

# KALISPELL NORTH TOWN CENTER

## COMMERCIAL EASEMENTS AND RESTRICTIONS AGREEMENT

THIS EASEMENTS AND RESTRICTIONS AGREEMENT (this "Agreement"), is made this 22nd day of March, 2018, by STILLWATER CORPORATION, LLC, a Montana limited liability company, Master Developer ("Declarant").

### WITNESSETH:

WHEREAS, Declarant is the fee owner of certain real property located in Kalispell, Flathead County, Montana, more particularly described on Exhibit "A" attached hereto, and made a part hereof, "Commercial Parcels(Parcels)." and;

WHEREAS, Declarant desires to impose certain restrictions on the Parcels to promote the orderly development and use thereof in a manner compatible with the vision for the Master Development (Project).

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby declares that the following restrictions are imposed on the development of the Parcels for the benefit of the Master Development (Project), and Declarant:

#### A. SITE IMPROVEMENTS

##### 1. Buffer Strip.

A buffer strip containing landscaping only shall be maintained between the property line and the edge of the pavement around the perimeter of each Parcel, and no above-ground improvements of any type shall be erected thereon other than signs installed in accordance with Section C of this Agreement, landscaping, directional signs, fencing, traffic barriers, light poles, walkways and entrances to the Project roadways. Said buffer strip shall be at least ten feet (10') in width, except where an Parcel has a common boundary with another Parcel, in which event the buffer strip shall be five feet (5') wide on each side of such common boundary.

2. Curbs and Pavement.

(a) Concrete curbs and gutters shall be constructed on or adjacent to the Parcels in each of the following locations: (i) around the entire perimeter of each Parcel, at the edge of the pavement, to separate the paved area from the adjacent landscaped buffer; (ii) on both sides of the landscaped buffer in those areas where the buffer separates Parcel from adjacent access drives and/or adjacent public roadways; (iii) around the building(s) and any landscaped islands constructed on each Parcel; and (iv) at all vehicular entrances to the Parcels from adjacent public roadways, adjacent access drives, and contiguous Parcels. All such curbs shall be full-depth eighteen inch (18") poured-in-place concrete curbs. No bumper blocks or precast, extruded or asphaltic curbs shall be permitted. Minimum height of curb or curb and gutter above paved areas shall be six inches (6") except at entrances. Handicapped ramps shall be provided as required by applicable code.

(b) The pavement section of the parking areas shall conform to City of Kalispell, recommendations for concrete and asphalt but in no case less than 4" reinforced concrete or 3" asphalt on 8" of engineered base.

3. Parking and Access.

(a) Each Parcel shall be self-sustaining as to parking. There shall be maintained at all times on each Parcel the greater of: (i) not less than four (4) automobile parking spaces of standard size for each one thousand (1,000) square feet of floor area constructed on the Parcel, or (ii) such number of automobile parking spaces as may be required by applicable law (after taking into account any variances); provided, however, notwithstanding clause (a)(i) above: any restaurant shall maintain the greater of ten (10) spaces per one thousand (1,000) square feet of floor area or such number of spaces as may be required by applicable law.

(b) Design of the parking areas shall be in accordance with the following:

(i) Compact car spaces are not allowed.

(ii) Handicapped spaces should be provided in accordance with applicable codes.

(iii) In general, parking aisles should be perpendicular to the building serviced by same, when possible.

(iv) Whenever possible, curbed islands should separate a change in direction of parking stalls and aisles.

(v) Parking lot striping shall be 9' minimum width and 19' long. Striping shall be maintained in good order and re-striping shall be provided as is reasonable and required.

(c) Declarant hereby establishes, to and for the benefit of the Parcels and the owners, tenants, occupants, customers and invitees of the parcels, a non-exclusive, perpetual easement for vehicular and pedestrian access, ingress and egress to and from U.S. 93.

4. Utilities.

(a) Grant of Easement. Declarant hereby acknowledges that the utility and drainage systems ("Utilities") serving the Parcels are part of the systems serving the Project. Declarant hereby establishes, for the benefit of the Parcels, a perpetual, non-exclusive easement to connect with and use such utility and drainage systems upon and subject to the following terms and conditions:

(i) All connections shall be designed by a professional engineer. All points of connection shall be located per Kalispell City standard at locations approved in writing by Declarant. The plans for all connections shall be subject to the prior written approval of Declarant.

(ii) The quality of materials used in connecting lines, pipes, conduits or other materials shall be of quality equal to or better than those to which they are connected.

(iii) The materials and workmanship shall comply with all applicable governmental codes and regulations.

(iv) All work done in making said connections and repairs to such Utilities shall be completed expeditiously and in such a manner so as to cause no undue interference with the businesses being conducted at other locations in the Project, so as to minimize any disruption to the Project, access drives, and so as not to interrupt or interfere with utility services to any improvements in the Project.

(v) After completion of such work, the fee owner of such Parcel shall, at its cost and expense, promptly restore all property and improvements affected thereby to the same or as good condition as existed immediately prior to the commencement of such work.

(vi) With respect to any water, sanitary and storm utility systems which are not maintained by a utility company or governmental authority, the fee owner of each Parcel served by such utility system shall pay to Declarant, or to its designee, upon receipt of periodic statements therefore a proportionate share of the cost of operating, maintaining and repairing such utility system based upon the area of the Out Parcel and the total area of other Parcels served by such utility system.

(b) General. All utility lines shall be entirely underground, with no overhead lines, poles or wires permitted.

(c) Storm Sewers. All storm sewers shall be designed such that the entire storm water run-off will be contained within the Parcels, but shall discharge through the storm water drainage system for the Commercial Center. Storm water drainage shall be implemented by the use of catch basins and underground storm lines. No open ditches will be permitted. Construction of the storm sewer system shall be in accordance with the following:

(i) Storm sewer design of pipe and size shall be determined on storm frequency of not less than ten (10) years or as determined by local code.

(ii) Storm sewer size of main line is to be a minimum of twelve inches (12”) in diameter.

(iii) Catch basin, manholes and drainage appurtenances shall be spaced in accordance to local codes and as required to provide necessary drainage.

(iv) Material type shall conform to local codes and American Society for Testing and Materials.

(v) Each Parcel owner’s design engineer is responsible for determining that its system is in compliance with applicable codes and that its system does not exceed the design capacity of the system into which the Parcel system flows.

(d) Sanitary Sewers. No on-site septic system for sanitary sewer treatment facility will be permitted on the Parcels. Construction of the sanitary sewer system shall be in accordance with the following:

(i) Public sanitary sewers shall be minimum diameter of eight inches (8”). Service lines to the building shall be a minimum of six inches (6”) in diameter.

(ii) Materials shall conform to American Society for Testing and Materials and local codes.

(iii) Installation of sanitary sewer pipe shall conform to local codes. Trench detail and method shall be incorporated into the plans.

(iv) Sanitary sewer line shall be tested for infiltration, exfiltration, and air tested.

(e) Gas. Gas service, if available, shall be provided by the local gas company. The Parcel owner shall be responsible for obtaining any and all necessary consents or approvals for obtaining gas service and for the payment of any fees. All gas lines shall be below grade. All gas meters, valves, etc. shall be concealed from public view.

(f) Electric. Electric service shall be provided by the local electric company. The Parcel owner shall be responsible for obtaining any and all necessary consents or approvals for obtaining electrical service and for the payment of any fees. All electric

service shall be below grade. All electric meters, transformers, etc. shall be concealed from public view.

(g) Telephone. Telephone service shall be provided by the local telephone company. The Parcel shall be responsible for obtaining any and all necessary consents or approvals for obtaining telephone service and for the payment of any fees. All telephone service shall be below grade. All telephone equipment shall be concealed from public view.

