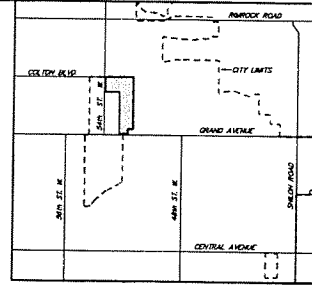


PLAT OF
GRAND PEAKS SUBDIVISION
 BEING LOT 5 BLOCK 1 OF BISHOP FOX SUBDIVISION AND
 TRACT 1A OF CERTIFICATE OF SURVEY NO. 3279 AMENDED
 SITUATED IN THE SW¹/₄ OF SECTION 32, T. 1 N., R. 25 E., P.M.M.
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : GRAND PEAKS, LLC
 PREPARED BY : ENGINEERING, INC.
 SCALE : 1" = 100'

JANUARY, 2007
 BILLINGS, MONTANA

100 50 0 100 200



VICINITY MAP
 NOT TO SCALE

CENTERLINE CURVE DATA		
CURVE	DELTA	RADIUS / LENGTH
C1	235°58'	344.89' / 33.72'
C2	235°41'	1000.00' / 48.23'

- BASES OF BEARING: AMENDED TRACTS 1 & 2, C.O.S. 3279
- o - FOUND SURVEY MONUMENT, REBAR AND CAP MARKED "ENGINEERING INC BILLINGS MT", OR AS NOTED
 - ✓ - SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT"
 - - SET INTERSECTION MONUMENT, 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

CERTIFICATE OF DEDICATION

STATE OF MONTANA }
 County of Yellowstone }

KNOW ALL MEN BY THESE PRESENTS: That GRAND PEAKS, LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the SW¹/₄ of Section 32, T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point which is the N¹/₄ Corner of Section 4, T. 1 S., R. 25 E., P.M.M.; thence S 89°59'45" W a distance of 292.68 feet; thence N 00°02'01" W a distance of 2019.42 feet; thence N 89°58'15" W a distance of 608.64 feet; thence N 00°08'25" E a distance of 853.26 feet; thence S 89°57'25" E a distance of 1283.72 feet; thence S 00°12'27" E a distance of 2504.32 feet; thence S 89°59'45" W a distance of 259.40 feet; thence S 00°00'15" E a distance of 107.75 feet; thence S 89°58'45" W a distance of 112.29 feet to the point of beginning.

Pursuant to Section 78-3-621(1), M.C.A., the subdivisor has provided 11% of the net area of the subdivision as a cash-in-lieu for the parkland dedication in the amount of \$172,875. This cash-in-lieu will be paid through process as outlined within the Subdivision Improvements Agreement (Doc. # 320 3624).

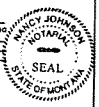
The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said tract to be known and designated as GRAND PEAKS SUBDIVISION, and the lands included in all streets and avenues as shown on the annexed plat, are hereby granted and conveyed to the use of the public forever.

GRAND PEAKS, LLC
 By: *[Signature]*
 Title: President

STATE OF MONTANA }
 County of Yellowstone }

On this 24th day of July, 2007, before me, the undersigned Notary Public for the State of Montana, personally appeared Grand Peaks, LLC, known to me to be the persons who signed the foregoing instrument as GRAND PEAKS, LLC, and acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

[Signature]
 Notary Public in and for the State of Montana
 Printed Name: Wendy Johnson
 Residing at: 1000 1st St N
 My commission expires 2/28/2011

