the Declarant to a third party. At the time the Association holds its first meeting, or at any duly noticed meeting thereafter, a reserve account will be set up to which any unused initial assessments shall then be deposited. Thereafter, a yearly assessment shall be made for the reserve account in an amount determined by the Association but in no event shall it be less than 10% of the annual budget. The reserve funds shall be for the maintenance, repair, replacement, and administration of the Common Elements. The Declarant shall not be required to pay any amounts toward the reserve fund for any Lot owned by Declarant until the Lot is developed.
- f) The Association, acting through the Board or the Manager, shall have the authority to levy fines against Lots for any violation of the covenants set forth herein or for any violation of the rules and regulations duly adopted by the Board. Violations caused by a tenant shall be assessed against the Lot and shall be the responsibility of the Lot Owner. For each violation, the Owner may be fined according to the following fine schedule:

First Offense:	\$ 50.00
Second Offense:	\$100.00
Third Offense & more:	\$150.00

The fine schedule may be amended by the Board at any duly called meeting provided it is thereafter approved by at least eighty percent (80%) of the Lots. All fines shall be considered final and shall be considered an assessment and a lien against the Lot unless the Lot Owner makes a written appeal to the Board within five (5) business days of receiving the fine and the Board subsequently overturns such fine. The Board shall have thirty (30) days to meet and render its decision regarding the fine, which decision shall be final. All fines may be collected by the Association in the same manner as an assessment as set forth herein. All fines not paid within thirty (30) days shall accrue interest at the then maximum current legal rate of interest per annum on the amount of the

fine from the due date thereof.

### **3. Payment of Assessments**

- (a) Due Date Delinquency. All assessments shall be due thirty (30) days from the date of mailing such assessment following the meeting at which time assessments are levied by the Association, and may be payable in one annual payment, quarterly or monthly installments, at the option of the Lot Owner. The amount assessed against each Lot shall be the personal and individual obligations of the Lot Owner. No Lot Owner shall be exempt from liability for any assessment by waiver of the use of enjoyment of any of the Common Areas or by abandonment of the Lot. All assessments which are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest at the highest rate allowed by law.
  
- (b) Collection. The Association or Manager shall have the responsibility of taking prompt action to collect any unpaid assessment which becomes delinquent. In the event of delinquency in the payment of the assessment, the Lot Owner shall be obligated to pay interest at the then current legal rate of interest per annum on the amount of the assessment from the due date thereof, together with all expenses, including attorney fees incurred, together with such interest and late charges as are provided in the Bylaws of the Association. Suit to recover a money judgment for unpaid Common Expenses and Limited Expenses may be maintainable without foreclosing or waiving the lien securing the same. Unpaid assessments, together with attorney fees, interest and costs shall also be a personal obligation of the Lot Owner at the time the assessment becomes due and a purchaser may be held jointly or severally liable for past due payments.

### **4. Liens and Foreclosure.**

All sums assessed but unpaid for assessment chargeable to any Lot shall constitute a lien on such Lot. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereof, and the name of the Lot Owner and a description of the Lot. Such notice shall be signed and verified by one of the officers of the Association or by the Manager, or his or her authorized agent, and shall be recorded in the office of the Clerk and Recorder of Gallatin County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Lot by the Association in like manner as foreclosure of a mortgage on real property. In any foreclosure, the Lot Owner shall be required to pay a reasonable rental for the Lot if so provided in the Bylaws, and the Plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosure or waiving the lien securing the same. In any such

proceeding the Lot Owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses, and attorney's fees incurred.

**5. Bidding at Foreclosure Sale.**

The Association shall have the power to bid on the Lot at a foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same. Any lien holder holding a lien on a Lot may pay, but shall not be required to pay, any unpaid assessment payable with respect to any such Lot and upon such payment such lien holder shall have a lien on said Lot for the amounts paid of the same priority as the lien of the lien holder's encumbrance without the necessity of having to file a notice or claim of such lien.

**6. Priority of Lien.**

To the extent permitted by Montana law or other applicable law, any lien of the Association for assessments becoming payable on or after the date of recordation of the first mortgage, shall be subordinate to the first mortgage on the Lot. To the extent permitted by Montana law or other applicable laws, such a lien for assessments shall not be affected by any sale or transfer of a Lot, except that a sale or transfer of a Lot pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for Lot assessments which become payable prior to such sale or transfer. To the extent permitted by Montana law or other applicable law, any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Lot from liability for, nor the Lot sold or transferred from the lien of, any assessment charges thereafter become due.

**7. Mortgages and Unpaid Dues.**

Any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than twelve (12) months of the Lot's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the Lot by the Mortgagee. If the Association's lien priority includes costs of collecting unpaid dues, the lender will be liable for any fees or costs related to the collection of the unpaid dues.

**8. Rate of Assessment.**

Both annual and special assessments must be made upon the pro-rata share of each Lot based upon the percentage of each Lot's square feet to the total square footage of all Lots, so larger Lots will pay a larger amount of the assessment and smaller Lots will pay a smaller amount. This is meant to reflect the potential impact that each Lot will have on the common elements, as a larger Lot will presumably have more employees and customers than a smaller Lot will, and should pay for the cost of



maintaining the common elements proportionately.

## 9. Insurance.

The Association, acting by and through the Board of Directors, shall obtain, purchase, and maintain, all of the insurance policies specified and required in this Section. Neither the Association, Board of Directors, nor the Declarant, however, shall be liable for failure to obtain any coverages required by this Section, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such coverages, or if such coverages are so available only at a demonstrably unreasonable first.

**Premiums.** The Association shall pay premiums for insurance policies as a Common Area Expense and shall include the cost as part of the Association's assessment.

**Policy Requirements — Generally.** Each required policy must provide that:

- (i) Named Insured. The named insured is the Association for itself and as agent for the Lot Owners without naming them. Each Owner is an insured Person under the policy with respect to liability arising out of such Owner's membership in the Association; The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as an Association expense. However, if the board reasonably determines, after notice and an opportunity to be heard, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, Invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as Specific Assessment.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Gallatin County, Montana area. All Association policies shall provide for a certificate of insurance to be furnished to the Association.