(h) Utility Easements. Declarant hereby reserves a perpetual, nonexclusive easement for the construction, maintenance, operation, repair, inspection and alteration of utility lines and/or pipelines, together with reasonable rights of access thereto, under, upon and across a fifteen foot (15') wide strip along the inside of and adjoining all boundaries of the Parcels. There shall be no above-ground improvements other than curbing and/or paving on the portion of said easement lying outside of the buffer strip.

5. Traffic Flow.

Pavement markings, directional signs and other traffic indicators on the shall provide for a traffic plan compatible with that of the Project. Design of the interior traffic flow and parking layout of each Parcel shall be in accordance with the following:

- (a) All access points will allow for sufficient vehicle stacking distance.
- (b) Entrances directing traffic to a "head-on parking condition" should be avoided.
- (c) Drive-thru facilities should allow for sufficient vehicle stacking distance and should be removed from parcel access points.
- (d) All two-way access shall be via twenty-four foot (24'-0") wide (face to face of curb) curbed driveways.
- (e) All one-way access, when required, shall be via twelve foot (12'-0") wide (face to face of curb) curbed driveways.
- (f) All access driveways shall have a thirty-five foot (35'-0") minimum radius.
- (g) Service access for use by semi-tractor trailer or fire trucks may require wider driveways with greater radius.
- (h) Access driveways to public roads may require special acceleration/deceleration lanes.
- (i) All pedestrian access shall be clearly identified. When same crosses a landscaped area it will be via a five foot (5'-0") wide hard-surfaced sidewalk.

- (j) The minimum distance between access driveways shall be one hundred feet (100'-0") centerline to centerline.

6. Landscaping.

(a) The following landscape standards or the ordinances or zoning requirements of the local governing bodies, whichever are more stringent, shall prevail: Plant material will vary, and particular attention should be placed on the selection best suited for the location of the Project to make an attractive parcel that is compatible with the quality of the entire Project. The primary landscaping materials should be of quality that will serve in enhancing the environment and also serve as a functional part of the project. Trees should not only provide shade when mature, but also have character and interesting color as they grow. Shrubbery and ground covers should also provide visual effects in color and texture, while providing screening in needed areas and also highlighting the architecture of surrounding structures. Effective use of earth beams and existing topography with existing trees, if any, is also encouraged as a component for a good landscaping plan. The landscaping and planting areas should be reasonably dispersed throughout the site. The interior dimensions of any planting area or planting medium should be sufficient to protect the landscape materials planted within and to insure proper growth with attractive appearance. Irrigation should be supplied to assure the viability of the plant material and ease in the maintenance of the site.

- (b) The following design criteria shall be followed:

- (i) Minimum Development Size Requirements.

- (A) All buffer strips and other portions of the Parcel not devoted to buildings, parking, signage, driveways or sidewalks shall be suitable grassed and/or landscaped in a manner compatible with that of the Project. Not less than seven percent (7%) of the area of each Parcel shall be devoted to landscaping and/or green space. The landscaping on the Parcel shall not obstruct (through either original planting or untrimmed growth) the view of improvements of any adjacent Parcel.
- (B) Unless a variance is approved by Declarant, landscaping expenditures for a Parcel shall be at least one and a half percent (1.5%) of the total building cost. This would include all in-ground landscaping within the Parcel, exclusive of irrigation and various site amenities.

- (ii) Plant Material Requirements.

- (A) Existing plant material of appreciable size and character will be incorporated into the new landscape plan and any other significant landscape features will be preserved.

- (B) No plant material shall be planted that is not capable of growing in the local area.
  - (C) Plant material should be selected for type, size, and quality on the basis of suitability to climate, setting and compatibility with other development plantings, character and functions.
  - (D) Plant materials should be free of disease and harmful insects. Plants selected which are prone to disease and insect problems or which may jeopardize the health of adjoining plantings will not be acceptable.
  - (E) The quality of plant material selected will follow the guidelines of the "American Standard for Nursing Stock" by the American Association of Nurserymen unless otherwise indicated.
  - (F) Proper drainage will be required for all major plantings to insure the establishment of a good root system and a healthy growth.
  - (G) The installation of all landscaping shall be done by a well established landscape contractor who follows the procedures set forth by the American Association of Landscape Contractors and its local agencies.
  - (H) No artificial plants of any type, size or color will be allowed within the landscaped area or around or on the building within the Parcel for the life of the development.
  - (I) The Parcel owner shall be responsible for providing, protecting and maintaining all landscaping in a healthy and growing condition, replacing it immediately, when necessary, with the same type, size and quantity and keeping it free of refuse and debris.
- (iii) Plant Material Specifications.
- (A) Trees shall be species having a minimum mature spread of fifteen feet (15') to twenty feet (20'), with a minimum mature height of fifteen feet (15') and installation size of two and one-half inch (2½") to four inch (4") caliper. Evergreens will have a minimum of six feet (6') to seven feet (7') in height when installed.

- (B) Shrubs shall be a minimum of three feet (3') in height when used as a hedge and five feet (5') to six feet (6') in height if used as an ornamental planting.
  - (C) Vines shall be a minimum of two (2) to three (3) years old when planted and should be used for screening on walls and fences, etc.
  - (D) Ground cover shall be a minimum of two (2) years old when planted and shall be spaced so that a complete coverage can be obtained after one growing season.
  - (E) Grass areas shall be planted with species indigenous to the area, disease resistant and one that will require low maintenance in cutting and watering. It should be an immediate cover, and sod is recommended in areas of the country in which it will grow. Various grasses, for drier areas, will be planted in groupings for an effect.
  - (F) Flower beds are encouraged and shall be planted in acceptable areas of the country to create color, texture and interest at the discretion of the landscape architect.
- (iv) Landscape Accent Material.
- (A) Site furnishings such as benches, waste receptacles, tables, etc. will be in character with the building architecture and the surrounding landscaping.
  - (B) Paving materials for paths, patios, etc. are recommended to be of porous nature when installed, such as patio bricks, interlocking pavers or concrete stepping stones.
  - (C) Mulch materials will be of small size gravel, shredded bark or other organic material best suited and adapted for the local area.
  - (D) Edging used to separate grass areas from shrubs, ground cover and mulch will be a good quality steel edging, secured with metal stakes. No plastic edging will be accepted.
- (v) Landscape Definitions.
- (A) Landscaping – Shall consist of any of the following or combination thereof: materials such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, or other live plant material growth in the area of development.



Non-live material such as rocks, pebbles, mulches, fences, walls, pavers, benches, irrigation systems and other site amenities would also be included in landscaping. Mounding, berming or grading would be part of landscaping but not necessarily included.

- (B) Trees – Any self-supporting woody plant which usually produces one main trunk and a more or less distinct and elevated head with many branches.
- (C) Shrubs – A woody plant that usually remains low and produces shoots or trunks from the base. It is not usually tree-like nor single-stemmed.
- (D) Vines – Plants which normally require support to reach mature form.
- (E) Ground Cover – Plants of various types and low in height, dense growing and used for covering the ground, as in areas where it is difficult to grow grass.

7. Grading and Drainage.

Each Parcel shall be graded to provide positive drainage to the retention/detention area (if required) or storm sewer lines that have been sized to receive Parcel discharge. All necessary erosion control methods shall be utilized to avoid siltation onto adjacent properties and into pipelines. Stockpiling of topsoil or excessive material shall be done so as not to interfere with drainage before, during or after construction. Existing drainage areas will not be altered during the grading sequence or after unless accepted by Declarant. Parking lot slopes shall be a minimum one and one-half percent (1.5%) and maximum four percent (4%). All trenches and excavation near or adjacent to existing curbs, sidewalks, and pavement shall be backfilled with trench backfill material. Required density of compaction shall be indicated on the plans.

