

RETURN TO:

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Missoula, Montana 59802**

**SECOND AMENDMENT TO SECOND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR CANYON RIVER**

This Second Amendment to Second Restated Declaration of Covenants, Conditions, Restrictions and Easements for Canyon River ("Second Amendment") is made this 28 day of December, 2020, by Canyon River Properties, L.L.C., a Montana limited liability company, as assignee and successor in interest to Canyon River Development, LLC ("Declarant").

RECITALS:

A. The Second Restated Declaration of Covenants, Conditions, Restrictions and Easements for Canyon River ("Declaration") was recorded on July 23, 2010, at Book 863, Page 182, Document No. 201013891, in the public records of Missoula County, Montana.

B. The Amendment to the Declaration was recorded on February 5, 2014, at Book 925, Page 24, Document No. 201401501, in the public records of Missoula County, Montana ("Amendment").

C. This Second Amendment was approved by the affirmative vote of Members representing a majority of the total voting power of the Association as provided in Article IX, Section 9.4 of the Declaration.

D. This Second Amendment amends and modifies the Declaration as stated herein.

E. All capitalized terms herein which are not defined shall have the meaning defined in the Declaration.

AGREEMENT

NOW, THEREFORE, Declarant hereby declares that the Declaration shall be amended and modified as follows:

1. **SECOND AMENDMENT TO SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CANYON RIVER**

1. General. This Second Amendment is made for the purpose of amending and modifying certain terms and conditions of the Declaration and the Amendment. To the extent that the provisions of this Second Amendment conflict with the provisions of the Declaration or the Amendment, the terms of this Second Amendment shall control.

2. Article I, Definitions

A. Section 1.13 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

1.13 "Development Period" refers to the period of time during which Declarant is entitled to exercise Development Rights and Special Declarant Rights. The Development Period commenced upon filing the initial Declaration on March 28, 2005 and terminates January 10, 2030, unless extended by agreement between Declarant and the Association or unless sooner terminated as a result of the sale of all Lots.

B. Section 1.15 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

1.15 "Estate Lots" shall mean and refer to those Residential Lots designated Lots 27A-61A, 73A-93A and 94A-107A on the Plat Maps and Master Plan, as amended.

C. Section 1.22 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

1.22 "Meadows Lots" shall mean and refer to those Residential Lots designated Lots 1-31, 58-69, 72-105, 108-135, 140-150, 155-163, 187-199 on the Plat Maps and Master Plan, as amended. There shall be constructed on Meadows Lots only model homes designated by Declarant as model homes for Meadows Lots.

E. Section 1.27 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

1.27 "Neighborhood" means certain Lots designated by the Board in which the Owners have specific common interests other than the common interests of all Owners. The Board may, but is not obligated, to designate a Neighborhood from time to time and revise or delete a Neighborhood at any time.

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F. Section 1.37 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

1.37 "Special Assessment" shall mean and refer to Assessments levied in accordance with Section 4.3B.

G. There shall be added Sections 1.40, 1.41, 1.42, 1.43, 1.44, 1.45, 1.46 and 1.47 to Article I, Definitions as follows:

1.40 "Fox Run Lots" shall mean and refer to those Residential Lots designated Lots 164-186 on the Plat Maps and Master Plan, as amended. There shall be constructed on Fox Run Lots only model homes designated by Declarant as model homes for Fox Run Lots.

1.41 "River Lots" shall mean and refer to those Residential Lots designated Lots 1B-13B on the Plat Maps and Master Plan, as amended.

1.42 "Townhome Lots" shall mean and refer to those Residential Lots designated Lots 32-43 and Lots 46-57 on the Plat Maps and Master Plan, as amended. There shall be constructed on Townhome Lots only model homes designated by Declarant as model homes for Townhome Lots.

1.43 "Bend Lots" shall mean and refer to those Residential Lots designated Lots 44, 45, 58-69 on the Plat Maps and Maser Plan, as amended. There shall be constructed on Bend Lots only model homes designated by Declarant as model homes for Bend Lots.

1.44 "Townhome" shall mean a single family residence which has a common wall with another Townhome. The common wall is located on the property boundary line between the two adjoining Townhomes. Each Townhome is separately owned and the owner holds separate title to the Townhome Lot beneath his/her Townhome. Each Townhome shall have its own entrance with a direct exit to a public street and its own garage. There shall be only one Townhome located on a Townhome Lot. Townhomes shall be located only on Townhome Lots.

1.45 "Bend Home" shall mean a model home designated by Declarant to be located on a Bend Lot.

3. **SECOND AMENDMENT TO SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CANYON RIVER**

1.46 "Discipline" shall mean an action taken by the Board involving an Owner or required by the Board of an Owner relating to an Owner's violation of the Declaration, the Bylaws or the Rules. It may also include a requirement that an Owner discontinue his/her previous conduct.