- (ii) Recognition of Insurance Trustee. Each policy shall provide for the recognition of any insurance trust agreement made by the Board. If the Board designates an Insurance Trustee, all payments under policies subject to the insurance trust agreement shall be paid to the Insurance Trustee, and all policies and endorsements thereon shall be deposited with the Insurance Trustee.
- (iii) Waiver of Subrogation: The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, or the Owners, and their respective agents, tenants, invitees, employees and guests.
- (iv) Right to Cure: Such policy shall not be substantially modified or suspended

due to the act or omission of any Owner (including his invitees, agents, and employees) or of any member (acting within the scope of his authority for the Association), officer or employee of the Board of Directors, without a prior demand in writing that the Board of Directors cure the defect and neither shall have so cured such defect within sixty (60) days after such demand.

- (v) Notice of Cancellation. Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the Board of Directors.
- (vi) Required Coverages. The Association acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance as a Common Area Expense, if reasonably available:
  - (i) Blanket property, insurance on the Common Areas covering the full replacement cost of all insured improvements, if any, under current building ordinances and codes, to the extent that Association has assumed responsibility in the event of a casualty;
  - (ii) Commercial general liability insurance on the Common Areas insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least One Million Dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such addition coverages or limits;
  - (iii) Workers compensation insurance and employer's liability insurance, if and to the extent required by law.
  - (iv) Directors' and officers' liability coverage;
  - (v) Commercial crime insurance, including Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and
  - (vi) Such additional insurance as the Board, in its best business judgment, determines advisable.

**ARTICLE VII:  
COMMON AREAS**

**1. General.**

All Common Areas, as depicted on the final plat shall be reserved in perpetuity as Common Areas. Each Owner shall have the right to use and enjoy the common areas and facilities, if any. The Association shall be fully responsible for all liability insurance, taxes, assessments and maintenance of all Common Areas and facilities. The Association shall assess each Lot Owner their proportionate share of these expenses, based upon the formula set forth herein for all other assessments. Ownership and control of common areas shall transfer to the Association when eighty percent (80%) of the lots have sold or when Declarant transfers ownership of the same, whichever occurs first. At such time as ownership is transferred, the Association is obligated to accept the same.

**2. Road Maintenance and Snow Removal.**

The maintenance and snow removal of the parking lots, streets, and common sidewalks shall be the responsibility of the Association. The cost of the same will be assessed to the Lot Owners as set forth herein. Street and parking signs will be placed and designed as approved by the Association and in conformance with City of Bozeman regulations.

**3. Landscaping.**

Landscaping of the Common Areas shall be the responsibility of the Association. Individual Lot landscaping shall be the responsibility of each Lot Owner and shall meet all requirements set forth in the Architectural Design Guidelines for Landscaping. Lot Owners shall submit landscape plans to the ARC for their review and approval. The Lot Owners shall be responsible for the installation and care of the lawns, drip irrigation systems and landscaping on their Lot and for the care, maintenance and replacement of trees and shrubbery located on their Lot. However, if a Lot Owner fails to adequately water, control weeds, fertilize or mow the grass on their Lot, the Association may do so and charge the cost thereof to the Lot Owner. The Board of Directors of an Association may elect to take over the care and maintenance of yard areas such as mowing, fertilizing and the like with the request and approval of eighty percent (80%) of the votes of the Lot Owners in the Association.

When a building is constructed on a Lot, the lawn and landscaping, after submittal and approval of plans by the ARC, shall be installed by the Lot Owner no later than the next planting season after the receipt of a Certificate of Occupancy for a building. If a Lot is not cleared of weeds and if the Owner fails to do so after notice from the Association, the weeds may be cleared and controlled by the Association and the cost

and expense associated with such weed maintenance shall be assessed to the Lot Owner and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment.

### **ARTICLE VIII: EASEMENTS**

1. Generally. Easements for roads, parking lots, drainage, storm water facilities, electricity, telephone, lighting, water, sewer, cable television, Internet, fiber optic, and any other service or utility shall be, and hereby are, granted and reserved as shown on the Plat. Such easements shall not interfere with and shall be subject and servient to any and all buildings subsequently erected in such areas, the easements herein provided for shall by-pass such buildings. All utilities, pipes, wires, and service lines shall be buried. All road or access area easements as shown on the Plat shall include a corresponding easement for drainage, electricity, telephone, lighting, and all other utilities along or under such roads.

Easement areas may be landscaped so as to enhance their appearance so long as the landscaping does not interfere with the use of the easement.

No utility service line or facility shall be installed or replaced without the prior approval of the Association. All easement areas must be restored, at the expense of the utility or service entity doing such work, to as near the condition as existed previous to such work as possible. In the discretion of the Association, a bond may be required of the utility, installer or service entity to insure compliance with this provision.

2. Easements in Common Areas. The Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, including but not limited to the parking lot, which is appurtenant to each Lot, subject to:
  - (a) The Governing Documents and any other applicable covenants;
  - (b) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the hours of use and number of guests who may use the Common Area;
  - (c) Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, object to reasonable regulation by the Board. Any Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease;
  - (d) Inspecting, maintaining, repairing and replacing the utilities, infrastructure and

other improvements; and

(e) Access to read utility meters.

3. Declarant's Easement. Declarant also reserves for itself the non-exclusive right and power to grant and record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of the subdivision, including but not limited to easements for ingress, egress, parking, and utilities shall be granted to the Declarant, its successors or assigns for the purpose of developing the subdivision. The Declarant hereby reserves for itself and on behalf of its successors and assigns, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the subdivision. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing infrastructure and utilities on such property. The Declarant reserves for itself and its successors and assigns non-exclusive easements and rights of way for ingress, egress and utilities along with the right, during and for any purpose concerning the construction of any Lot and the finishing of any structure therein, to use, access, and to upon the general Common Areas for access, deliveries, and the placement or temporary parking of vehicles, materials, and equipment.
4. Easements for Maintenance. Emergency and Enforcement. The Declarant grants to the Association easements over the Property as necessary to enable the Association to fulfill its maintenance responsibilities including but not limited to storm water facility maintenance. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency, entry shall only be during reasonable hours and after notice to the Owner.
5. Ingress and Egress. A non-exclusive easement shall exist in favor of each Lot Owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the Common Areas including but not limited to streets and parking lots as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

## **ARTICLE IX: ARCHITECTURAL REVIEW**

1. **Architectural Design Review in General.**

No parking lots, construction, building, structure, sidewalks, reconstruction, alteration, remodeling, landscaping, fence, wall, or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to, or maintained on any lot until building drawings, plans, and specifications (which must have been prepared by a licensed architect for any construction, reconstruction, alteration or remodeling), and such other information as the Architectural Review Committee may reasonably require, including without being limited to, colors, building materials, and models, have been submitted to, and approved by, a majority of the Architectural Review Committee in writing; nor may the same be commenced until the Architectural Review Committee shall have issued a permit allowing for such improvements. In addition to obtaining a written approval from the Association, the Owners must also make application for a building permit from the City of Bozeman and receive a signed building permit before construction of any improvements on the Lot. The Association's written approval of plans and a stamp of approval on the final plans must be attached to all City of Bozeman building permit applications. In addition to building plans, prior to the construction of any structure on any Lot within the Property, the Owner shall submit a landscaping plan to the Association. The landscaping plan shall substantially comply with those landscape requirements set forth in the Architectural Design Guidelines and shall be approved, in writing, by the Association before any plan is implemented.