8. Site Lighting.

Poles shall be restricted to twenty-two feet (22') in height, exclusive of base, or as otherwise required by local code. Illumination shall conform to the City of Kalispell lighting standards. Cut-off fixtures (shrouds) shall be installed whenever necessary to avoid spillover to adjacent property. All lighting poles and fixtures and bases installed on the Parcels shall be approved by the Declarant.

B. BUILDING CRITERIA

1. Architectural Design.

The design of each building should be compatible with and/or complement the Design Guidelines and other peripheral buildings. The design should be a simple

geometric shape and finished on all sides. It is suggested that each building have a canopied entrance or pedestrian arcade where applicable. No Parcel shall contain more than one (1) building without the consent of Declarant. Without the prior written consent of Declarant to be exercised in its sole discretion, no building on any parcel shall be partitioned or subdivided or leased or occupied for multiple stores or users.

The design of each building proposed for each parcel shall be submitted for approval by Declarant prior to construction. This approval is in addition to any governmental regulatory approvals and shall not be withheld. It shall be the Declarant's discretion for approval or modification. Parcel Owner shall submit plans, elevations, site plan, and landscape plans, as well as material selections for review and approval.

2. Materials and Colors.

Substantially maintenance-free materials such as brick, architecturally-treated concrete and stucco should be used wherever possible. Materials and colors should be compatible with those defined in the Design Guidelines. Use of exterior colors shall be in good taste and in character with the remaining development. Color should be an aesthetic consideration combined with the building form, proportions and materials.

3. Screening.

All mechanical and/or electrical units, roof-top or ground mounted, will be screened with the same material used on the building facade. Whenever possible, the exterior building walls will be extended to accomplish same.

4. Delivery; Trash.

Loading docks and refuse areas are to be located on the least visible side of the building and screened as called for above. Outside storage is specifically prohibited. Whenever possible, refuse areas should be accommodated inside the building.

5. Orientation.

All buildings shall be subject to the following set-back requirements in addition to those contained in local zoning ordinances and building codes. In no case will a building be located closer than fifteen feet (15'0") to an adjoining property line or twenty-five feet (25'0") to a property line on a public or private roadway. Set-back requirements may be affected by the public or private characterization of adjacent roadways and access roads.

6. Aesthetics.

Exterior exposed fire escapes, exposed service stairs or ladders, radio or television towers and antennae or satellite receivers are not permitted, except that one (1) satellite dish not exceeding two feet (2") in diameter shall be permitted.

7. Utilities.

All utilities are to be underground with no exterior visible connections to Out Parcel facilities, except for required meters or transformers. Meters and transformers shall be screened.

8.<sup>f</sup> Height.

No building(s) along the first parcels bordering Highway 93 or other improvements erected upon Parcels shall be more than two (2) story above grade or exceed thirty-five (35') feet in height, all other parcels shall not exceed four (4) stories or exceed fifty feet (50') for all other parcels, measured from the finished floor elevation to the top of the highest building protrusion, including, without limitation, roof-mounted equipment, decorative roof screening and other such appurtenances, but excluding in each instance decorative architectural features such as but not limited to a spire, clock tower, or cupola.

C. SIGN CRITERIA

1. General Requirements and Prohibitions.

(a) The following criteria shall apply to all exterior signs or insignia placed or installed on the buildings or improvements thereon. Where these criteria are more stringent or restrictive than the applicable ordinances controlling a particular locale, then these criteria shall be controlling. Where these criteria are less stringent or restrictive than the applicable ordinances of a particular locale, then the latter shall control. The Declarant shall have approval of all signage components proposed for individual parcel.

(b) No painted lettering, painted symbols or painted identification of any nature shall be allowed.

(c) No exposed wiring, conduits, tubing, lamps, ballast boxes or raceways will be permitted, except that with the prior written consent of Declarant, exposed neon lighting or other lighting tubes may be used in an aesthetically desirable manner as provided in Section 3(f) of this Agreement.

(d) All penetrations of the building structure required for sign installation shall be neatly sealed in a watertight condition.

(e) No labels will be permitted on the exposed surface of signs, except those required by local ordinances and, if required, shall be in an inconspicuous location.

(f) All electrical signs shall bear the U.L. label and shall be connected to the electrical service for the Parcel on which such sign is located.

(g) All cabinets, conductors, transformers, ballasts, attachment devices and other equipment shall be concealed.

(h) No flags or banners shall be installed or permitted on the Out Parcels nor on any improvements constructed thereon, unless approved in writing by Declarant in connection with a grand opening or other special event. In no event shall the period for the display of said flags or banners exceed three (3) weeks for any single occasion. No paper, cloth or cardboard signs shall be permitted. This provision shall not prohibit the erection of flagpoles to display national, state or corporate flags on the Parcels.

(i) No portable signs shall be permitted.

2. Freestanding Signs.

Freestanding Signs shall be in accordance with the City of Kalispell Sign Code Conditions per Ordinance 1630 as applicable to the PUD and be subject to Developer review for compliance with these covenants.

(a) All freestanding signs shall be of a monument type in a planter setting, uniform in design and setback. The location of all monument signs must be approved by Developer.

(b) A planter area of five (5) square feet for each six (6) square feet of sign area, including both sides, shall be required at the base of the sign. Landscaping and planter shall not be measured as a part of the freestanding sign for the purpose of meeting horizontal and vertical size requirements. All landscaped areas shall be maintained to minimum standards set forth in this Agreement.

(c) Only one (1) freestanding sign shall be allowed per Parcel. Declarant will consider two on corner lots on a case by case basis. Said sign may be doubled-faced. The display area shall not exceed eighty (80) square feet per face.

(d) All freestanding signs shall be of permanent construction and shall be subject to the provisions of the building code of the locale in which it is located.

(e) Freestanding signs may be internally illuminated or backlighted. Illumination shall be turned off within one (1) hour of closing and turned on within one (1) hour of opening.

(f) Such freestanding sign shall contain only the name or trademark of the business, building or building complex which it identifies and shall not contain change panels, advertising or names of individual tenants; provided, however, with the written consent of Declarant, a bank may have an electronic reader strip as an element of its sign. No graphic logos will be allowed.

(g) For multiple user facilities such as office buildings, site identification signage includes additional variables that must be considered. Conceptual designs for freestanding signs serving these types of facilities shall be submitted to Declarant early in the project development stage to allow ample time for revisions and resubmittal.

3. Building-Mounted Wall Signs.

Building-Mounted Wall Signs shall be designed in accordance with the current City of Kalispell Sign Code Area Allowances using the building frontage method or lot length method and be subject to Developer review for compliance with these covenants.

Except as approved by Developer:

(a) Wall signs shall identify the individual business, building or building complex by name or trademark only.

(b) One wall sign per occupant will be allowed for buildings of multiple occupancy.

(c) No panel signs will be permitted. Wall signs shall consist of three-dimensional individual characters mounted in relief upon the face of the building. Such signs shall be back-lighted so as to appear in silhouette or internally lighted.

(d) Exposed neon shall be subject to Declarant's prior written approval. Exposed neon letters may be allowed if the neon tubing is designed to highlight flat letters of the same in a broader stroke. The flat letters may be painted or some other appropriate material applied to the background field. Colors must be chosen with highlighting of the letters as the major consideration.

(e) No building-mounted wall sign, nor any portion thereof, may project above the parapet wall or top of the exterior wall or building façade upon which it is mounted.

(f) There shall be no rooftop or penthouse signs of any kind.

(g) No signs perpendicular to the face of the building or its façade will be permitted.