1.47 "Fine" shall mean the amount that the Board requires an Owner to pay to the Association for a violation of the Declaration, the Bylaws or the Rules. A Fine includes monetary penalties imposed by the Board against an Owner to reimburse the Association for costs incurred for repair of damage to Common Area or facilities for which the Owner, his guests or tenants, were responsible.

3. Article IV, Maintenance and Assessments

A. Section 4.1 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

4.1 Creation of the Lien and Personal Obligation of Assessments and Fines. Subject to the exception for Declarant as provided in Section 4.7A, each Owner by acceptance of a deed or conveyance to a Lot, whether or not it shall be so expressed in such deed or conveyance, covenants and agrees:

- (1) to pay to the Association regular and special Assessments, to be established and collected as hereinafter provided;
- (2) to pay all fines levied by the Board against the Owner; and
- (3) to allow the Association to enforce any Assessment lien or Fine lien by non-judicial proceedings under a power of sale or by any other means authorized by law.

Regular and Special Assessments or Fines, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment or Fine is made, the lien to become effective upon recordation of a notice of delinquent Assessment or failure to pay Fine. Each Assessment or Fine, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation (joint and several) of each Person who was the Owner of such Lot when the Assessment fell due or when the Fine was levied. No Owner of a Lot may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any Common Areas or by the abandonment of his Lot.

The interest of any Owner in the amounts paid pursuant to any Assessment or Fine upon the transfer of ownership shall pass to the new Owner. Upon the termination of these covenants for any reason, any amounts remaining from collection of such Assessments or Fines after paying all amounts properly charged against such Assessments or Fines shall be distributed to the then Owners on the same pro rata basis on which the Assessments or Fines were collected.

B. The following Section 4.3C is hereby added to Section 4.3 (the title of Section is hereby changed to "Assessments and Fines" of the Declaration as follows:

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C. Fines: The Board may levy a Fine to an Owner for the Owner's failure to comply with the Declaration, Bylaws or Rules.

C. Section 4.8 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

4.8 Effect of Nonpayment of Assessments or Fines. Any Assessment or Fine not paid within fifteen (15) days after the due date shall be delinquent and shall bear interest at twelve percent (12%) per annum starting thirty (30) days after the due date until paid and shall incur a late payment penalty equal to ten percent (10%) of the Assessment or Fine. The due date of a Fine shall be established by the Board for each specific Fine.

D. Section 4.9 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

4.9 Transfer of Lot by Sale or Foreclosure. Sale or transfer of any Lot shall not affect the Assessment lien or the Fine lien. However, the sale of any Lot pursuant to Foreclosure of a First Mortgage shall extinguish the lien of such Assessments and the lien of such Fines, including attorneys fees, late charges and interest levied in connection therewith, as to payments which became due prior to such sale by Foreclosure (except for Assessment liens or Fine liens recorded prior to the Mortgage). No Foreclosure sale shall relieve such Lot from liability for any Assessments or Fines thereafter becoming due or from the lien thereof.

Where the Mortgagee of a First Mortgage of record or other purchaser of a Lot obtains title as a result of Foreclosure, such acquirer of title, and his successor and assigns, shall not be liable for Assessments or Fines chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer (except for assessment liens or Fine liens recorded prior to the Mortgage). No amendment of the preceding sentence may be made without the consent of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and the consent of the Mortgagees holding First Mortgages on Lots comprising fifty-one percent (51%) of the Lots subject to First Mortgages. The unpaid share of such Assessments and such Fines shall be deemed to be Common Expenses collectible from all Owners of the Lots including such acquirer and his successors or assigns.

If a Lot is transferred, the grantor shall remain liable to the Association for all unpaid Assessments and unpaid Fines against the Lot through the date of transfer. The grantee shall be entitled to a statement from the Association, dated as of the date of transfer, setting forth the amount of the unpaid Assessments and unpaid Fines against the Lot to be transferred and the Lot shall not be subject to a lien for unpaid Assessments or unpaid Fines in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any Assessments or Fines that become due after the date of the transfer.