Further, each Lot must meet the Architectural Design and Landscape requirements set forth in the VALLEY WEST SUBDIVISION covenants.

**2. Creation – Membership.**

There is hereby created an Architectural Review Committee which is herein referred to as the "Architectural Review Committee", or "ARC" which shall be the Declarant until one hundred percent (100%) of the Lots are sold or until Declarant appoints three persons to serve until such time as the Association appoints new persons, whichever shall occur first. After that point, the Committee shall consist of three (3) persons, appointed by a majority of the Owners. Architectural Review Committee members shall serve staggered three-year terms.

**3. Selection.**

If no successor is appointed by a majority of the Owners on or before the expiration of an individual member's term, the Architectural Member shall be deemed to have been re-appointed for another term. On the death or resignation of an individual member, a replacement shall be selected by the remaining members of the Architectural Review Committee to fill out the unexpired term.

**4. Purpose.**

The Architectural Review Committee may make such reasonable rules and Bylaws, and adopt such procedures, as it deems necessary to carry out its functions, which rules, by-laws, and procedures may not be inconsistent with the provisions of these covenants.

**5. Liability.**

The Architectural Review Committee, or the individual members thereof, may not be held liable by any person for any damages which may result from Architectural Review Committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance, suspension or enforcement of building permits or any delays associated with such action on the part of the Architectural Review Committee.

**6. Commencement of Work.**

The Owner or Occupant shall begin work within one (1) year of receipt of written approval and diligently proceed toward completion of all approved excavation, construction, refinishing and alterations. If work is not so commenced approval shall be deemed revoked unless the Architectural Review Committee, pursuant to written request made and received prior to the expiration of said one year period, extends the period of time within which work must be commenced.

**7. Completion Time.**

All construction on or in the Premises shall be diligently prosecuted to completion and shall, in any event, be completed within twelve (12) months of commencement unless specific written extension is granted by the Architectural Review Committee. No construction material shall, at any time, be placed or stored so as to impede, obstruct or interfere with pedestrian or vehicular traffic and no construction materials shall be placed or stored on Lots for a period of more than thirty (30) days following substantial completion of construction as shall be determined by the Architectural Review Committee.

**8. Authority to Approve.**

The Architectural Review Committee shall have the authority to reject the materials, designs and colors submitted with plans, or the plans themselves, if they are not compatible, or are inappropriate, with the rest of the Subdivision.

**9. Variances.**

The Architectural Review Committee shall have the authority to grant variances to the building locations, minimum square footage, and where, in its discretion, it believes the same to be appropriate and necessary and where the same will not be injurious to

the rest of the subdivision.

**10. Substantial Compliance.**

All improvements, construction, reconstruction, alterations, remodeling or any activity requiring the approval of the Architectural Review Committee must be completed in substantial compliance with the plans and specifications initially approved by the Architectural Review Committee and for which permits have been issued.

**ARTICLE X:  
USE RESTRICTIONS**

1. **Types of Business.** Any type of commercial use allowed under City of Bozeman Zoning shall be allowed on the Lots, except:
  - (a) Gas stations;
  - (b) Car washes;
  - (c) Marijuana/Cannabis dispensaries or grow operations;
  - (d) Auto sales and/or auto repair;
  - (e) “Adult” businesses;
  - (f) Tattoo Shops;
  - (g) Pawn shops; and
  - (h) Massage parlors.
2. **No Hunting.** No hunting of, shooting at or harassing of birds, animals, or any wildlife will be permitted. Skunks, gophers, and rodents may be trapped, however, poison may not be used.
3. **Pets.** No livestock, poultry, or other animals, except dogs are permitted on the Lots. All dogs shall be strictly controlled by their Owners so as not to annoy or interfere with use of the Lots by other Owners and to prevent any interference or harassment of wild animals in the subdivision or on surrounding or adjacent properties. Dogs shall be accompanied by their Owners and on a leash at all times, when outside. Owners shall pick up any pet waste immediately.
4. **Utility Lines.** City sewer and water lines, power, natural gas, cable television, and telephone primary service lines are provided to each Lot. However, 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. Private utilities are the responsibility of the Lot Owner.



5. **Signage.** All signage on individual Lots are subject to the Bozeman Unified Development Code and approval by the Association. Except as otherwise provided herein, no signs shall be erected on the exterior or any Lot, except signs which identify the Owner of the property or “for sale” signs on a Lot being sold. Also, the Declarant and/or Association may place signs at any entrance(s) to the subdivision to identify the subdivision and/or neighborhood.
6. **Lot Maintenance.** Each Owner is required to maintain their Lot, whether developed or undeveloped, in a neat and orderly fashion and shall not allow debris to accumulate on the Lot. This shall include mowing and removing noxious weeds. This shall also include during any period of construction, occupancy, or remodeling. All refuse, trash, and construction rubble (including concrete) shall be removed from the Lot in a timely manner and shall be disposed of properly.
7. **Building Maintenance.** Each Owner is required to maintain any structure on the Owner’s Lot in a neat and orderly fashion. This includes but is not limited to repainting, re-staining, reroofing and other similar maintenance and upkeep.
8. **Noise.** Each Owner shall be responsible for maintaining the peace and calm of the neighborhood and a business-like environment. Each Owner, whether present at the time of a disturbance or not, is responsible for the conduct of themselves and their guests, invitees, tenants, and lessees. It is a violation of these Covenants to allow noise to emit beyond the Owner’s Lot at a level that disturbs one or more persons. Each Owner is also responsible for the conduct of themselves and their guests, invitees, licensees, tenants, and lessees when utilizing the Common Areas.
9. **Municipal Regulations.** All land use regulations and all other laws, rules and regulations of any government or agency under whose jurisdiction the land lies are considered to be part of these Covenants and enforceable hereunder; and all of the Owners of said lands shall be bound by such land use regulations and other laws, rules and regulations. In the event there is a conflict between the Covenants and the applicable land use regulations and other laws, rules, and regulations, the most restrictive shall control.
10. **Storage of Equipment/Inoperable Vehicles/Recreational Vehicles.** No Lot or parking area shall be used for the storage or any inoperable vehicle, and no Lot or parking area shall be used to store machinery, equipment, or recreational vehicles. No Lot or parking area shall be used for storage of any articles, equipment, or other personal property. Storage of materials, supplies, equipment, tools, or trade items outside of a building is expressly prohibited. No recreational vehicles, including but not limited to travel trailers, motor homes, campers, ATV’s, dirt bikes, four wheelers, snowmobiles, boats, jet skis, etc., are allowed to be stored in the parking lot or upon a Lot.
11. **Offensive Activity.** No noxious or offensive activity shall be carried on 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. No fireworks of any kind may be brought into, discharged, or stored on any Lot. Any violation of City ordinances, zoning or other regulations shall be a violation of these covenants and can be enforced by the Association or individual Lot Owners.