4. Traffic Directional Signs.

Parcel owners shall be permitted to install signs designed and located solely for the purpose of relieving traffic congestion and promoting the smooth flow of traffic. Such signs shall contain no advertising or identification copy of any sort and should conform to the design of the building and site signage.

5. Prohibited Signs/Pylon Signs.

(a) No flashing, smoking, moving, audible signs or rooftop signs are permitted, except that with the prior written consent of Declarant, a bank or other financial institution may install a time/temperature sign.

(b) No freestanding pylon signs shall be permitted, except for traffic and directional signs.

D. CONSTRUCTION

1. A written schedule of construction and project events is required to be filed with Declarant seven (7) working days in advance of construction start so that field personnel may be notified. Before starting any operations on site, the Parcel owner's contractor must supply Declarant's personnel on site with the name and phone number of the field superintendent and copies of all required permits. Declarant will issue written verification upon receipt of this information at which time the contractor may commence his activities. The Parcel owner's contractor shall be liable for any damage caused to the facilities of the Project or adjacent property owners and shall immediately repair any such damage.
2. Use of the Project easements, access and interior roads and parking areas is prohibited unless prior permission is granted. A request for use of roads should be made a minimum of two (2) working days in advance of the intended use.
3. Construction hazard areas of and around the site must be clearly marked and barricaded from non-construction pedestrian and vehicular traffic.
4. Temporary structures, signs, barricades, and construction equipment must be clean, neat and uniform in appearance, maintained regularly and removed immediately when their use is no longer required.
5. Signage at the construction site shall be limited to the necessary hazard, warning and directional information. A development sign may be allowed but must conform to the criteria for temporary signs. Separate contractor, architect or other advertising signage is not allowed.
6. Construction materials, equipment, temporary shelters, signs and operations are to be confined to the project site for the sole purpose of the project's construction and shall not present a hazard or infringe on any adjoining developments, operations, easements or rights-of-way.
7. Any on-site construction dirt and debris must be stored and screened from view or removed from the premises, all on a daily basis. Construction dirt and debris are not allowed to accumulate on any adjoining roads, parking areas, walks or other property and shall be broom cleaned immediately.
8. Once Parcel development has begun, construction should be diligently pursued to its finish. No structure, facility or Parcel improvement is to be left incomplete. All construction shall be completed within a reasonable construction time period.
9. All required permits must be clearly posted.
10. Copies of all construction change orders are required to be filed with Declarant.

11. Declarant must be notified of any planned interruption to any utility service (water, gas, electric, etc.) seven (7) days in advance. Declarant must be notified immediately of any accidental interruption to any utility service.

E. MAINTENANCE

1. Each Parcel owner shall, at all times, at its sole cost and expense, keep its Parcel, including all improvements thereon, in a well-maintained, safe, clean and attractive condition, such maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse, wastes, snow and ice.
- (b) Keeping all landscaping alive, weed-free and attractive.
- (c) Keeping exterior lighting and mechanical facilities in working order.
- (d) Keeping parking areas, driveways, and roads in good repair.
- (e) Complying with all government health and safety requirements.
- (f) Striping of parking areas and repainting of improvements.
- (g) Repair of exterior damage to improvements.
- (h) Maintenance of utility lines.

2. Enforcement.

If any Parcel owner fails to maintain its Parcel in accordance with the foregoing in such manner as may be deemed necessary by Declarant to preserve and protect the value and attractive appearance of the Parcel, then Declarant may give such Parcel owner written notice of the work or repair required to be carried out or undertaken and diligently pursued within thirty (30) days from the date of such notice. Should such Parcel owner fail to carry out such maintenance and repair, then Declarant, through its authorized agent or agents, shall have the right and power to enter onto such Parcel and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to Parcel owner. The Parcel owners of any part of the property on which such work is performed shall be jointly and severally liable for the cost of such work and shall promptly reimburse Declarant for such cost.

F. USE RESTRICTIONS

The Parcels shall only be used for commercial, retail (including without limitation restaurants), service, banking and financial institutions, professional and office, and no use or operation shall be permitted which is incompatible with a first-class commercial development, including, but not limited to, the prohibited uses set forth on Exhibit "D" attached hereto and incorporated herein.

G. SUBDIVISION/RE-ASSEMBLY

Declarant (but not any purchaser of any Parcel) shall have the right to combine two (2) or more Parcels into a single Parcel, to subdivide the Parcels into two (2) or more Parcels, and/or to relocate common boundary lines between Parcels, provided, however, that the prior written consent of the Benefitted Parties shall be required for any of the foregoing matters which (i) will result in the combination of more than two Parcels or (ii) will result in the creation of any single Parcel lot in excess of forty thousand (40,000) square feet or more. Each of such reconfigured Parcels shall constitute a separate Parcel hereunder and shall be subject to all of the terms and restrictions of this Agreement.

H. BENEFITS OF RESTRICTIONS

The restrictions contained herein shall be effective as of the date hereof, shall run with the land burdened thereby, shall be binding upon all owners and occupants thereof, or any part thereof and improvements thereon, and their respective successors and assigns, shall constitute encumbrances on the Parcels, and shall inure to the benefit of Declarant and its designee and the Benefitted Parties, as hereinafter defined, and their respective tracts. The Benefitted Parties are the fee simple owners of the Kalispell North Town Center Tract (as shown on Exhibit C) and their successors and assigns who are owners of fee simple title to such tract if expressly conveyed this right by declarant by future subdivision of Kalispell North Town Center property by declarant. The restrictions created herein shall terminate and expire on the later of (i) January 31, 2092, or (ii) the termination or expiration of the Construction, Operation and Reciprocal Easement Agreement by and between Declarant, \_\_\_\_\_ and \_\_\_\_\_ dated of even date herewith. The restrictions set forth herein shall not bind any other property of Declarant.

I. NO THIRD PARTY BENEFICIARIES

The restrictions created herein are for the sole benefit of Declarant and the Benefitted Parties and are not intended and shall not be construed to dedicate any easements to or create any rights in favor of any person, entity or the general public.

J. AMENDMENT

This Agreement may be amended by the written agreement of Declarant, or its designee, and the Benefitted Parties without the joinder of any other person or entity, notwithstanding the fact that Declarant may sell the Parcels to third parties; provided, however, such amendments shall be effective only as to such of the Parcels as are owned by Declarant at the time of recording of such amendment. Declarant reserves the right (notwithstanding the fact that Declarant may sell Parcels to third parties or that Declarant no longer owns any Parcels) to grant variances in writing with respect to this Agreement or any amendment hereto as to a particular Parcel without the joinder of any other person or entity except that the written consent of the Benefitted Parties shall be required with respect to a change in (1) the use of an parcel to a use which would violate this Agreement (2) the height of any buildings or other improvement on an parcel which



would violate this Agreement (3) a parking ratio on an parcel which would violate this Agreement or (4) a variance from any of the provisions of Paragraph C regarding sign criteria. Any designee of Declarant shall be designated by written instrument executed by Declarant which states that the designation is made pursuant to this Agreement and which is recorded in the Recorder's Office of Flathead County, Montana.

K. SEVERABILITY

If any term, covenant or restriction herein shall be invalid or unenforceable, the remainder shall not be affected thereby, and each term, covenant and restriction shall be valid and enforceable to the fullest extent permitted by law.

L. ENFORCEMENT

In the event of a violation or an attempted violation of the foregoing restrictions, Declarant, or its designees may prosecute any proceedings at law or in equity to enjoin such violation and to recover damages for such violation, including reasonable attorney's fees. If Declarant elects not to prosecute any violation, then any of the Benefitted Parties may do so following fifteen (15) days prior notice to Declarant of said intention to prosecute the violation or attempted violation.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

**STILLWATER CORPORATION,**

By: *Jeff Claridge*  
Name: Jeff Claridge Co  
Title: V.P.