E. Section 4.10 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

4.10 Priorities; Enforcement; Remedies. If an Owner fails to pay an Assessment or Fine when due, the Association may bring legal action against the Owner to enforce collection of the unpaid and past due Assessment or unpaid and past due Fine, or may impose a lien on the Lot (an Assessment lien for unpaid and past due Assessments and a Fine lien for unpaid and past due Fines) or both. Suit to recover a money judgment for unpaid Assessments or unpaid Fines, and attorneys' fees shall

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be maintainable without foreclosing or waiving the lien. Before the Association may place a lien upon a Lot, the Association shall notify the Owner in writing by certified mail of the fee and penalty procedures, provide an itemized statement of the charges owed, including principal, any penalty, interest, and the method of collection, and any attorneys' fees. The Association may record a notice of delinquent Assessment or a notice of delinquent Fine and establish a lien against the Lot of the delinquent Owner prior and superior to all other liens except (1) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any First Mortgage of record made in good faith and for value. The notice of delinquent Assessment or notice of delinquent Fine shall state the amount of the Assessment or Fine, collection costs, attorney's fees, late charges and interest, a description of the Lot, the name of the record Owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or any management agent retained by it and shall be mailed in the manner required by Montana law to all record Owners of the Lot no later than 10 days after recordation.

Thirty or more days after recordation of the lien, an Assessment lien or Fine lien may be enforced in any manner permitted by law, including sale by the court or the trustee designated in the notice of delinquent Assessment or the notice of delinquent Fine. Any sale by the trustee shall be conducted in accordance with the provisions of Montana law applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. Nothing herein shall preclude the Association from bringing an action directly against an Owner for breach of the personal obligation to pay Assessments or Fines.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at Foreclosure sale, and to acquire and hold, lease, mortgage and convey it. Where the purchase of a Foreclosure Lot will result in a five percent (5%) or greater increase in Assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association. During the period a Lot is owned by the Association following Foreclosure:

- (1) no right to vote shall be exercised on behalf of the Lot;
- (2) no Assessment shall be assessed or levied on the Lot; and
- (3) each other Lot shall be charged, in addition to its usual Assessment, its share of the Assessment that would have been charged to such Lot had it not been acquired by the Association as a result of Foreclosure.

After acquiring title to the Lot at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the Lot which deed shall be binding upon the Owners, successors, and all other parties.

The Board may, after notice and hearing, suspend the voting rights of a Member who is in default in payment of any Assessment or Fine as provided in the Bylaws.

The Association is not empowered to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his Lot on account of the Owner's failure to comply with the Project Documents or Rules, except by judgment of a court or on account of a foreclosure or sale under power of sale for failure of the Owner to pay duly levied Assessments or Fines. Each Owner waives, to the maximum extent permitted by law, the benefit of any Montana homestead or exemption laws in effect when any Assessment or Fine becomes delinquent or a lien is imposed.

4. Article VI, Architectural Control

6. SECOND AMENDMENT TO SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CANYON RIVER

A. Section 6.4 of the Declaration is hereby deleted in its entirety and shall have no further force or effect and is hereby replaced with the following:

6.4 ACC Action: If Declarant or the ACC fails to approve or disapprove plans and specifications in writing within thirty (30) days after submittal, approval shall be deemed denied and the related covenants shall be deemed to have not been fully complied with. Approval of plans by the ACC or Declarant shall in no way make the ACC or Declarant responsible or liable for the improvements built after approval of the plans, and the Owner whose plans are approved shall defend, indemnify and hold the ACC and Declarant harmless from any and all liability arising out of such approval.

5. Article VII, Use Restrictions

A. Sections 7.1.1, 7.1.2 and 7.1.3 of the Declaration are hereby deleted in their entirety and shall have no further force or effect and Section 2 of the Amendment is hereby deleted in its entirety and shall have no further force of effect and both are hereby replaced with the following:

7.1.1 Use of Meadows Lots. Residential Units on Meadows Lots shall consist of total living area on the main floor of not less than 1,600 square feet plus a garage which shall be either a two-car or three-car garage. There shall be constructed on Meadows Lots only model homes designated by Declarant as model homes for Meadows Lots. Meadows Lots 108-131 shall have model homes designated for Meadows Lots with three-car garages. Meadows Lots 20-31 and 58-69 shall have model homes designated for Meadows Lots with two-car garages. The following use restrictions apply to all Meadows Lots: (i) no yard art or sidewalk art; (ii) no swing set or playground equipment of any type or character; (iii) no basketball hoop; (iv) no trampoline; (v) no volleyball net; (vi) no skateboarding in the street, sidewalks or driveways of a Meadows Lot or the Meadows Lot Neighborhood; (vii) no vehicle be parked in the street for more than two (2) consecutive nights and Rules on parking vehicles in driveways may be passed by the Association; and (viii) no bicycles, tricycles, battery-powered vehicles or motorcycles may be parked in the lawn, sidewalk, driveway or street of a Meadows Lot or the Meadows Lot Neighborhood when not in use.

7.1.2 Use of Estate Lots. Residential Units on Estate Lots shall consist of total living area on the main floor of not less than 2,000 square feet plus a three-car garage.

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7.1.3 Use of River Lots. Residential Units on River Lots shall consist of total living area on the main floor of not less than 2,400 square feet plus a three-car garage.