12. **Parking.** Parking spaces within the parking lot shall not be assigned. Parking shall be limited to the parking lot. All parking shall be in compliance with the Bozeman Unified Development Code. The Board of Association may enact reasonable restrictions on the use of parking areas for the overall benefit of the Association and its members including restrictions or prohibitions on the type of activity and use including, but not limited to, special sales events, merchandise display stands or tables and signs. The Board or Association may charge reasonable fees for the disproportionate use by Owners or their guests, invitees, licensees, tenants, and lessees of the parking lot.
13. **Hazardous Materials.** No hazardous materials may be stored or disposed of on any lot or common area.
14. **Common Areas.** There shall be no obstruction of the Common Area nor shall anything be stored in or on the general Common Area without the prior written consent of the Association. Nothing shall be done or kept on the Common Areas which will increase the rate of insurance on the building or contents thereof, without the prior written consent of the Association.
15. **Nuisance.** No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to Lot Owners or which interferes with the peaceful possession and proper use of the Property by its residents which shall include, but not be limited to, barking dogs. No immoral, improper, offensive, or unlawful use shall be made of the property nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.
16. **Garbage.** The Association shall provide a common garbage receptacle for the Owner's use Each Lot Owner shall be responsible for taking their garbage and recycling to the common garbage receptacle. Individual garbage service shall not be utilized. Only standard business garbage and recycling shall be placed in the common garbage receptacle. Construction material and unusually large amounts of garbage shall be taken to the City or County dump collection sites by the Lot Owner. Furthermore, no junk, garbage, trash, equipment, parts, metals, lumber, debris, or other waste shall be allowed on the sidewalk, entrance, yard or driveway for any Lot, or in any of the limited or general Common Areas.
17. **Snow removal.** Lot Owners at their own expense, shall be responsible for removing snow and ice from the sidewalks and walkways on their individual Lots and shall

comply with all City regulations and ordinances governing the same.

**ARTICLE XI:  
RIGHTS RESERVED BY THE DECLARANT**

**1. Additional Covenants and Easements.**

The Declarant may subject any portion of the Property to additional Covenants and easements including Covenants obligating the Association to maintain and insure such Property. Such additional Covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subject to this Declaration. If the property is owned by someone other than the Declarant, then the consent of the Owners shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect different character and intended uses of subject property.

**2. Right to Develop.**

The Declarant and its employees, agents and designees shall have a right of access and use of an easement over and upon all of the Common Areas for the purpose of making, constructing and installing such improvements to the Common Areas as it deems appropriate in its sole discretion.

**3. Right to Transfer or Assign Declarant's Rights.**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or any Supplement or Amendment. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records.

**ARTICLE XII:  
GENERAL PROVISIONS**

**1. Effects of Covenants on Mortgage.**

A breach of any of the foregoing provisions, conditions, 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 on any Lot, or portion of any Lot, and any improvements thereon, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any Owner there of whose title thereto was acquired by

foreclosure, trustee sale or otherwise.

**2. Enforcement.**

These covenants may be enforced by their Association or by any Lot Owner. Enforcement of these covenants shall be by procedure of law or in equity against any person or persons violating or attempting to violate any covenants, and the legal proceedings may be either to restrain the violation of the covenants or to recover damages, or both. Each person who has been found by a court of competent jurisdiction to have violated one or more of these covenants shall be liable for all reasonable attorney's fees and costs incurred in connection with the litigation.

**3. General Provisions.**

In the event of any violation or threatened violation of these covenants, the Association or any owner may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a separate remedy, the Owners Association may enter upon the property in question and remove, remedy or abate the violation or threatened violation after first having given notice and a reasonable opportunity for the owner to take action to comply with these covenants as set forth below.

**4. Notice of Violation.**

Notice, as required above shall be in writing and shall be served on the person or entity concerned, and shall specify the violation or threatened violation, identify the property, demand compliance with the terms and conditions of these covenants and shall state the action which will be taken if the violation or threatened violation is not abated, remedied or satisfied. If such notice cannot be personally served after a reasonable effort to locate the person or entity to be served, service may be had by posting notice by certified mail, return receipt requested, to the last known address or address of record of the owner. Such notice must further provide for a period of at least fifteen (15) days (except in cases where more expeditious action may be required to protect property, persons, wildlife or the environment) from the date of personal service of such notice, or thirty (30) days from the date of posting and mailing of the same, within which abatement, entry or commencement of litigation, as provided above, can be commenced.

**5. Costs of Enforcement.**

Actual costs, expenses and reasonable attorney's fees connected with enforcing, correcting, remedying, abating, preventing or removing any violation or threatened violation of these covenants incurred either through litigation, entry or self-help shall constitute a claim by the party initiating such action against the owner of the property which is the subject of such violation or threatened violation. The party making such

claim may bring suit for enforcement of these covenants and file a lien against the subject property in the amount of and for the collection of the claim by filing a verified statement of the lien with the office of the Clerk and Recorder of Gallatin County, Montana. Such lien statement must set forth the names of the claimant, and the owner of record of the property against which the lien is claimed, a description of the property, the amount of the claim, the date of the claim and a brief statement of the manner in which the costs and expenses constituting the claim were incurred. Once filed, the lien shall remain on record as a claim against the property until the validity of the claim is determined by a court of law. Once a claim has been determined valid by a court of law, any such judgment may be foreclosed upon in the manner provided for the law for foreclosures with a right of redemption.