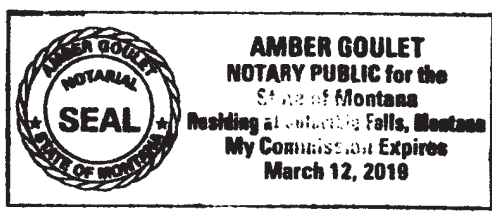
STATE OF MONTANA  
COUNTY OF FLATHEAD

Before me, Amber Goulet, a Notary Public in and for said State and County aforesaid, duly commissioned and qualified, personally appeared Jeff Claridge, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Vice President of STILLWATER CORPORATION, the within-named bargainer, a corporation, and that he, as such Vice President, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as such \_\_\_\_\_.

WITNESS my hand and seal at office on this the 22 day of March, 2018.

*Amber Goulet*  
Notary Public

My Commission Expires:  
March 12, 2019



**EXHIBIT "A"**

**PARCELS**

Legal Descriptions Phases 1 & 2 Kalispell North Town Center



## Kalispell North Town Center – Phase 1 Property Description

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 II LEGAL DESCRIPTION

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.

**EXHIBIT "B"**

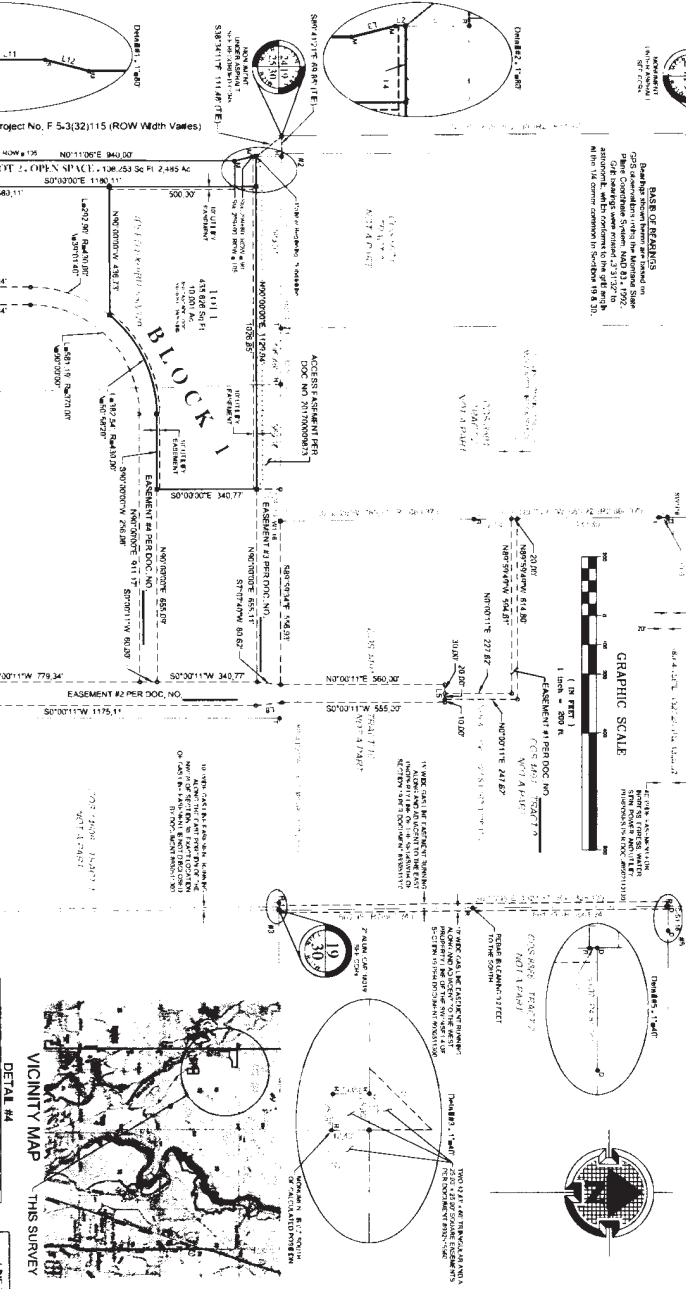
**PROJECT**

Final Plat Phases 1 & 2 Kalispell North Town Center

5/8/2018 10:23 AM

OWNER: STELLWATER CORPORATION AND/ONYA CORPORATION  
 COMMISSIONED BY: STELLWATER CORPORATION AND/ONYA CORPORATION  
 PURPOSER: SUBDIVISION

SUBDIVISION PLAT OF  
**KALISPELL NORTH TOWN CENTER - PHASE 1**  
 BEING A SUBDIVISION OF PORTIONS OF THE NW 1/4 AND THE SW 1/4 OF SECTION 30,  
 T 29 N., R 21 W., P.M.M., CITY OF KALISPELL, COUNTY OF FLATHEAD, STATE OF MONTANA.



**LEGEND**

- SUBDIVISION BOUNDARY
- EXISTING BOUNDARY
- EXISTING EASEMENT
- EXISTING RIGHT OF WAY
- EXISTING INTEREST
- EXISTING RIGHT OF WAY
- EXISTING INTEREST
- EXISTING RIGHT OF WAY
- EXISTING INTEREST
- EXISTING RIGHT OF WAY
- EXISTING INTEREST
- EXISTING RIGHT OF WAY
- EXISTING INTEREST
- EXISTING RIGHT OF WAY
- EXISTING INTEREST

**ACREAGE TABLE**

LOT #	ACREAGE
1001	0.31
2485	2.485
5288	5.288
<b>TOTAL PLACED</b>	<b>18.284</b>

**LINE TABLE**

LINE NO.	FROM	TO	BEARING	DISTANCE	AREA
1	S1/4	S1/4	N 0° 00' 00" E	330.00	0.0000
2	S1/4	S1/4	N 89° 59' 57" E	330.00	0.0000
3	S1/4	S1/4	S 0° 00' 00" E	330.00	0.0000
4	S1/4	S1/4	S 89° 59' 57" W	330.00	0.0000
5	S1/4	S1/4	S 0° 00' 00" W	330.00	0.0000
6	S1/4	S1/4	S 89° 59' 57" E	330.00	0.0000
7	S1/4	S1/4	N 0° 00' 00" E	330.00	0.0000
8	S1/4	S1/4	N 89° 59' 57" E	330.00	0.0000
9	S1/4	S1/4	S 0° 00' 00" E	330.00	0.0000
10	S1/4	S1/4	S 89° 59' 57" W	330.00	0.0000
11	S1/4	S1/4	S 0° 00' 00" W	330.00	0.0000
12	S1/4	S1/4	S 89° 59' 57" E	330.00	0.0000
13	S1/4	S1/4	N 0° 00' 00" E	330.00	0.0000
14	S1/4	S1/4	N 89° 59' 57" E	330.00	0.0000
15	S1/4	S1/4	S 0° 00' 00" E	330.00	0.0000
16	S1/4	S1/4	S 89° 59' 57" W	330.00	0.0000
17	S1/4	S1/4	S 0° 00' 00" W	330.00	0.0000
18	S1/4	S1/4	S 89° 59' 57" E	330.00	0.0000
19	S1/4	S1/4	N 0° 00' 00" E	330.00	0.0000
20	S1/4	S1/4	N 89° 59' 57" E	330.00	0.0000
21	S1/4	S1/4	S 0° 00' 00" E	330.00	0.0000
22	S1/4	S1/4	S 89° 59' 57" W	330.00	0.0000
23	S1/4	S1/4	S 0° 00' 00" W	330.00	0.0000
24	S1/4	S1/4	S 89° 59' 57" E	330.00	0.0000
25	S1/4	S1/4	N 0° 00' 00" E	330.00	0.0000
26	S1/4	S1/4	N 89° 59' 57" E	330.00	0.0000
27	S1/4	S1/4	S 0° 00' 00" E	330.00	0.0000
28	S1/4	S1/4	S 89° 59' 57" W	330.00	0.0000
29	S1/4	S1/4	S 0° 00' 00" W	330.00	0.0000
30	S1/4	S1/4	S 89° 59' 57" E	330.00	0.0000

**STATEMENT OF PREPARATION:**

I, the undersigned, being a duly Licensed Professional Surveyor in the State of Montana, do hereby certify that I am the author of the foregoing plat and that the same is a true and correct representation of the facts and conditions as shown to me by the parties hereto.

