



Upon recording, please return to:
Jeff Claridge
Stillwater Corporation
P.O. Box 7338
Kalispell, MT 59904-7338

see attached assr #'s



KALISPELL NORTH TOWN CENTER
AMENDED AND RESTATED
COMMON AREA MANAGEMENT PLAN
WITH COVENANTS, CONDITIONS AND RESTRICTIONS

This **Amended and Restated Common Area Management Plan with Covenants, Conditions and Restrictions** (“Declaration”) is made by the Declarant, Stillwater Corporation, pursuant to Section 3 of the Term, Enforcement, Applicability and Change Enforcement provisions of the **Kalispell North Town Center Common Area Management Plan Property Owner’s Association** document, recorded as Doc. No. 201800009043, records of Flathead County, Montana, on May 8, 2018. This Declaration shall supersede and replace the **Kalispell North Town Center Common Area Management Plan Property Owner’s Association** document in its entirety.

The land subject to this Declaration is the land encompassed within Kalispell North Town Center, Phase 1 and Kalispell North Town Center, Phase 2, excepting therefrom the land conveyed from Stillwater Corporation to Spartan Holdings, LLC, on June 13, 2018, and March 7, 2019. A complete legal description of the land currently subject to this Declaration is more particularly described on Exhibit 1.

Upon the recording of the final plats of any future phases of Kalispell North Town Center that encompass any commercially zoned subdivision phases of Kalispell North Town Center, the commercially zoned land encompassed within such plats shall automatically become subject to these CCRs.

Article I. Definitions

1. *Common Areas* means those areas designated as Common Areas or open spaces on the recorded plats of any commercially zoned land located with current or future phases of Kalispell North Town Center and held in fee simple ownership by the POA. Common



Areas shall also include any lands and improvements held in fee simple ownership by the POA and dedicated for streets, roads, trails, ponds and other drainage areas, boundary fences or other amenities intended for the common use and benefit of the Members. Streets may be conveyed to the City of Kalispell and upon conveyance will no longer be regarded as Common Areas.

2. *Contract Purchaser* means a buyer of a lot under a contract for deed.
3. *Owner* means the fee simple owner or Contract Purchaser of any Lot.
4. *Lot* means a platted lot in any commercially zoned areas within any current or future property subdivision phase of Kalispell North Town Center.
5. *Member* means the Owner of a Lot.
6. *Occupant* means the person or entity, other than the Owner, who occupies a Lot for business purposes.
7. *Board of Directors* shall mean the Directors of the POA.

Article II. Kalispell North Town Center Property Owners' Association

1. An association known as the Kalispell North Town Center Property Owners' Association ("POA") has been incorporated as a Montana mutual benefit corporation with members. The purpose of the POA shall be to manage and maintain the Common Areas within Kalispell North Town Center, Phase 1, and Kalispell North Town Center, Phase 2, as well as all commercially zoned land encompassed within the recorded final plats of any future phases of Kalispell North Town Center.

2. Every Owner shall be a member of the POA. Each Owner shall be responsible for providing written notice to the POA of their acquisition of ownership, their mailing address, and any changes of ownership or mailing address. The initial address of the POA shall be the address of the Declarant, Stillwater Corporation, P.O. Box 7338, Kalispell, MT 59904. The address of the POA may be changed by the Board of Directors of the POA upon notice to the Owners.

3. Regardless of the number of Owners possessing an ownership interest in a Lot, the Owner or Owners shall be entitled to one vote per Lot on those matters upon which the Members are entitled to vote. Any Owner of a Lot is authorized to cast the vote allocated to any Lot.

Article III. Board of Directors

1. The initial Board of Directors shall be selected by the Declarant, which shall determine the initial terms of the Directors.

2. Vacancies on the Board of Directors, whether occurring prior to or upon expiration of a Director's term, shall be filled under procedures set forth within the bylaws of the POA.

Article IV. Assessments

1. Each Owner is obligated to pay to the POA Regular Assessments, which may be assessed and collected monthly or annually, as well as Special Assessments. Regular and Special Assessments, together with interest and any reasonable attorney fees incurred to pursue



collection, shall be a lien against the Lots of the Members. Any such lien shall be subordinate to any prior-recorded mortgages, deeds of trust or trust indentures.