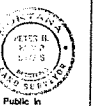


CERTIFICATE OF SURVEYOR

STATE OF MONTANA }
 County of Yellowstone }

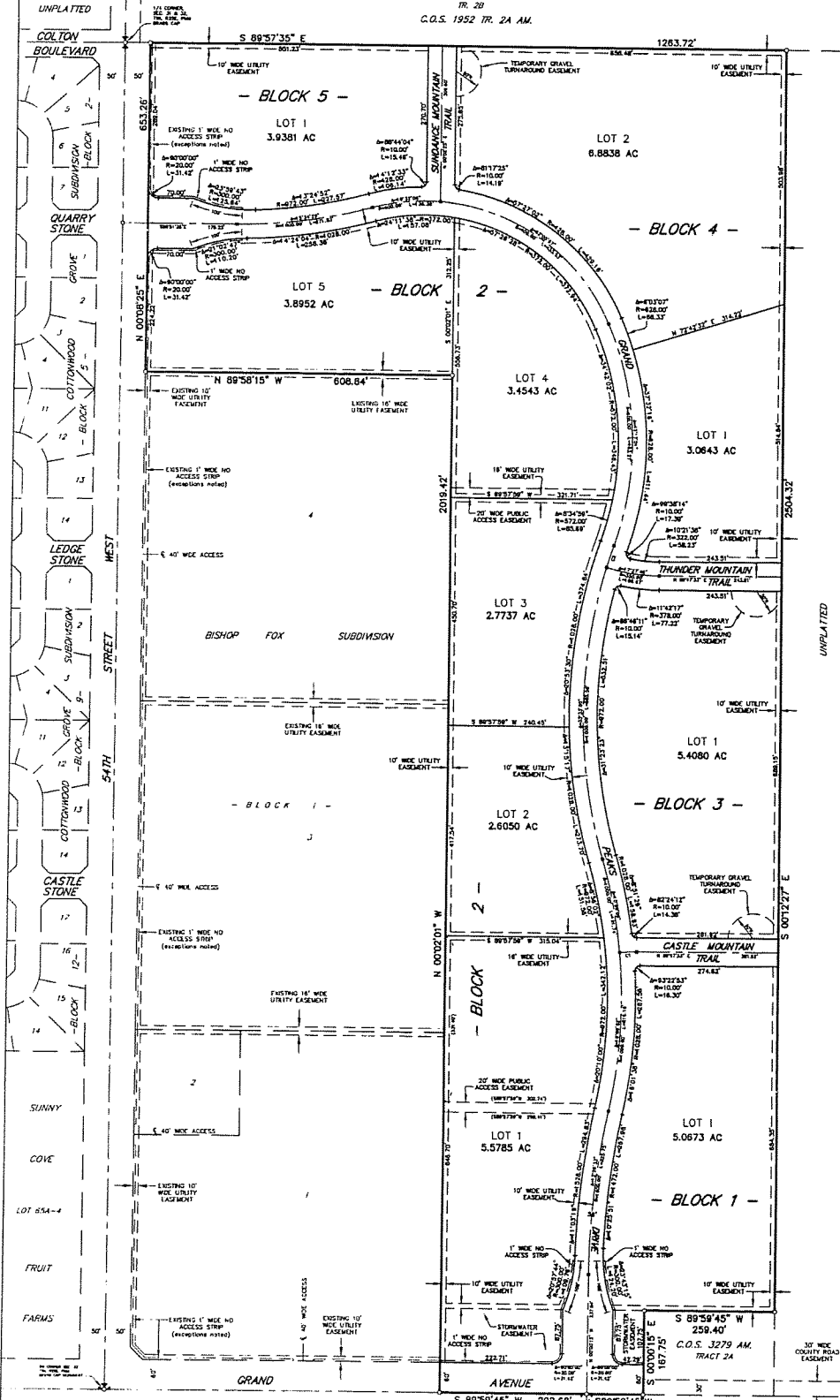
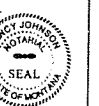
The undersigned, a Montana Registered Land Surveyor being that duly sworn, deposes and says that during the month of January, 2007, a survey was performed under his supervision of a tract of land to be known as GRAND PEAKS SUBDIVISION, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown thereon and that the gross area is 48,600.00 acres and the net area is 42,668.22 acres.

ENGINEERING, INC.
 By: *[Signature]*
 Montana Registration No. 8377-S



Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this 24th day of July, 2007.

[Signature]
 Notary Public in and for the State of Montana
 Printed Name: Wendy Johnson
 Residing at: 1000 1st St N
 My commission expires 2/28/2011



3423673
 Page: 1 of 2
 9/27/2007 02:30

PLAT OF
GRAND PEAKS SUBDIVISION
 BEING LOT 5 BLOCK 1 OF BISHOP FOX SUBDIVISION AND
 TRACT 1A OF CERTIFICATE OF SURVEY NO. 3279 AMENDED
 SITUATED IN THE SW¹/₄ OF SECTION 32, T. 1 N., R. 25 E., P.M.M.
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : GRAND PEAKS, LLC
 PREPARED BY : ENGINEERING, INC.