**6. Subdivision.**

No Lot may be further subdivided. However, two (2) or more lots may be aggregated.

**7. Severability.**

Invalidation of any of these covenants by a judgment or a court order shall in no way affect any of the other provisions, but they shall remain in full force and effect.

**8. Amendment.**

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by an instrument signed by the Owners of not less than eighty percent (80%) of the lots, each lot being entitled to one (1) vote. The Declarant, at its discretion, will retain control of VALLEY WEST SQUARE Owners Association and until one hundred percent (100%) of the lots are sold. The Declarant specifically reserves the right to amend these covenants as necessary or to the sale of any Lot to a third party. Certain provisions herein may not be amended. Specifically, any covenant which is included herein as a condition of the preliminary plat approval and required by the City of Bozeman may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of the City of Bozeman.

**9. Dispute resolution.**

In an effort to resolve disputes among Owners in the Association, all such disputes shall first be submitted to mediation in Gallatin County, Montana. The parties to the dispute shall mutually agree upon a mediator. If the parties cannot agree upon a mediator, one shall be chosen for them by the Association.

**10. Compliance.**

All applicable Zoning provisions, Ordinances and Uniform Building Codes, and other applicable codes or regulation, including any review or approval of site plans by local Fire District if applicable, must be met with respect to each Lot.

**11. Anti-waiver.**

No failure to exercise and no delay in exercising any right, power, or privilege under this Declaration shall be a waiver thereof. No waiver of a breach of any provision will be deemed a waiver of any preceding breach of the same or any other provision. No extension of time of performance of any obligations or other acts will be deemed to be an extension of time of performance of any other obligations or any other acts.

**12. Attorney's Fees/Costs.**

Except as otherwise specifically provided herein, if any suit or other proceeding for the interpretation or enforcement of this Declaration occurs, the prevailing party shall be entitled to recover its reasonable costs and expenses incurred including, without limitation, reasonable attorneys' fees.

**13. Headings.**

The headings used herein are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extend to intent of this document or any provision hereto.

**14. Binding Effect.**

Except as provided herein, each of the covenants, conditions, restrictions, regulations and reservations set forth herein shall continue to be binding upon the Owner, and each of its assigns and successors in interest, and upon each of them and on all parties or persons claiming under it on them, perpetually, from the day and year that this declaration is accepted and filed among the records of the Clerk and Recorder of Gallatin County

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal the day \_\_\_\_\_ of \_\_\_\_\_ 2021.

**KARDAR, LLC**

By: \_\_\_\_\_  
Michael A. Basile, Member

By: \_\_\_\_\_  
Daniel L. Ermatinger, Member

STATE OF MONTANA)

: ss

County of Gallatin )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me a Notary Public in and for the State of Montana, personally appeared **Michael A. Basile and Daniel L. Ermatinger**, known to me to be a Member of KARDAR , LLC, and acknowledged to me that they executed the same on behalf of the limited liability company pursuant to the power and authority vested in them.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

Return Recorded Document to:

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**BYLAWS OF VALLEY WEST SQUARE SUBDIVISION  
OWNERS ASSOCIATION, INC.**

**ARTICLE I**

**PURPOSE AND APPLICATION**

These Articles are and shall be the Bylaws of VALLEY WEST SQUARE Owners Association, Inc. (the "Association"). These Bylaws are in addition to the rules and regulations for the Association contained in the Declaration of Covenants, Conditions and Restrictions for VALLEY WEST SQUARE recorded at Document Number \_\_\_\_\_ on \_\_/\_\_/21 with the Gallatin County Clerk and Recorder. These Bylaws shall, upon being recorded with the Clerk and Recorder of Gallatin County, State of Montana, govern and control the administration of the Association. In the event of any inconsistency between these Bylaws and the Declaration, these Bylaws shall control. All Owners, their guests, invitees, agents, and any renters present and future, shall have the rights and responsibilities described in these Bylaws and shall be subject to the provisions thereof.

The acquisition of an ownership interest of a Lot in VALLEY WEST SQUARE signifies that the owner accepts, ratifies, and agrees to comply with these Bylaws.

**ARTICLE II  
MEMBERSHIP**

Persons owning a Lot in VALLEY WEST SQUARE or an interest in a Lot, or owning a Lot in any real estate tenancy relationship recognized by the State of Montana, shall be a member of the Association of Owners ("Association"). An Owner may not decline membership in the Association. Membership begins concurrently with the acquisition of an ownership interest in a Lot and terminates at the time such ownership interest is terminated. Such termination shall not relieve any owner of a liability for obligations incurred while a member of the Association; further, membership in the Association does not in any way negate or impair any owners' legal remedies, right to bring legal action, or defenses to any and all actions involving the Association, other Owners, or the Management, which may arise from or be incidents of ownership.

**ARTICLE III  
OBLIGATIONS**

Each Lot Owner shall be obligated to comply with these Bylaws and the Declaration of Covenants, Conditions and Restrictions for VALLEY WEST SQUARE Subdivision. Such obligations shall include, but are not limited to, the paying of assessments levied by the Association, and the adherence to the protective covenants which are a part of the Declaration.



Failure of any owner to abide by these Bylaws, and all rules and regulations made pursuant thereto, the Declaration, the City of Bozeman, and the State of Montana, shall be grounds for appropriate legal action by the Association or by an aggrieved Owner against such noncomplying owner.

#### **ARTICLE IV MEETING AND VOTING**

There shall be a regular meeting of the Association annually on the third Wednesday in January of each year, commencing in the year the Association is established, or thereafter, on such other date properly announced by the Association.

Pursuant to these Bylaws, the Association may at any time hold special meetings. Such special meetings may be called on the initiative of the Chairman of the Association, by the Board of Directors, a signed request by the Manager, or a petition signed by sixty percent (60%) of the Owners. Notice of any special meeting must specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting.