2. The purpose of Regular Assessments is to promote the health, safety, convenience, recreation and general welfare of the owners through the operation and regular maintenance of the Common Areas, including irrigation, mowing, noxious weed control and any other operation or maintenance activities deemed necessary by the Board of Directors.

3. The maximum annual Regular Assessment per Lot shall not substantially exceed the budgeted costs to be incurred by the POA in carrying out the purposes of the Regular Assessments, but the annual budget may include a reasonable contingency amount to be determined by the Board of Directors, as well as ongoing reserve amounts to fund the replacement or reconstruction of any Common Area improvements or equipment. The annual budget shall be set by the Board of Directors.

4. The purpose of Special Assessments is to fund, in whole or in part, any construction or other capital improvements on any of the Common Areas. Such assessments shall be based on the budgeted costs of such construction or capital improvements.

5. Regular and Special Assessments shall be set at a uniform rate per Lot, regardless of Lot size.

6. The Annual and Special Assessments shall be due on a schedule to be determined by the Board of Directors. Upon mailing of the notice of assessment to the Owner, the assessment shall be a lien on the Owner's lot until paid.

7. If any Annual or Special Assessments are not paid within 30 days of mailing of the notice of assessment, the POA is authorized to record a notice of lien within the property records of Flathead County. The POA may bring an action at law against any Owner of a Lot for which an Assessment is delinquent, or may foreclose upon the lien by a judicial proceeding, following the procedures for the judicial foreclosure of mortgages. Delinquent Assessments shall bear interest at the rate of 10 percent per annum. Owners of any Lot for which an Assessment is delinquent shall also be obligated for the reasonable attorney fees incurred to pursue collection or foreclosure.

8. Any liens for delinquent Assessments shall run with the land. Accordingly, the sale, transfer or encumbrance of any Lot shall not affect the validity of any lien for delinquent Assessments, regardless of whether the lien has been recorded, and collection of delinquent Assessments and foreclosure of any lien may be undertaken against any current Owner. Lot purchasers are therefore advised to check with the POA as to the existence of any delinquent Assessments prior to closing.



9. Liens for Assessments, or for abatement of any violation of this Declaration, as set forth below (collectively “POA Liens”) shall be subordinate to any prior recorded mortgage lien taken for the purpose of financing the purchase or refinance of a Lot. In the event of foreclosure of any such mortgage, any POA Liens shall be extinguished.

Article V. Maintenance of Common Areas

1. The Association shall have the exclusive right and obligation to manage, control and maintain the Common Areas. No Owner, guest or invitee of an Owner may use or occupy the Common Areas or any Lot in such a manner as to disturb or interfere with the peaceful use and quiet enjoyment of any other Owner, guest or invitee.
2. The Association shall be responsible for liability insurance, local taxes and maintenance of the Common Areas.

Article VI. Maintenance of Lots

Owners shall at all times, at Owners’ sole cost and expense, maintain Lots in a safe, clean and attractive condition. Such maintenance includes, but it is not limited to:

- Prompt removal of all litter, trash, refuse, waste, snow and ice.
- Keeping landscaping irrigated, weed free and attractive.
- Keeping exterior lighting and mechanical facilities in working order.
- Keeping parking areas, driveways and roads in good repair.
- Complying with all government health and safety improvements.
- Striping of parking areas.
- Painting and repainting of improvements.
- Repair of damage to improvements.
- Maintenance of utility lines within Lot boundaries.

Article VII. Enforcement

1. Owners of Lots shall be primarily liable for any violation of any term or condition set forth within this Declaration. Occupants shall be secondarily liable for any such violation. Declarant or the POA shall provide written notice to Owner or Occupant to remedy any violation within 30 days. Under circumstances deemed urgent by the POA, a shorter period to remedy a violation may be imposed. Alternatively, the POA may enter upon a Lot and abate any violation at the expense of the Owner, or prosecute an action at law or in equity to abate any violation. In either such event, the POA shall be entitled to recover its reasonable attorney fees and costs of enforcement. Owners shall also have the right to prosecute an action at law or in equity to abate any violation, with the prevailing party entitled to recover its reasonable attorney fees and costs of enforcement, but shall not have the right of entry or right to unilaterally abate a violation accorded to the POA.