JANUARY, 2007
 BILLINGS, MONTANA

NOTICE OF APPROVAL

STATE OF MONTANA)
 County of Yellowstone)

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date: 4/6/07
 President: [Signature]
 Executive Secretary: [Signature]



CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and foregoing plat conforms with Section 75-4-125(2)(a), M.C.A., for the removal of sanitary restrictions since the plot is inside a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this 2nd day of April, 2007

[Signature]
 City Engineer's Office

ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting and find that said plat conforms with the requirements of the laws of the State of Montana, and that said plat conforms to the adjoining conditions and plats of the City of Billings already platted as nearly as circumstances will permit.

[Signature] 4.9.07
 Examining Land Surveyor Date

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-207(3), M.C.A.

Date: May 23, 2007
 Yellowstone County Treasurer
 By: [Signature]
 Deputy

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office and is acceptable as to form.

Date: 4-27-07
 Reviewed by: [Signature]

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
 County of Yellowstone)

We hereby certify that we have examined the annexed and foregoing PLAT OF GRAND PEAKS SUBDIVISION and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of The Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this 11th day of April, 2007.

CITY OF BILLINGS, MONTANA

By: [Signature]
 Mayor
 Attest: [Signature]
 City Clerk



3423673
 Yellowstone County, MT 59102

SUBDIVISION IMPROVEMENT AGREEMENT

Document No. 3423674

TEMPORARY TURNAROUND EASEMENT

Document No. 3423678

CONSENT TO PLATTING

Document No. 3423676

CONSENT TO PLATTING

Document No. 3423677

Restrictions on Transfers
3423675

CERTIFICATE OF DEDICATION

CERTIFICATE OF SURVEYOR

See Sheet 1 of 2



RETURN TO:
Ragain Christensen Fulton & Filz
Timothy F. McHugh
e PO Box 339
Billings, Montana 59103

WARRANTY DEED

FOR A VALUABLE CONSIDERATION, receipt of which is acknowledged on this 11th day of June, 2003, the undersigned:

The Episcopal Diocese of Montana, a Montana non-profit corporation
515 North Park Avenue
Helena, Montana 59601

grants, conveys and warrants to:

Bishop Fox Company, a Montana non-profit corporation
1241 Crawford Drive
Billings, Montana 59102

the following described real property in Yellowstone County, Montana, to-wit:

Township 1 North, Range 25 East, M.P.M.
Section 32: W1/2W1/2SW1/4

TO HAVE AND TO HOLD unto the Grantees their successors and assigns forever, subject, however, to:

- (a) General and special taxes and assessments for 2004 and subsequent years;
- (b) Mineral and royalty reservations or conveyances of record, oil and gas leases of record, and mineral leases of record.
- (c) Any other encumbrances, exceptions, rights of way, easements, reservations, restrictions, and declarations of record, and statutes, ordinances and regulations of local, state, and federal entities.

EXCEPT with reference to the items referred to in paragraphs (a) to (c) inclusive, this deed is given with the usual covenants expressed in Section 30-11-110 MCA.

DEED RESTRICTIONS: Any sale or disposition of the above described property, or any part thereof, must be approved in advance by the Episcopal Diocesan Council of the Diocese of Montana, but such approval shall not be unreasonably withheld. All net proceeds from the sale of

Eng. Inc



**DECLARATION OF RESTRICTION ON TRANSFERS
AND CONVEYANCES**

GRAND PEAKS SUBDIVISION

THIS DECLARATION, made this 24th day of APRIL, 2007, by GRAND PEAKS LLC, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, the Declarant is the owner of all of the lots in Grand Peaks Subdivision, situated in the Southwest 1/4 of Section 32, Township 1 North, Range 25 East, P.M.M., Yellowstone County, Montana, hereinafter referred to as the "Subdivision;" and

WHEREAS, in connection with the filing of the plat for the Subdivision, the Declarant executed that certain Subdivision Improvements Agreement dated APRIL 24, 2007, to the City of Billings, which Agreement contains restrictions against the sale, conveyance, or transfer of any lots in the Subdivision until such time as a private contract has been executed, providing for the installation and construction of required public improvements; and

WHEREAS, in order to more fully evidence the restriction against sale, conveyance, or transfer and to give third parties notice of such restrictions, the Declarant desires to execute and record this Declaration of Restrictions.