##### A. Notice.

Notice of all meetings, regular or special, shall be mailed, personally delivered or sent by email (if Lot Owner has consented in writing to notices being sent by email and provided an email address) by the Association's Secretary to every Lot Owner of record at his/her/its address of record at least ten (10) business days prior, but not more than sixty (60) days prior, to the time for holding such meeting. Such notice shall specify the date, time, and place of the meeting and shall make provisions to allow for the voting of each Lot Owner by proxy or by written ballot, and to deliver the ballot by electronic voting, at the discretion of the Lot Owner. The mailing of a notice in the manner provided in this paragraph or the personal delivery of such notice by the Secretary of the Association shall be considered as notice served. If delivered electronically, such notice shall be deemed delivered upon the Association's transmittal of the electronic communication to the Owner at the authenticated electronic identification designated by the Owner for such communications. The Association shall maintain a list of the Owners, pursuant to Mont. Code Ann. § 35-2-906, which list shall include the authenticated electronic identification designated by each Owner. The "authenticated electronic identification" shall mean an e-mail address or other electronic identification designated by an Owner for electronic communications.

##### B. Quorum.

No meeting, regular or special, shall be convened to conduct business unless a quorum is present in person or by proxy. A quorum shall consist of sixty percent (60%) of the total aggregate interest of VALLEY WEST SQUARE. At any time, during any meeting that quorum is not present, such meeting shall be adjourned forthwith.

## **ARTICLE V VOTING INTEREST**

### **A. Procedures.**

Each Lot Owner at Association meetings shall have one vote.

Each Lot Owner shall have a vote on all matters affecting the general business of the Association, on all matters affecting the Common Areas, assessments and on all matters upon which the Association has agreed to vote on. Unless a higher percentage is required in these Bylaws, or in the Declaration, a matter shall be deemed approved if it receives a majority of the total aggregate interest of the Lot Owners (in person or by proxy) at a meeting with a quorum present. No member shall be entitled to vote during any period in which such member shall be in default in the payment of any assessment levied by the Association as set forth in the Declaration. The Association shall be permitted to take action by the vote of Owners consenting in the form of a record provided electronically or by written ballot and to deliver a written ballot by electronic delivery, if a Lot Owner gives consent for such electronic delivery. "Vote" or "voting" shall include, but not be limited to, the giving of consent in the form of a record provided electronically or by written ballot and written consent. A Lot Owner's consent to receive notice by electronic communication in a certain manner shall constitute consent to receive a ballot by electronic communication in the same manner.

Whenever a quorum is present at a meeting of the Association or the Board of Directors, those present may do any and all acts they are empowered to do unless specific provisions of these Bylaws, the Declaration, or the laws of the State of Montana direct otherwise. A Lot Owner voting electronically pursuant to this section shall be counted as being in attendance at the meeting for purposes of determining a quorum, pursuant to Article IV.B of these Bylaws.

### **B. Proxies.**

Every person entitled to vote shall have the right to do so either in person, or by written proxy, signed by such person, and filed with the secretary of the Association. A proxy shall be deemed signed if the member's name is placed on the proxy, (whether by manual signature, typewriting, telegraphic transmission, facsimile or otherwise) by the member or the member's attorney-in-fact. A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) revoked by the person executing it prior to the vote pursuant to that proxy by a writing delivered to the Association stating that the proxy is revoked, or by a subsequent proxy executed by, or attendance at the meeting and voting in person by, the person executing the proxy; or (ii) written notice of the death or incapacity of the maker of that proxy is received by the Association before the vote pursuant to that proxy is counted; provided however, that no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy unless otherwise provided in the proxy.

### **C. Record Date.**

In order that the Association may determine the members entitled to notice of, or to vote at, any meeting or entitled to exercise any rights in respect of any other lawful action, the Board of Directors may fix, in advance, a record date which shall not be more than sixty (60) nor less than

ten (10) days before the date of such meeting. Members of record at the close of business on the record date are entitled to notice and vote or to exercise their rights as the case may be, notwithstanding any transfer of any Lots on the books of the Association after the record date, except as otherwise provided by agreement or in the Montana Nonprofit Corporation Act.

## **ARTICLE VI BOARD OF DIRECTORS**

The governance of the Association shall be by a Board of Directors consisting of a minimum of three (3) Directors and a maximum of five (5), elected by the Owners except for the Declarant's reserved rights hereunder. The Directors need not be Owners. Such Board of Directors shall have all powers and responsibilities attendant to the general administration and control of the Association. Additionally, the Board of Directors shall have the authority necessary to carry into effect the powers and duties specified by these Bylaws.

The Declarant shall appoint the three (3) members of the initial Board of Directors, who shall serve until the first annual meeting of the Members, which pursuant to Article IV, shall occur on the third Wednesday in January of each year, commencing in the year the Association is established. Thereafter, until the earlier of the date on which one hundred percent (100%) of the Lots have been first conveyed or transferred by Declarant to a third party, the Declarant reserves the right to appoint all members of the Board of Directors.

By express written declaration, the Declarant shall have the option at any time to turn over to the Association the total responsibility for electing and removing Members of the Board of Directors.

### A. Meetings.

Meetings of the Board of Directors may be held at any place which has been designated in the notice of the meeting, or if not stated in the notice or there is no notice, designated in the Bylaws or by resolution of the Board of Directors. Immediately following, and at the same place as, each annual meeting of members, the Board of Directors shall hold without call or notice other than this bylaw a regular meeting for the purposes of organization, election of officers and the transaction of other business. Other regular meetings of the Board of Directors shall be held without notice at such time as from time to time may be fixed by the Board of Directors.

### B. Special Meetings; Notice.

Special meetings of the Board of Directors may be called at any time by the chairman or the secretary or any two Directors. Notice of the time and place of all special meetings shall be given to each Director by any of the following means:

- (i.) By personal delivery, or by telephone, fax, or email at least forty-eight (48) hours prior to the time of the meeting; or
- (ii.) By first-class mail, postage prepaid, at least four days prior to the time of the meeting.

C. Waiver of Notice.

The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, are as valid as though it had been held at any meeting duly held after regular call and notice, if a quorum is present and if, either before or after the meeting, each of the Directors not present signs a written waiver of notice or a consent to holding the meeting or an approval of the minutes thereof. All such waivers, consents, and approvals shall be filed with corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed waived by any Director who attends the meeting without protesting before or at its commencement the lack of notice.

D. Participation by Telephone or Virtual Meeting.

Members of the Board of Directors may participate in a meeting through the use of conference telephone, virtual meeting, or similar communications equipment, as long as all members participating in such meeting can hear one another. Participation in a meeting pursuant hereto constitutes presence in person at such meeting.