**STATEMENT OF PREPARATION:**

I, the undersigned, being a duly Licensed Professional Surveyor in the State of Montana, do hereby certify that I am the author of the foregoing plat and that the same is a true and correct representation of the facts and conditions as shown to me by the parties hereto.

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**STATEMENT OF PREPARATION:**

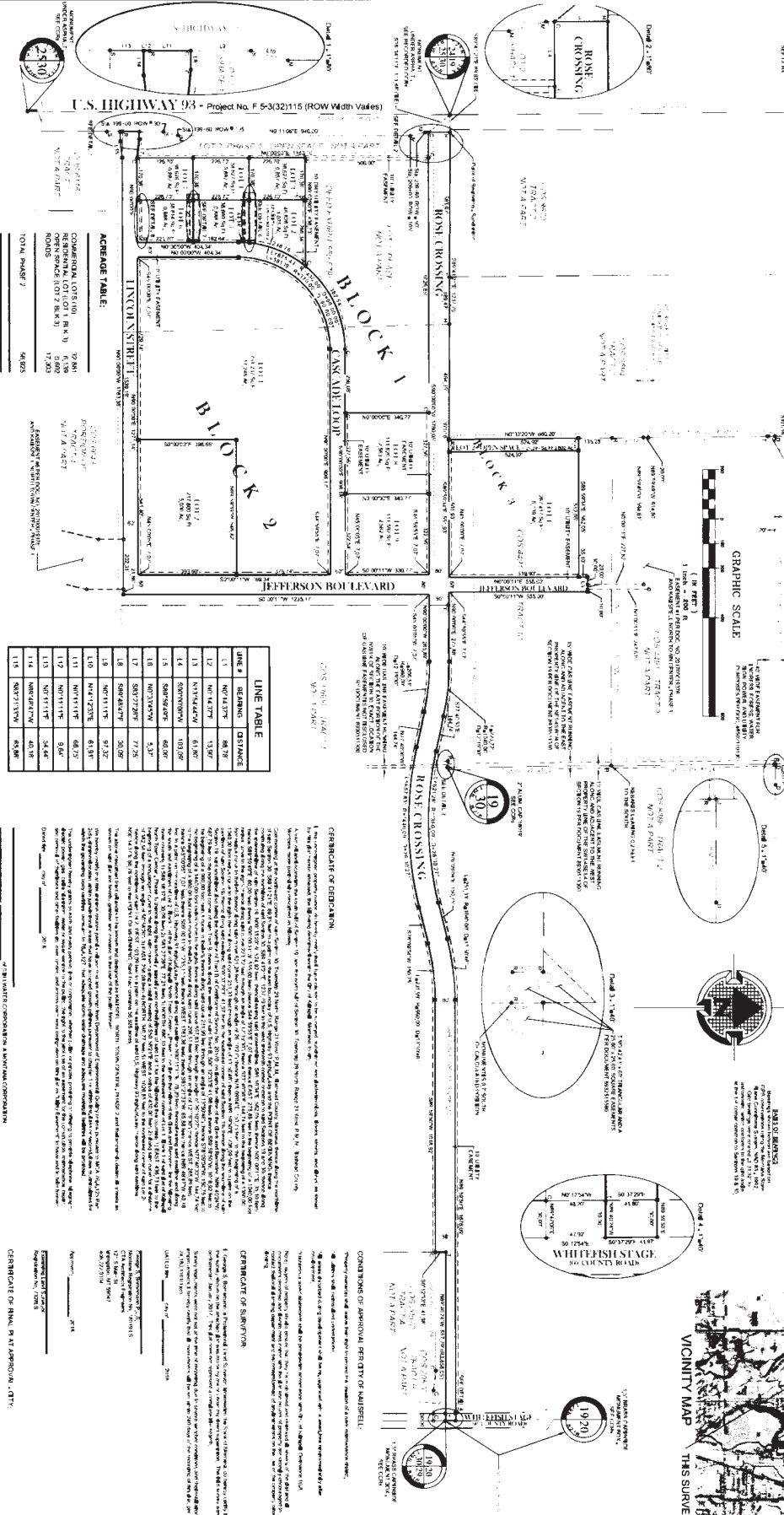
I, the undersigned, being a duly Licensed Professional Surveyor in the State of Montana, do hereby certify that I am the author of the foregoing plat and that the same is a true and correct representation of the facts and conditions as shown to me by the parties hereto.



CONVEYANCE BY: SINK WATER CONSTRUCTION A MEMPHIS CORPORATION  
 PROJECT: SUBDIVISION PLAT OF A NEW TOWN CENTER  
 PREPARED BY: ARBORNSON

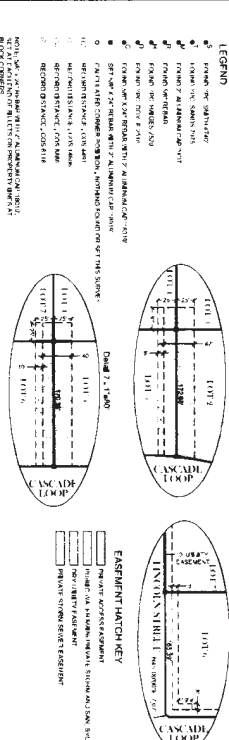
# SUBDIVISION PLAT OF KALISPELL NORTH TOWN CENTER - PHASE 2

BEING A SUBDIVISION OF PORTIONS OF THE SW 1/4 AND SE 1/4 OF SECTION 19 AND THE NW 1/4 AND NE 1/4 OF SECTION 30,  
 T.29 N., R.21 W., P.M.M., CITY OF KALISPELL, COUNTY OF FLATHEAD, STATE OF MONTANA