2. The POA or its agents shall have the right, during reasonable hours and upon 24 hours notice, to enter upon and inspect any Lot and the improvements thereon for the purpose of determining compliance with this Declaration.
3. The failure of the Declarant, POA or Owner to enforce any provision of this Declaration shall not be deemed a waiver or in any way prejudice the right to later enforce that provision. Any express waiver, or approval of a variance of any provision of this Declaration by the Board of Directors shall not be deemed a waiver of enforcement as to any other Owner or Lot.
4. Invalidation of any provision of this Declaration by judgment or Court order shall not affect the validity and enforceability of any other provision, all of which shall remain in full force and effect.

VIII. Amendment

1. This Declaration shall be amended only by the Declarant for a term of fifteen (15) years from the date of recording, or upon the sale of eighty (80) percent of the Lots located within the land subject to this Declaration, whichever occurs later. Thereafter, Members shall have the right to elect Directors in accordance with the bylaws of the POA, and to approve any Special Assessments. Otherwise, all affairs of the POA shall be managed by the Directors. This Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument amending this Declaration is signed by the Owners of at least 80 percent of the Lots subject to this Declaration.
2. Any provision required as a condition of any plat approval, zoning or planned unit development agreement shall not be altered with the agreement of the City of Kalispell.
3. Any amendment of this Declaration shall be effective upon the filing and recording of such an instrument in the office of the Clerk and Recorder of Flathead County, Montana.
4. Any such amendment shall not require any alterations to existing structures or uses of any Lots.

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Stillwater Corporation

By: *Jeff Claridge*
Jeff Claridge, Vice President

STATE OF MONTANA)
) ss:
County of Flathead)

This instrument was acknowledged before me on January 12, 2021,
2020,
by Jeff Claridge, Vice President of Stillwater Corporation.

Deirdre Summers
Notary Public

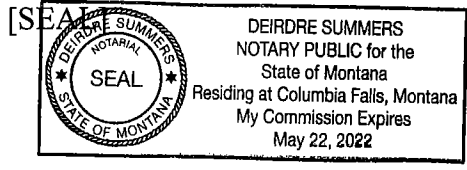




EXHIBIT A

KALISPELL NORTH TOWN CENTER – PHASE 1

A tract of land located in the northwest quarter of Section 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana, more particularly described as follows:

Commencing at the northwest corner of said Section 30, Township 29 North, Range 21 West, P.M.,M., City of Kalispell, Flathead County, Montana; thence S38°34'11"E, 111.48 feet to a point on the east boundary of U.S. Highway 93 right-of-way and the POINT OF BEGINNING; thence EAST, 1129.94 feet; thence SOUTH, 340.77 feet; thence WEST, 256.08 feet to the beginning of a 430.00 foot radius curve to the left; thence along said curve 382.54 feet through an angle of 50°58'20"; thence WEST, 436.73 feet; thence SOUTH, 680.11 feet; thence N83°27'28"W, 77.25 feet; thence N89°48'47"W, 30.09 feet to a point on the east boundary of U.S. Highway 93 right-of-way; thence along said east boundary through the following five courses: 1) N00°11'11"E, 97.32 feet; 2) N14°12'33"E, 61.91 feet; 3) N00°11'06"E, 940.00 feet; 4) N13°54'44"W, 61.80 feet; 5) N00°14'37"E, 13.90 feet to the POINT OF BEGINNING, said tract contains 12.486 acres, all as shown hereon,

and

A tract of land located in the northwest quarter and southwest quarter of Section 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana, more particularly described as follows:

Commencing at the west quarter corner of Section 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana; thence N88°56'08"E 1338.89 feet to the POINT OF BEGINNING; thence N89°36'32"E 333.62 feet; thence S0°23'28"E 723.10 feet; thence S89°36'32"W 333.60 feet; thence N0°23'35"W 723.10 feet to the POINT OF BEGINNING, said tract contains 5.538 acres, all as shown hereon. Subject to and together with easements as shown. Subject to and together with easements of record.