E. Quorum and Action at Meeting.

A majority of the authorized number of Board of Directors shall constitute a quorum for the transaction of business. Each Director shall have one (1) vote. Subject to the provisions of Montana Nonprofit Corporation Act, every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors.

F. Action Without Meeting.

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all Members of the Board of Directors individually or collectively consent in writing to the action. Such written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

G. Committees.

The Board of Directors may, by resolution adopted by a majority of the authorized number of Directors, designate one or more committees, each consisting of two or more Directors and each of which, to the extent provided in the resolution and as limited by the Montana Nonprofit Corporation Act, shall have all the authority of the Board of Directors. Further the Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Each committee shall serve at the pleasure of the Board of Directors.

H. Meetings and Action of Committees.

Meeting and action of committees shall be governed by, and held and taken in accordance with, the provisions of this Article VI of these Bylaws, with such changes in context of these Bylaws as are necessary to substitute the committee and its members for the Board of Directors

and its Members except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may adopt such other rules for the governance of any committee as are not inconsistent with the provisions of these Bylaws.

I. Limitations on Authority.

No single expenditure or debt in excess of \$10,000.00 may be made or incurred by the Association or manager without prior approval evidenced by the affirmative vote of Owners holding sixty percent (60%) of the votes attributable to all of the Owners.

**ARTICLE VII OFFICERS OF THE BOARD OF DIRECTORS**

The Association shall elect from its membership or otherwise a Board of Directors which shall consist of a Chairman and Secretary/Treasurer, who shall serve for a term of one (1) year. If no new person is elected to an officer position after expiration of term, the officer must remain in office until a replacement is elected or appointed. The manner of election of the Board of Directors shall be as follows:

After one hundred percent (100%) of the Lots have been transferred to third parties, at the next annual meeting of the Association, nominations for positions on the Board of Directors shall be accepted from any of the Lot Owners present. Voting shall take place by secret, written ballot. Each Association member shall have one (1) vote. Board of Directors members shall be elected by vote of the members present or voting by proxy at any annual meeting, with the persons receiving the largest number of votes being elected. There shall be no cumulative voting.

**ARTICLE VIII  
LIABILITY**

Members of the Board of Directors and their officers, assistant officers, agents, and employees acting in good faith on behalf of the Association:

- (1) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their willful misconduct or bad faith;
- (2) shall have no personal liability in contract to a Lot Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such;
- (3) shall have no personal liability in tort to any Lot Owner or any person or entity, except for their own willful misconduct or bad faith;
- (4) shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue

of their capacity as such.

**ARTICLE IX  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

The Board of Directors shall have the following powers and duties:

- A. To call annual meetings of the Association and give due notice thereof
- B. To conduct elections of the Board of Directors
- C. To enforce the provisions of the Declaration and Bylaws of VALLEY WEST SQUARE SUBDIVISION by appropriate action.
- D. To promulgate and adopt rules and regulations for the use and occupancy of the Common Areas and for the occupancy of the Lots so as not to interfere with the peace and quiet of all the Lots.
- E. To provide for the management of VALLEY WEST SQUARE by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep, and repair of the Common Areas.
- F. To levy assessments as allowed by the Declaration, these Bylaws, and the State of Montana, and to provide for the collection, expenditure, and accounting of said assessments.
- G. To pay for the expenses of the maintenance, repair, and upkeep of the general Common Areas and to approve payment vouchers either at regular or special meetings.
- H. To delegate authority to the Manager for the routine conduct of Association business, however, such authority shall be precisely defined with ultimate authority at all times residing in the Board of Directors
- I. To provide a means of hearing grievances of Lot Owners and to respond appropriately thereto. To meet at regularly scheduled times and to hold such meetings open to all Lot Owners or their agents.
- J. To prepare an annual budget for the Association in order to determine the amount of the assessments payable by the Lot Owners to meet the general expenses of the Association, and allocate and assess such charges among the Lot Owners on an equal basis. To levy and collect special assessments whenever, in the opinion of the Board of Directors, it is necessary to do so in order to meet increased operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies.
- K. To take appropriate legal action to collect any delinquent assessments, payments or amounts due from Lot Owners, or from any person or persons owing money to the Association, and to levy a penalty and to charge interest on unpaid amounts due and owing. However, other than for the collection of delinquent assessments or accounts, the Board of

Directors shall not initiate any litigation or lawsuit without prior approval of at least sixty percent (60%) of the aggregate interest of the Lot Owners in the Association.

- L. To defend in the name of the Association any and all lawsuits wherein VALLEY WEST SQUARE is a party defendant.
- M. To enter into contracts necessary to carry out the duties herein set forth.
- N. To establish a bank account for the Association, and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- O. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and these Bylaws, and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Association.
- P. To arrange, keep, maintain, and renew the insurance for the Association and the Common Areas.
- Q. To receive and make payment for common utility expenses, including the power bill, for the Common Areas. The Common Area expenses shall be paid by the Lot owners as part of their assessment, with the method of payment to be determined by the Board of Directors.
- R. To carry out the duties and responsibilities of the Board of Directors in all other matters as may be authorized, needed, or required by the Declaration.
- S. To make repairs, alterations, additions, and improvements to the Common Areas consistent with managing the Association in a first-class manner and in the best interest of the Lot Owners.
- T. To provide the perpetual maintenance of the Common Areas and landscaping, the parking areas, sidewalk, tracts and driving lanes, and to make any assessments necessary for such maintenance as provided herein. Such maintenance shall specifically include the control of noxious weeds.

## **ARTICLE X VACANCIES AND REMOVAL**

Should a vacancy occur on the Board of Directors, the Board of Directors, subject to the exception described below, shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular Board of Directors meeting after which it occurs. Should such vacancy not be filled by the Board of Directors at the next regular meeting of the Association, the Association may fill such vacancy.

At any regular or special meeting of the Association, any member of the Board of Directors may be removed by a majority of the votes available for election of the Board of Directors. Such

vacancy shall be filled by the Association. Such removal matter must be announced in the notice of such regular or special meeting. The personal delivery of such notice by the Secretary of the Association shall be considered notice served.

## **ARTICLE XI COMPENSATION**

No member of the Board of Directors shall receive any compensation for acting as such. Nothing herein, however, shall be construed to preclude compensation being paid to Managers who are hired by the Board of Directors.