LINE #	BEARING	DISTANCE
1	N 0° 00' 00" E	88.72
2	N 89° 42' 30" E	132.97
3	N 1° 00' 00" E	61.98
4	N 89° 57' 27" E	103.98
5	S 89° 57' 27" E	68.97
6	S 89° 57' 27" E	77.28
7	S 89° 57' 27" E	30.97
8	S 89° 57' 27" E	81.37
9	N 0° 00' 00" E	81.37
10	N 0° 00' 00" E	88.72
11	N 0° 00' 00" E	88.72
12	N 0° 00' 00" E	88.72
13	N 0° 00' 00" E	88.72
14	N 0° 00' 00" E	88.72
15	N 0° 00' 00" E	88.72
16	N 0° 00' 00" E	88.72
17	N 0° 00' 00" E	88.72
18	N 0° 00' 00" E	88.72
19	N 0° 00' 00" E	88.72
20	N 0° 00' 00" E	88.72
21	N 0° 00' 00" E	88.72
22	N 0° 00' 00" E	88.72
23	N 0° 00' 00" E	88.72
24	N 0° 00' 00" E	88.72
25	N 0° 00' 00" E	88.72
26	N 0° 00' 00" E	88.72
27	N 0° 00' 00" E	88.72
28	N 0° 00' 00" E	88.72
29	N 0° 00' 00" E	88.72
30	N 0° 00' 00" E	88.72
31	N 0° 00' 00" E	88.72
32	N 0° 00' 00" E	88.72
33	N 0° 00' 00" E	88.72
34	N 0° 00' 00" E	88.72
35	N 0° 00' 00" E	88.72
36	N 0° 00' 00" E	88.72
37	N 0° 00' 00" E	88.72
38	N 0° 00' 00" E	88.72
39	N 0° 00' 00" E	88.72
40	N 0° 00' 00" E	88.72
41	N 0° 00' 00" E	88.72
42	N 0° 00' 00" E	88.72
43	N 0° 00' 00" E	88.72
44	N 0° 00' 00" E	88.72
45	N 0° 00' 00" E	88.72
46	N 0° 00' 00" E	88.72
47	N 0° 00' 00" E	88.72
48	N 0° 00' 00" E	88.72
49	N 0° 00' 00" E	88.72
50	N 0° 00' 00" E	88.72
51	N 0° 00' 00" E	88.72
52	N 0° 00' 00" E	88.72
53	N 0° 00' 00" E	88.72
54	N 0° 00' 00" E	88.72
55	N 0° 00' 00" E	88.72
56	N 0° 00' 00" E	88.72
57	N 0° 00' 00" E	88.72
58	N 0° 00' 00" E	88.72
59	N 0° 00' 00" E	88.72
60	N 0° 00' 00" E	88.72
61	N 0° 00' 00" E	88.72
62	N 0° 00' 00" E	88.72
63	N 0° 00' 00" E	88.72
64	N 0° 00' 00" E	88.72
65	N 0° 00' 00" E	88.72
66	N 0° 00' 00" E	88.72
67	N 0° 00' 00" E	88.72
68	N 0° 00' 00" E	88.72
69	N 0° 00' 00" E	88.72
70	N 0° 00' 00" E	88.72
71	N 0° 00' 00" E	88.72
72	N 0° 00' 00" E	88.72
73	N 0° 00' 00" E	88.72
74	N 0° 00' 00" E	88.72
75	N 0° 00' 00" E	88.72
76	N 0° 00' 00" E	88.72
77	N 0° 00' 00" E	88.72
78	N 0° 00' 00" E	88.72
79	N 0° 00' 00" E	88.72
80	N 0° 00' 00" E	88.72
81	N 0° 00' 00" E	88.72
82	N 0° 00' 00" E	88.72
83	N 0° 00' 00" E	88.72
84	N 0° 00' 00" E	88.72
85	N 0° 00' 00" E	88.72
86	N 0° 00' 00" E	88.72
87	N 0° 00' 00" E	88.72
88	N 0° 00' 00" E	88.72
89	N 0° 00' 00" E	88.72
90	N 0° 00' 00" E	88.72
91	N 0° 00' 00" E	88.72
92	N 0° 00' 00" E	88.72
93	N 0° 00' 00" E	88.72
94	N 0° 00' 00" E	88.72
95	N 0° 00' 00" E	88.72
96	N 0° 00' 00" E	88.72
97	N 0° 00' 00" E	88.72
98	N 0° 00' 00" E	88.72
99	N 0° 00' 00" E	88.72
100	N 0° 00' 00" E	88.72

CONVEYANCE	TO BE
CONVEYANCE TO BE	91.81
RESERVATION TO BE	15.08
OPEN SPACE TO BE	15.08
TOTAL	121.97



**CERTIFICATE OF RECORDATION**  
 I, the undersigned, being a duly qualified and authorized officer of the State of Montana, do hereby certify that the foregoing is a true and correct copy of the original as recorded in the office of the State Clerk of the State of Montana, on this 5th day of May, 2018.

**CERTIFICATE OF SURVEY**  
 I, the undersigned, being a duly qualified and authorized officer of the State of Montana, do hereby certify that the foregoing is a true and correct copy of the original as recorded in the office of the State Clerk of the State of Montana, on this 5th day of May, 2018.

**CERTIFICATE OF BOUNDARY**  
 I, the undersigned, being a duly qualified and authorized officer of the State of Montana, do hereby certify that the foregoing is a true and correct copy of the original as recorded in the office of the State Clerk of the State of Montana, on this 5th day of May, 2018.





**EXHIBIT "C"**

Legal Description of Kalispell North Town Center PUD



**Exterior Boundary of Parcels 1 through 11  
 As Detailed in Commitment For Title Insurance  
 Issued by: Chicago Title Insurance Company  
 Order Number: CG-46420  
 Effective Date: March 14, 2007 at 8:00 AM.**

A tract of land located in Sections 19 & 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana, more particularly described as follows:

Beginning at the northwest corner of Section 30, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana; thence along the north line of said Section 30, North 89°40'28" West, 687.81 feet to the northwest corner of that parcel described in Document No. 200436509500, records of Flathead County, Montana; thence along the west line of said parcel, and continuing along the west line of that parcel described in Document No. 200221914230, records of Flathead County, Montana, South 00°12'44" East 1324.27 feet to the southwest corner of the first above described parcel and the north line of the Southeast Quarter of the Northeast Quarter of the above said Section 30; thence along the south line of said parcel and the north line of said aliquot part, South 89°42'14" East 687.92 feet to the northeast corner of the Southeast Quarter of the Northeast Quarter of said Section 30; thence along the east line of said aliquot part, South 00°13'02" East 1323.95 feet to the southeast corner thereof; thence along the south line of said aliquot part, North 89°42'18" West 30.00 feet to the westerly right-of-way line of Whitefish Stage Road, a sixty foot wide Declared County Road; thence along said westerly right-of-way line of Whitefish Stage Road, North 00°13'02" West 1032.35 feet to the northeast corner of that parcel described in Document No. 9019816340, records of Flathead County, Montana; thence along the north line of said parcel, South 89°07'19" West 726.99 feet to the northwest corner of said parcel; thence along the west line of said parcel, South 00°12'59" East 1017.47 feet to the south line of the above-said Southeast Quarter of the Northeast Quarter of Section 30; thence along the south line of said aliquot part, North 89°42'18" West 567.43 feet to the southeast corner of the Southwest Quarter of the Northeast Quarter of the above-said Section 30; thence along the south line of said aliquot part, North 89°41'29" West 993.26 feet to the northwest corner of that parcel described in Document No. 9407612280, records of Flathead County, Montana; thence along the west line of said parcel, South 00°15'21" East 1324.29 feet to the northwest corner of that parcel described in Document No. 8430608100, records of Flathead County, Montana; thence along the west line of said parcel, South 00°15'21" East 1294.33 feet to a point on the northerly right-of-way line of West Reserve Drive (Montana Highway Project No. RS 548-1(2)4); thence along said right-of-way line of said West Reserve Drive, North 89°44'17" West 330.86 feet to a point on the west line of the Southwest Quarter of the Southeast Quarter of the above-said Section 30; thence along said west line of said aliquot part, North 00°15'40" West 694.72 feet to the northeast corner of that parcel described in Document No. 200119710190, records of Flathead County, Montana; thence along the north line of said parcel, North 89°44'43" West 1383.36 feet to the approximate thread of the Stillwater River; thence along said thread of said Stillwater River, the following ten (10) courses:

North 51°43'38" West 36.49 feet; North 75°13'30" West 65.45 feet;  
 South 50°42'04" West 291.30 feet; South 75°30'07" West 128.45 feet;  
 North 55°32'34" West 100.35 feet; North 01°07'27" East 92.74 feet;  
 North 48°20'43" East 191.54 feet; North 14°48'53" East 122.29 feet;  
 North 12°11'01" West 142.46 feet; and North 22°22'01" West 265.55 feet,  
 more or less, to the north boundary of Government Lot 4 of the above-said Section 30; thence along said north boundary of said Government Lot 4, South 89°43'03" East a distance of 530.65 feet to the southwest corner of the Northeast Quarter of the Southwest Quarter of said Section 30; thence along the west line of said aliquot part, North 00°23'28" West a distance of 1325.29 feet to the southeast corner of Government Lot 2 of said Section 30; thence along the south line of said Government Lot 2, North 89°42'28" West 933.90 feet to the southeast corner of that parcel described in Document No. 200323114280, records of Flathead County, Montana; thence along the south line of said parcel, North 89°42'28" West 319.63 feet to the easterly right-of-way line of U.S. Highway No. 93 (Highway Project F5-3(32)115); thence along said easterly right-of-way line of said highway the following four courses: North 04°29'58" East 189.11 feet; North 00°11'13" East 340.08 feet; North 04°34'11" West 60.20 feet; and North 00°11'13" East 11.62 feet to a point on the south line of that parcel described in Document No. 9000816200, records of Flathead County, Montana; thence continuing along the easterly right-of-way of said U.S. Highway 93 the following three courses:  
 North 00°11'13" East 28.38 feet, North 13°36'03" West 41.31 feet, and North 00°11'13" East 591.75 feet to the northwest corner of the first above said parcel; thence continuing along said easterly boundary of said highway right-of-way, North 00°11'13" East 64.13 feet to the south line of Government Lot 1 of the above said Section 30; thence continuing in said Government Lot 1, through five courses along the above said east boundary of U.S. Highway 93 right-of-way:

North 00°11'13" East 164.00 feet; North 14°13'23" East 61.85 feet;  
 North 00°11'01" East 940.05 feet; North 13°56'35" West 61.89 feet;  
 and North 00°10'44" East 100.60 feet to a point on the north line of the above said Government Lot 1; thence along said north line of said Government Lot 1, South 89°41'25" East 1237.84 feet to the southeast corner of that parcel shown as Tract 6 on Certificate of Survey No. 4491, Records of Flathead County, Montana; thence continuing in Section 19, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana and along the east line of said Tract 6, North 00°33'31" West 660.25 feet to the southeast corner of that parcel shown as Tract 5 on the above-said Certificate of Survey No. 4491; thence along the east line of said Tract 5, North 00°33'31" West 660.25 feet to the southwest corner of



that parcel shown as Tract 8 on the above-said Certificate of Survey No. 4491; thence along the south line of said Tract 8, South 89°46'02" East 1327.80 feet to a point on the west line of the Southwest Quarter of the Southeast Quarter of said Section 19; thence along said west line of said aliquot part, North 00°34'07" West 5.45 feet to a point on the north line of said aliquot part; thence along the north line of said aliquot part, and along the south line of that tract of land shown on Certificate of Survey No. 3813, records of Flathead County, Montana, South 89°53'06" East 1377.15 feet to the west line of that parcel described in Document No. 9116514510, records of Flathead County, Montana; thence along said west line of said parcel, South 00°12'54" West, 34.20 feet to the southwest corner thereof; thence along the south line of said parcel and continuing along the south line of that parcel described in Document No. 200221414500, records of Flathead County, Montana, South 89°52'49" East, 1272.80 feet to the east line of the Southeast Quarter of the Southeast Quarter of the above said Section 19; thence along the east line of said aliquot part, South 00°37'31" East 1303.19 feet to the Point of Beginning.

The exterior boundary surrounding Tracts 1 through 11, as described above, encompasses 485.481 acres of land.

SUBJECT TO those exceptions shown on Commitment For Title Insurance, issued by Chicago Title Insurance Company, order number CG-46420, effective date: March 1

**EXHIBIT "D"**

**USE RESTRICTIONS**

1. Environmental remediation facility;
2. Exterminating service;
3. Butane distribution;
4. Exterminating and fumigating warehouse;
5. Bulk storage of gasoline or fuel oil tanks.
6. Bulk storage of paint and varnish (except as incidental to retail sales);
7. Petroleum products packaging and storage (except as incidental to retail sales);
8. Adult book store or adult novelty store (meaning a store primarily engaged in the sale, rental, distribution or display of pornographic, lewd, sexually explicit or so-called adult materials and not a general interest bookstore such as Barnes & Noble or B.Dalton or a full-line video store such as Blockbuster Video, Video Update or Hollywood Video);
9. Adult theater or so-called "gentlemen's club" featuring nude, topless or scantily clad men or women;
10. Day labor hiring hall;
11. Pawn shop;
12. Religious mission, including a charity dining hall;
13. Commercial loading of small arms or manufacture of ammunition;
14. Rock quarrying, sand and gravel or other mineral extraction;
15. Any assembling, manufacturing, distilling, refining, smelting, agriculture or mining operation;
16. Transit terminal (except to the extent required by government authorities having jurisdiction);
17. Propane sales (except as incidental to other retail sales or service);
18. Drive-in movie theater;
19. Tattoo establishment;
20. Body-piercing establishment;
21. A second-hand store, thrift store, swap shop, liquidation outlet or used clothing store, including any business that regularly sells merchandise referred to as "odd lot", "cancellation", "second", "factory reject", "sample", "floor model", "floor demonstrator",

"obsolescent", "distress", "salvage" or "damaged", but this shall not prohibit the operation of a typical Ross or T.J. Maxx store or comparable store;

22. An auditorium or other general place of assembly;
23. Concrete or cement products manufacturing;
24. Plating or polishing shop (except as incidental to a jewelry store);
25. Plating works or electric plating (except as incidental to a jewelry store);
26. Foster home or group foster home;
27. Farm devoted to hatching, raising, breeding and marketing of chickens, turkeys or other fowl, rabbits, fur-bearing animals or fish;
28. Feeder lot for horses, cattle, goats or sheep;
29. Farm;
30. Bail bond company;
31. Cannery, slaughter house or meat processing or packaging plant;
32. Cesspool service;
33. Flour or grain elevator;
34. Outdoor hay and straw storage;
35. Massage establishment (except for massage services offered by a health club, fitness center, day spa beauty salon, beauty parlor, barber shop, nurse or chiropractor);
36. Repair and rewinding of transformers or generators;
37. Outdoor paving materials storage;
38. Welding shop;
39. Wrecking yard or junkyard;
40. Shelter or dormitory intended to provide temporary shelter;
41. Residential uses;
42. Carnival;
43. Dumping or disposal of garbage or refuse (except as may be incidental to an otherwise permitted use);
44. Flea market;
45. Booths for the sale of fireworks;
46. Rehabilitation or treatment center for physical, mental or substance abuse;
47. A cemetery, crematorium, funeral home, funeral parlor, or facility for the sale of caskets;

48. A so-called "head shop" or facility for the sale, rental, distribution or display of drug paraphernalia such as roach clips, bongos, water pipes, coke spoons, cigarette wrapping papers, pipes and/or syringes;
49. The sale, rental or storage mobile homes (but this shall not prohibit the promotional display of motor vehicles (but not mobile homes) in the common areas);
50. Churches, temples or other houses of religious worship;
51. The conduct of any auction, loss of lease, fire, bankruptcy or going out of business sale;
52. A school, including the operation of a pre-school or day care center;
53. Any business which operates on a part-time basis for only a portion of the week or month;
54. Any outdoor sales or display of merchandise, other than ancillary to the operation of a business conducted on the Parcel and which is approved by Declarant;
55. Or any other business which creates strong, unusual, obnoxious or offensive odors, fumes, dust, dirt, fly ash or vapors, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness, creates any unusual fire, explosion or other damaging or dangerous hazard (including the storage, display or sale of explosives or fireworks).