KALISPELL NORTH TOWN CENTER – PHASE 2

A tract of land located in the south half of Section 19, and the north half of Section 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana, more particularly described as follows:

Commencing at the northwest corner of said Section 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana; thence along the north line of said Section 30, S89°41'21"E, 69.85 feet to a point on the east boundary of U.S. Highway 93 right-of-way and the POINT OF BEGINNING; thence continuing along the north line of said Section 30, S89°41'21"E, 1237.79 feet to the west sixteenth corner common to said Sections 19 and 30; thence along the sixteenth line of said Section 19, N00°33'20"W,



524.92 feet, thence leaving said sixteenth line, S89°59'34"E, 562.05 feet; thence N00°00'11"E, 35.10 feet; thence S89°59'49"E, 60.00 feet; thence S00°00'11"W, 555.00 feet; thence S44°59'55"E 7.07 feet; thence EAST 275.88 feet to the beginning of a 1040.00 foot radius curve to the right; thence along said curve 223.72 feet through an angle of 12°19'30"; thence S77°40'30"E, 144.74 feet to the beginning of a 1360.00 foot radius curve to the left; thence along said curve 621.28 feet through an angle of 26°10'27"; thence N76°09'04"E, 150.75 feet, to the beginning of a 1040.00 foot radius curve to the right; thence along said curve 251.33 feet through an angle of 13°50'46"; thence N89°59'50"E 1706.09 feet to a point on the east line of said Section 19; thence along said east line, S00°37'29"E, 41.97 feet to the southeast corner of said Section 19; thence along the south line of said Section 19, said south line also being the north line of Tract B of Certificate of Survey No. 20570, on file in the office of the Clerk and Recorder, N89°40'24"W 687.79 feet to the northwest corner of said Tract B; thence along the west line of said Tract B, S00°12'33"E 41.98 feet; thence S89°59'50"W, 1018.92 feet to the beginning of a 960.00 foot radius curve to the left; thence along said curve 231.99 feet through an angle of 13°50'46"; thence S76°09'04"W, 150.75 feet to the beginning of a 1440.00 foot radius curve to the right; thence along said curve 657.83 feet through an angle of 26°10'27"; thence N77°40'30"W, 144.74 feet to the beginning of a 960.00 foot radius curve to the left; thence along said curve 206.51 feet through an angle of 12°19'30"; thence WEST 265.89 feet; thence S45°00'05", 7.07 feet; thence S00°00'11"W, 1235.11 feet; thence WEST 1763.36 feet; thence S83°21'33"W, 65.88 feet; thence N89°48'47"W, 40.18 feet to a point on the east line of U.S. Highway 93 right-of-way; thence along said east line N00°11'11"E, 76.39 feet; thence leaving said east line and along the south and east lines of Lot 2, Block 1 of the plat of Kalispell North Town Center - Phase 1, on file in the office of the Clerk and Recorder, for the following three courses: 1) S89°48'47"E, 30.09 feet; 2) S83°27'28"E, 77.25 feet; 3) NORTH 680.10 feet to the southwest corner of Lot 1, Block 1 of said plat of Kalispell North Town Center - Phase 1; thence along the southerly, easterly and northerly lines of said Lot 1 for the following five courses: 1) EAST 436.73 feet to the beginning of a non-tangent curve to the right, said curve having a radial bearing of S50°58'21"E and a radius of 430.00 feet; 2) along said curve for a distance of 382.54 feet, through an angle of 50°58'20"; 3) EAST 256.08 feet; 4) NORTH 340.77 feet; 5) WEST 1026.85 feet to the northeast corner of said Lot 2; thence along the north line of said Lot 2, WEST 103.09 feet to a point on the east line of said U.S. Highway 93 right-of-way; thence along said east line N00°14'37"E 86.78 feet to the POINT OF BEGINNING. Said Tract contains 56.926 acres.

EXCEPTING THEREFROM:

Lots 1A and 2A Open Space of the Amended Plat of Block 3 of Kalispell North Town Center – Phase 2, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

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