## **ARTICLE XII MANAGERS**

The Manager shall be appointed and/or removed by the Board of Directors. The Manager (or any member of the Board of Directors or Association handling Association funds or having power to withdraw or spend such funds) shall be bonded if required by the Board of Directors, and shall maintain the records of the financial affairs of the Association. Such records shall detail all assessments made by the Association and the status of payments of said assessments by all Lot Owners. All records shall be available for examination during normal business hours to any Lot Owner or his assigned representative. All functions and duties herein provided for the Manager may be performed by the Board of Directors, or the Chairman, if the Board of Directors should decide not to have a Manager.

### A. Accounts.

The receipts and expenditures of the Association shall be under the direction of the Manager and shall include a provision for current expenses which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or betterments. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year. Other budget items may be provided for in the discretion of the Manager.

### B. Budget.

The manager shall prepare and submit to the Board of Directors each calendar year, a budget, which must be approved and adopted by the Board of Directors. The budget shall include the estimated funds required to defray expenses and to provide and maintain funds for the foregoing accounts according to Generally Accepted Accounting Practices.

Copies of the budget and proposed assessments shall be transmitted to each member on or before January 30 of the year preceding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.

### C. Financial Report.



An audit and financial report of the accounts of the Association may be made annually by a Certified Public Accountant, if required by the Board of Directors, and a copy of the report shall be furnished to each member no later than March 1<sup>st</sup> of each year for which the audit is made.

The Manager shall generally operate and manage the Association for and on behalf of the Lot Owners and shall have such other powers and authority as the Board of Directors may designate. If there is no Manager or if the Manager resigns, is terminated or his contract expires, the Board of Directors shall perform all the duties of the Manager.

### **ARTICLE XIII AMENDMENT OF BYLAWS**

These Bylaws may be amended at any regular or special meeting of the Association providing that a copy of the proposed revision is included in the notice of such meeting.

Upon a vote of over eighty percent (80%) of the Lot Owners the amendment shall be declared adopted. The Secretary shall as soon as practicable after adoption, prepare a copy of these Bylaws as amended for certification by the Chairman and Secretary of the Association. Such amended and certified Bylaws shall then be filed and recorded in the office of the Clerk and Recorder of Gallatin County, State of Montana. Bylaws as amended shall become effective at the time of such recording.

### **ARTICLE XIV ASSESSMENTS**

Lot Owners shall be assessed for Association expenses based on the square footage of its Lots in comparison to the total square footage of all Lots. Such assessments shall be collected and paid according to the terms and under the procedures more particularly set forth in the Declaration. The amount of assessments described above and any other assessments allowed by these Bylaws, the Declaration, and by the State of Montana, shall be fixed by the Board of Directors. Notice of each Lot Owner's assessments shall be mailed to said Owner at his/her address of record.

### **ARTICLE XV MISCELLANEOUS**

#### A. Records and Inspection Rights.

The Association shall keep such records (including member's lists, accounting books, minutes of meetings and other records) as are required by the Montana Nonprofit Corporation Act, and these records shall be open to inspection by the Directors and Members of the Association to the extent permitted by the Montana Nonprofit Corporation Act.

#### B. Availability

The Association shall make available to Lot Owners, lenders and the holders and insurers of the first mortgage on any Lot, current copies of the declaration, Bylaws and other rules governing the Association, and other books, records and financial statements of the Association. The Owners Association also shall be required to make available to prospective purchasers'

current copies of the declaration, Bylaws, other rules governing the condominium, and the most recent annual audited financial statement if such is prepared.

C. Checks. Drafts. Evidence of Indebtedness.

All checks, drafts, or other orders for payment of money, notes or other evidence of indebtedness, issued in the name of, or payable to, the Association, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

D. Execution of Corporate Contracts and Instruments.

The Board of Directors may authorize any officer or officers or agent or agents, or appoint an attorney or attorneys-in-fact, to enter into any contract or execute any instrument in the name of, and on behalf of, the Association, and this authority may be general or confined to specific instances; and unless so authorized or appointed, or unless afterwards ratified by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose of for any amount.

E. Transfer of Control.

Except for those rights specifically reserved by Declarant to add additional phases as set forth in the Declaration, the Declarant shall relinquish all retained rights to appoint Members of the Board of Directors, and all such rights and authority shall pass to the Lot Owners within the project, upon one hundred percent (100%) of the Lots being sold or otherwise transferred by Declarant to a third party.

The foregoing requirement shall not affect the Declarant's rights, as a Lot Owner, to exercise the vote allocated to Lots which it owns.

F. Association's Rights and Restrictions.

The Association is granted a right of entry upon Lot and Common Areas to affect emergency repairs, and a reasonable right of entry thereupon to effect other repairs, improvements, replacement or maintenance deemed necessary.

The Association is granted the right to grant utility easements under, through or over the Common Areas, which are reasonably necessary to the ongoing development and operation of VALLEY WEST SQUARE Subdivision.

**ARTICLE XVI THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VALLEY WEST SQUARE (“DECLARATION”)**

The undersigned has filed, along with these Bylaws, a Declaration whereby the properties known as VALLEY WEST SQUARE. The Declaration shall govern the acts, powers, duties, and responsibilities of the Association of Lot Owners.

The definition of terms set forth in the Declaration shall be applicable throughout these Bylaws and the interpretation thereof.

By virtue of these Bylaws and the Declaration, each Lot Owner has the right to membership in the Association of Lot Owners and any Lot Owner may be on the Board of Directors of the Association.

The Association and its Board of Directors shall have the primary and final authority on all matters solely affecting the property, subject to the laws, rules and regulations of the City of Bozeman, the County of Gallatin and the State of Montana.

IN WITNESS WHEREOF, the undersigned, as the Declarant and owner of record of all of the property and 100% of the voting interests of the Association as of the date hereof, hereby appoints the following three (3) people to serve on the initial Board of Directors and as officers until the first annual meeting of the Association, to-wit:

Michael A. Basile  
Daniel L. Ermatinger

And, the Declarant, as 100% of the Lot Owners, and hereby declares and affirms the adoption of the foregoing Bylaws on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**KARDAR, LLC**

By: \_\_\_\_\_  
Michael A. Basile, Member

By: \_\_\_\_\_  
Daniel L. Ermatinger, Member

STATE OF MONTANA)

: ss

County of Gallatin )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me a Notary Public in and for the State of Montana, personally appeared **Michael A. Basile and Daniel L. Ermatinger**, known to me to be a Member of KARDAR , LLC, and acknowledged to me that they executed the same on behalf of the limited liability company pursuant to the power and authority vested in them.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_