NOW, THEREFORE, in consideration of the premises, the Declarant for themselves, and their successors and assigns, do hereby declare:

1. Except as hereinafter provided, the Declarant does hereby agree and declare that the following described lots shall not be sold, transferred, or conveyed to any third party unless and until a Release has been executed and recorded in accordance with the provisions hereinafter appearing:

Proposed Future Phases:

Establishment of a private contract and providing necessary funding guarantees.



Proposed future phases are more particularly described as follows.

Lots 3 through 6 in Block 2, Lot 1 in Block 3, Lots 1 and 2 in Block 4, Lot 1 in Block 5, all in Grand Peaks Subdivision, in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (8 lots total future phases).

2. It is the express purpose and intent of this Declaration to restrict or preclude sale, transfer, or conveyance of the above-described lots until such time as a private contract has been executed and necessary funding guarantees provided, providing for the construction and installation of those public improvements required under the above-described Subdivision Improvements Agreement, which by reference thereto is hereby incorporated herein as though fully set forth at this point. It is anticipated, however, that the Declarant will develop Grand Peaks Subdivision, in distinct phases, upon providing for the installation and construction of the public improvement necessary to serve the particular phase. In that regard, a release of some but not all of the above-described lots may be executed and recorded, from time to time, in accordance with the provisions hereinafter appearing, and upon the recording of said release, the covenants and restrictions contained herein with respect to the lots described in said release shall be deemed canceled and terminated, and of no further force and effect.
3. Upon compliance with the requirements for a private contract specified above, a release for the lot or lots affected thereby shall be executed and recorded by the City of Billings, pursuant to the provisions contained in Paragraph X of the said Subdivision Improvements Agreement. The execution and recording of said release shall be deemed conclusive evidence to all third parties purchasing or acquiring any lot described therein that the restriction against sale, conveyance, or transfer of said lot has been removed.
4. UNTIL SUCH RELEASE IS EXECUTED AND RECORDED, THIS DECLARATION SHALL SERVE AS NOTICE TO ALL THIRD PARTIES PURCHASING OR ACQUIRING ANY OF THE ABOVE-DESCRIBED LOTS OF THE EXPRESS RESTRICTIONS AGAINST ANY SUCH SALE, CONVEYANCE, OR TRANSFER, AND OF THE TERMS AND CONDITIONS OF THE SAID SUBDIVISION IMPROVEMENTS AGREEMENT, AND SHALL FURTHER SERVE AS NOTICE THAT THE CITY OF BILLINGS MAY ENFORCE ANY



AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED IN THE SUBDIVISION IMPROVEMENTS AGREEMENT SHOULD THE TERMS OF THIS DECLARATION BE VIOLATED.

- 5. The terms, conditions, and restrictions contained in this Declaration shall not preclude or restrict the ability of the Declarant to (a) sell, convey, and transfer all of the above-described lots, or those lots remaining subject to the terms of this Declaration, as one unit or group, to a third party, parties or entities; provided, however, that such sale shall be subject to this Declaration and the lots shall continue to be subject to the restrictions herein provided against the sale, transfer, and conveyance until a release has been executed and recorded; or (b) enter into sale and purchase agreements for individual lots; provided, however, that the deeds or other conveyance documents shall not be delivered to the prospective buyer, nor shall the closing under any such sale and purchase agreements occur until such time as a release covering the affected lot has been executed and recorded.
- 6. The terms and conditions of this Declaration shall run with the land, shall be binding upon, and shall inure to the benefit of the Declarant, the City of Billings, and their successors and assigns.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

"DECLARANT"

GRAND PEAKS LLC

By: Paul Wilin

Its: President



Return To:
Pedersen & Hardy, P.C.
1001 S. 24th St. W., Ste. 110
Billings MT 59102
File No. 36076

DECLARATION OF COVENANTS
FOR GRAND PEAKS SUBDIVISION
AND
BYLAWS OF OWNERS ASSOCIATION

THE UNDERSIGNED, GRAND PEAKS, LLC, a Montana Limited Liability Company, and J & S DEVELOPMENT CO., owners and Developer of the following described real property, hereby declare these covenants and restrictions applicable to all of the following lots:

Lot 1, Block 1,

Lots 1, 2, 3, 4 and 5, Block 2,

Lot 1, Block 3,

Lots 1 and 2, Block 4,

Lot 1, Block 5,

all in Grand Peaks Subdivision, in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3423673.

These lots are referred to herein and in the Bylaws attached to this Declaration as the "Original Lot(s)".