7.1.4 Use of Fox Run Lots. Residential Units on Fox Run Lots shall consist of total living area on the main floor of not less than 1,600 square feet plus a garage which shall be a two-car garage. There shall be constructed on Fox Run Lots only model homes designated by Declarant as model homes for Fox Run Lots. The following use restrictions apply to all Fox Run Lots: (i) no yard art or sidewalk art; (ii) no swing set or playground equipment of any type or character; (iii) no basketball hoop; (iv) no trampoline; (v) no volleyball net; (vi) no skateboarding in the street, sidewalks or driveways of a Fox Run Lot or the Fox Run Neighborhood; (vii) no vehicle be parked in the street for more than two (2) consecutive nights and Rules on parking vehicles in driveways may be passed by the Association; and (viii) no bicycles, tricycles, battery-powered vehicles or motorcycles may be parked in the lawn, sidewalk, driveway or street of a Fox Run Lot or the Fox Run Lot Neighborhood when not in use.

7.1.5 Use of Townhome Lots. Residential Units on Townhome Lots shall consist of total living area on the main floor of not less than 1,500 square feet plus a garage which shall be a two-car garage. There shall be constructed on Townhome Lots only model homes designated by Declarant as model homes for Townhome Lots. The following use restrictions apply to all Townhome Lots: (i) no yard art or sidewalk art; (ii) no swing set or playground equipment of any type or character; (iii) no basketball hoop; (iv) no trampoline; (v) no volleyball net; (vi) no skateboarding in the street, sidewalks or driveways of a Townhome Lot or the Townhome Neighborhood; (vii) no vehicle be parked in the street for more than two (2) consecutive nights and Rules on parking vehicles in driveways may be passed by the Association; and (viii) no bicycles, tricycles, battery-powered vehicles or motorcycles may be parked in the lawn, sidewalk, driveway or street of a Townhome Lot or the Townhome Lot Neighborhood when not in use.

7.1.6 Use of Bend Lots. Residential Units on Bend Lots shall consist of total living area on the main floor of not less than 1,600 square feet plus a garage which shall be a two-car garage. There shall be constructed on Bend Lots only model homes

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designated by Declarant as model homes for Bend Lots. The following use restrictions apply to all Bend Lots: (i) no yard art or sidewalk art; (ii) no swing set or playground equipment of any type or character; (iii) no basketball hoop; (iv) no trampoline; (v) no volleyball net; (vi) no skateboarding in the street, sidewalks or driveways of a Bend Lot or the Bend Lot Neighborhood; (vii) no vehicle be parked in the street for more than two (2) consecutive nights and Rules on parking vehicles in driveways may be passed by the Association; and (viii) no bicycles, tricycles, battery-powered vehicles or motorcycles may be parked in the lawn, sidewalk, driveway or street of a Bend Lot or the Bend Lot Neighborhood when not in use.

6. Coordination/Continuing Validity. This Second Amendment is intended to operate in conjunction with the Declaration and the Amendment. Except as expressly provided in this Second Amendment, the provisions of the Declaration and Amendment shall remain in full force and effect.

7. Authority, Effective Date. This Second Amendment shall be effective on the date this Second Amendment is fully executed by Declarant.

IN WITNESS WHEREOF, Declarant has executed this Second Amendment effective this 28 day of December, 2020.

DECLARANT:

CANYON RIVER PROPERTIES, L.L.C.

By Teresa O'Keefe
Its Co-Manager

By [Signature]
Its Co-Manager

STATE OF Arizona)
~~MONTANA~~)
County of Mancopa)
~~Silver Bow~~)
: ss.

This instrument was acknowledged before me on the 6 day of January 2021 December, 2020, by Teresa O'Keefe, Co-Manager of Canyon River Properties, LLC.

[Signature]
(signature)

9. SECOND AMENDMENT TO SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CANYON RIVER



Stephanie Smith
(print name)

Notary Public for the State of ~~Montana~~ Arizona
Residing at Scottsdale
My Commission Expires: 7/24/2024

STATE OF Ar Montana)

: ss.

County of Missoula)

This instrument was acknowledged before me on the 12th day of ~~December~~ January, ^{nrb} ~~2020~~ ^{nrb} 2021, by Mark J. Burnham, Co-Manager of Canyon River Properties, LLC.

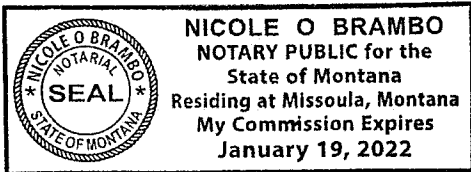
Nicole O. Brambo

(signature)

Nicole O. Brambo

(print name)

Notary Public for the State of _____
Residing at _____
My Commission Expires: _____



10. SECOND AMENDMENT TO SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CANYON RIVER