

WHEN RECORDED RETURN TO:

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Page: 1 of 5 04/17/2018 11:14:34 AM Fee: \$35.00
Charlotte Mills - Gallatin County, MT MISC

**SECOND AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR THE LAKES AT VALLEY WEST**

THIS SECOND AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE LAKES AT VALLEY WEST ("Second Amendment to Declaration") is made effective the ____ day of _____, 201_, by The Lakes at Valley West, Bozeman, Two, LLC, Bozeman Investment Holdings, LLC, and KS DevCor, Inc., Inc. (jointly referred to as "Declarant").

WHEREAS, the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West ("Declaration") was recorded on October 14, 2015, as Document No. 2527605, in the Office of the Clerk and Recorder, Gallatin County, Montana, as supplemented by the Affidavit of Omission Concerning the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West, recorded on June 20, 2016, as Document No. 2548465, in the Office of the Clerk and Recorder, Gallatin County, Montana, and as amended by the First Amendment to the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West ("First Amendment to Declaration"), recorded on April 6, 2017, as Document No. 2576475, in the Office of the Clerk and Recorder, Gallatin County, Montana;

WHEREAS, the Declaration, Section 16.2, authorizes the Declarant to amend, modify, add, or delete any provision of the Declaration, in whole or in part, which amendment, modification, addition, or deletion shall be effective upon the recording of the same with the Office of the Clerk and Recorder, Gallatin County, Montana and upon notice being provided of the same to all Members;

WHEREAS, the Declarant desires to amend the Declaration so that it conforms with the development of each phase of The Lakes Subdivision and in order to include those covenants and restrictions that are required by the City of Bozeman, MT for each phase of The Lakes Subdivision;

NOW THEREFORE, THE DECLARANT HEREIN AMENDS, MODIFIES, ADDS, OR DELETES THE DECLARATION AS FOLLOWS (the portion in *italics* shall be added to the Declaration and the portion with a ~~strike through~~ shall be deleted:

Article XI
Common Areas, Parks, Open Spaces, Easements, and Designated Sidewalks

...

11.5 After the initial installation of the improvements in the Common Areas, Parks, and Open Spaces by the Declarant, the Association, if the Valley West Association does not or is no longer obligated to, shall be responsible for and have the obligation to maintain the Common Areas, Parks and Open Spaces in good condition and repair and as set forth on the Final Plat of The Lakes Subdivision. This includes the responsibility to control noxious weeds, ~~and~~ to maintain sidewalks, *and to maintain the trails (paved and unpaved)* in the Common Areas, Parks, and Open Spaces, *which at the Board's discretion may include* ~~including~~ snow removal. The cost of such maintenance shall be a part of the annual budget for the Association to be assessed to the Owners.

...

Article XII
Additional Covenants Required by the City

...

12.11. In addition to any other covenants contained in Article XII, the following covenants are required by the City of Bozeman, MT, in order to obtain Final Plat approval for The Lakes at Valley West, Phase 3 and Phase 4:

12.11.1 Only four (4) Lots in The Lakes at Valley West, Phase 3, are authorized to have accessory dwelling units ("ADUs"). The Lots that are permitted to have ADUs are Lots 31, 48, 49, and 50. *Only two (2) Lots in The Lakes at Valley West, Phase 4, are authorized to have ADUs. The Lots that are permitted to have ADUs are Lots 6 and 17.* No other Lot in The Lakes at Valley West, Phase 3 and Phase 4, ~~is~~ are permitted or allowed to have ADUs without the express written authorization of the City of Bozeman.

12.11.2 The City of Bozeman has authorized certain relaxations to the Bozeman Municipal Code for The Lakes at Valley West, Phase 3 and Phase 4. These relaxations are contained in the Design Manual. These relaxations are incorporated herein by reference and, like other covenants contained in Article XII, may not be revised or terminated without the express written consent of the City of Bozeman.

12.11.3 The Lakes at Valley West, Phase 3 and Phase 4, falls within a known area of high groundwater. No crawl spaces or basements that require sump pumps to pump water shall be constructed in Phase 3 and Phase 4. Sump pumps are not allowed to be connected to the sanitary sewer system. Sump pumps are also not allowed to be connected to the drainage system unless capacity is designed into the drainage system to accept the pumped water. Water from sump pumps may not be discharged onto streets, such as into the curb and gutters where they may create a safety hazard for pedestrians and vehicles.

12.11.3 A storm water maintenance plan specific to The Lakes at Valley West, Phase 3, and a storm water maintenance plan specific to The Lakes at Valley West, Phase 4, ~~is~~ are

DECLARANT: Bozeman Investment Holdings, LLC

By: Kilday & Stratton, Inc.
Its: Manager

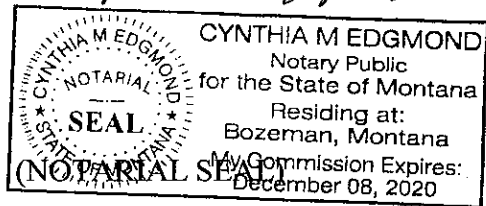
By: *James M. Kilday*
James Kilday
Its: President

STATE OF MONTANA)
) : ss.
County of Gallatin)

On this 15th day of February, 2018, before me, the undersigned Notary Public for the State of Montana, personally appeared James Kilday, President of Kilday & Stratton, Inc., Manager of Bozeman Investment Holdings, LLC, James Kilday, known to me to be an authorized representative of Bozeman Investment Holdings, LLC, and acknowledged to me that he executed this document in his authorized capacity and on its behalf.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date and year hereinabove first written.

Cynthia M. Edgmond



(print name)

Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

DECLARANT: KS DevCor, Inc.

By: James M. Kilday
James Kilday
Its: President

STATE OF MONTANA)
: ss.
County of Gallatin)

On this 15th day of February, 2018, before me, the undersigned Notary Public for the State of Montana, personally appeared James Kilday, known to me to be President of KS DevCor, Inc., and acknowledged to me that he executed this document in his authorized capacity and on its behalf.

(print name)

Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

(NOTARIAL SEAL)