These Covenants are placed upon the Original Lots for the benefit of the owners of all or any part of those lots, for the purpose of protecting the value and desirability of all of the Original Lots.

The Covenants herein contained shall run with the land and shall be binding on the undersigned and all persons and parties claiming under them, their successors and assigns.



The Grantees of all or any part of any lot or any townhome or condominium built upon any lot in Grand Peaks Subdivision, by acceptance of a conveyance, covenant and agree faithfully to observe and abide by all of said subdivision covenants and restrictions, easements, assessments, charges and liens set forth herein.

Grand Peaks Subdivision will be developed in phases. The first phase will include Lot 1, Block 1, and Lot 1, Block 2.

1. CONSTRUCTION RESTRICTIONS.

(a) No building shall exceed two stories in height.

(b) Multi-family buildings are limited to a maximum of six housing units (apartments, townhomes or residential condominiums) per building. Only single family homes may be constructed along the North boundary of Lot 2, Block 4, of Grand Peaks Subdivision.

(c) No changes may be made to irrigation and drainage ditches along the perimeter of Grand Peaks Subdivision.

2. USE RESTRICTIONS.

(a) The primary use of each Original Lot shall be for single or multi-family housing. Only those residential uses permitted by the zoning ordinances for any lot or unit, excluding special review uses, are allowed.

(b) No lot owner, tenant or occupant of any lot or unit may use the irrigation and drainage ditches along the perimeter of Grand Peaks Subdivision.

(c) No motorized vehicles shall be permitted on the trail which crosses Lot 1, Block 2, or on the trail located on the boundary line between Lots 3 and 4, Block 2, except vehicles providing maintenance or repairs to the trails. Only bicycle and pedestrian use is permitted by persons not providing maintenance of the trail.

(d) No trash or other refuse may be thrown or dumped or stored on any of the lots.

3. MEMBERSHIP IN OWNERS ASSOCIATION.

(a) Membership in Association. All Owners of all or any part of an Original Lot, including owners of subdivided lots



and owners of units created under the Montana Unit Ownership Act, and their heirs, successors and assigns shall be members of a Montana non-profit corporation, formed or about to be formed, known as "GRAND PEAKS OWNERS ASSOCIATION", herein called "the Association".

"Lot Owner", as used in this Declaration and the attached Bylaws, shall mean each person or entity, as shown by the records of the Yellowstone County Clerk and Recorder, owning all or any part of an Original Lot. If a Lot Owner has sold to a third person under the terms of an agreement for future delivery of title, and notice of such agreement is recorded with the Yellowstone County Clerk and Recorder, the purchaser shall be deemed to be the Lot Owner. A personal representative, conservator, or trustee shall be deemed to be the lot owner of any lot owned or held by him or her in such capacity, whether or not the same shall have been transferred to his or her name by a duly recorded conveyance.

Co-owners or joint owners of a lot or unit shall be deemed to be one member for the purposes of voting and assessment.

One membership is appurtenant to and runs with each lot or unit in Grand Peaks Subdivision. A membership shall not be transferable except upon transfer of the lot or unit to which it is appurtenant.

The affairs of Grand Peaks Owners Association shall be governed by its Bylaws, attached hereto as Exhibit "B".

4. PURPOSE OF THE ASSOCIATION.

(a) Purpose of the Association. The Association has been formed for the purpose of maintaining, repairing and replacing the improvements which benefit all of the Original Lots and which are not maintained by the City of Billings, including the following:

- (i) Seasonal maintenance of the storm water detention system for drainage from the public streets into the ponds located at the south end of Grand Peaks Subdivision in the locations shown on the attached Exhibit "A";



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- (ii) Maintenance, including repairs to and snow removal from the sidewalks along the public streets within Grand Peaks Subdivision and on Grand Avenue and 54th Street West where those streets adjoin Grand Peaks Subdivision;
- (iii) Maintenance of landscaped boulevards along the public streets within Grand Peaks Subdivision and on Grand Avenue and 54th Street West where those streets adjoin Grand Peaks Subdivision;
- (iv) Maintenance, repair and replacement of wells, pumps, and waterlines used for landscaping irrigation;
- (v) Maintenance of pedestrian trails which access the commercial development to the west and the residential area west of Grand Peaks Subdivision;
- (vi) Maintenance, repair and replacement of entry signs at the two main entrances to the subdivision;
- (vii) Maintenance, repair and replacement of benches along the public streets within the Subdivision;
- (viii) Developer will install street lights along the sidewalks adjoining Grand Peaks Drive and on the entry island. The Association will pay for electricity, maintenance, operation and repairs, including the annual fee payable to the City of Billings for the light(s) located within the public right-of-way.

(b) The subdivision will be included in a Park Maintenance District for Cottonwood Park in the future. Unless the assessments for Cottonwood Park maintenance are included on the owners' property tax statements, the Association shall pay the assessments.

5. ASSESSMENTS.

(a) Assessments. The Association, through its Board of Directors, shall establish and collect regular maintenance assessments from the owners of each completed home in Grand Peaks Subdivision to pay for all of the Association's expenses described above, and for any other improvements serving all of the subdivision; and for

- (i) Liability insurance insuring the Association and



its members against liability resulting from the Association's maintenance of the above-described improvements;

- (ii) For Officer's and Director's liability insurance;
- (iii) For administrative and legal expenses; and
- (iv) For any other expenses which benefit Grand Peaks Subdivision if authorized by 75% of the members entitled to vote.

Costs incurred by the Association shall be divided equally among the owners of each home in Grand Peaks Subdivision. However, no owner of a home shall be assessed by the Association until the construction of the home is completed. Assessments begin and are collected from each owner at the time of construction completion. At the time of closing of the initial sale or completed home, the Association shall collect an initial capital contribution of \$100.00 from the homeowner.

The term "Homes" and "home", as used herein and in the attached Bylaws, means residences of any type, including single family homes, patio homes, townhomes and condominium units, together with the land and common elements appurtenant to each residence. The term "Home Owner" shall mean the owner of a completed residence; the term does not include owners of all or part of an Original Lot on which a residence has not been constructed, or on which a residence is under construction but not yet completed.

(b) Payment of Assessments. Assessments shall be payable annually on the second day of January of each year unless the Board determines that a different payment schedule is needed. Assessments paid more than 30 days after the date when due shall bear interest at the rate of 12% per annum from the due date until paid or at the highest rate of interest permitted by Montana law, whichever is less. All payments shall be applied first to interest and then to the earliest assessment due. Interest collected shall become part of the Association's account. All assessments collected



by the Association may be commingled in a single fund. The Secretary-Treasurer of the Association shall maintain records showing the amounts of all assessments paid and unpaid by each Home Owner. Such records shall be available for inspection at all reasonable times by Home Owners or their representatives.

(c) Covenant to Pay Assessments. Each Home Owner, by signing these Covenants or by acceptance of a deed, whether or not it shall be expressed in said deed, is deemed to covenant and agree to pay to the Association a share of the costs lawfully assessed by the Association and to waive any right said Home Owner may have, under the laws of the United States or the State of Montana, to claim a homestead exemption for said assessments.

Home Owners and their grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance of any home, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee. The Secretary-Treasurer of the Association shall notify third parties, upon their request, of the amount of unpaid assessments on any home.

6. **ENFORCEMENT.**

(a) Right to Enforce. The Association, and each and every one of the Home Owners shall have the right to enforce these restrictions and the covenants herein and any and all amendments thereto by civil action, including the right to injunctive relief, prohibitive or mandatory, to prevent the breach or enforce the observance of the covenants and restrictions set forth above or hereafter imposed, and for damages, it being presumed that some damage would be occasioned, by reason of the failure of any Home Owner or Owners to comply with these restrictions and the covenants herein contained.

(b) Remedies for Non-Payment of Assessments. All unpaid sums assessed by the Association for any completed home, together with interest, collection costs, costs of suit or



arbitration, and reasonable attorney fees, shall constitute a lien on the home and its appurtenant land and common areas, and if filed of record, the lien may be foreclosed in the same manner as a construction lien. Such lien shall not take priority over any sums unpaid on a first mortgage or trust indenture of record prior to the recording of the lien for assessments. Each assessment, together with interest, collection costs, costs of suit, and reasonable attorney fees shall also be the personal obligation of the owners of the home against which the assessment was made at the time the assessment fell due. Furthermore, suit to recover a money judgment for unpaid assessments may be maintained by the Association against said Home Owners without foreclosing or waiving the lien securing the same.

(c) Water Shutoff. In addition to the foregoing remedies, the Association may also shut off the water to the home of any owner who fails to pay an assessment within 30 days after the due date, and may continue to withhold water to the home until such time as all assessments, together with accrued interest and the cost of shutting off and turning on the water, if any, are paid by the owner. The Association shall not shut off the water to any unit unless, at least ten days before shutting off the water, it notifies the unit owner of its intent to shut off the water, by letter sent certified mail to the most recent address provided by the owner to the Association.

(d) Costs and Attorney Fees. All costs of collection of delinquent assessments, including but not limited to, court costs, costs of filing liens, and attorney fees, shall be the obligation of the non-paying Home Owners, and may be added to the next regular assessment for that home. No sale or transfer of a home shall relieve the grantee or transferee from liability for past due assessments or from the lien thereof. All rights, remedies and privileges granted to the Association or the Home Owners pursuant to the terms hereof shall be deemed to be cumulative.



The losing party in any action, lawsuit, or arbitration proceeding brought to enforce this Declaration shall be obligated to pay the reasonable attorney fees incurred by the prevailing party, together with costs incurred in the action, lawsuit, or arbitration proceeding.

7. **AMENDMENT.**

Any provision herein may be amended or revoked in whole or in part and additional provisions added at any time by a written amendment recorded in the office of the Clerk and Recorder of Yellowstone County, Montana, duly signed and acknowledged by the owners of record of not less than 75% of the lots and/or units subject to this Declaration. Notwithstanding the foregoing, so long as Grand Peaks, LLC or J & S Development, Co. own any Lot or unit in Grand Peaks Subdivision, then the consent of Grand Peaks, LLC and/or J & S Development, Co. shall be required before these Covenants and Restrictions may be altered or amended, or new covenants or restrictions are added; such consent shall be considered in the calculation and determination of the 75% minimum consent requirement.

8. **MISCELLANEOUS**

(a) Severability. Invalidation of any one of these Covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

(b) Covenants Run With The Land. The Covenants herein set forth shall run with the land and bind the undersigned owners, their heirs, devisees, trustees, successors and assigns; the undersigned owners and any and all parties claiming by, through, or under them shall be taken to hold, agree, and covenant with the owners of all of the lots, their heirs, devisees, trustees, successors and assigns, and with each of the owners of said lots, to conform to and observe said Covenants.

(c) Waiver. The failure of any Owner, or the Association, to enforce these Covenants at the time of any



BYLAWS OF GRAND PEAKS SUBDIVISION
OWNERS ASSOCIATION, INC.
(a non-profit corporation)

The Board of Directors of Grand Peaks Subdivision Owners Association, Inc., a Montana non-profit corporation, hereafter referred to as "this Association", hereby adopts the following Bylaws:

OFFICES

1. **Principal office.** The principal office of this Association is situated at 2650 Overland Avenue, Billings, Montana 59102. The Board of Directors may change the location of the principal office.

MEETINGS OF MEMBERS

2. **Annual Meeting.** The annual meeting of the members for election of Directors, approval of an annual budget, and the transaction of such other business as may properly come before them shall be held in Billings, Montana, at the location set forth in the Notice of Meeting. The annual meeting shall be held on the first Saturday of April of 2009 at a time determined by the Board of Directors, and on the first Saturday of April of each and every year thereafter.

3. **Notice of Annual Meeting.** The Secretary-Treasurer of this Association shall give written notice stating the place, day and hour of the meeting by delivering the same not less than ten days prior to the date of the meeting, if notice is personally delivered, or not less than 30 days, nor more than 50 days before the date of the meeting, if notice is delivered by mail, to each member of record entitled to vote at such meeting. The notice shall be deemed delivered when deposited in the United States mail addressed to the member at the member's address as it appears on records of this Association with postage prepaid thereon.

4. **Special Meeting.** Special meetings of the Members may be called by the Board of Directors or by not less than 40% of all the members entitled to vote at the meeting.



Notice of said special meeting shall be given in the same manner as notice for the annual meeting as outlined in Section 3 above; provided, that the notice, in addition to all other requirements, must state the purpose or purposes for which the meeting is called. No business other than that specified in the Notice of Meeting shall be transacted at any such special meeting.

5. **Quorum of Members.** One-third of the members entitled to vote represented in person or by proxy shall constitute a quorum at a meeting of members. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum. If a quorum is present, the affirmative vote of the majority of members represented at the meeting and entitled to vote on the subject matter shall be the act of the members unless the vote of a greater number is required by the Articles of Incorporation or these Bylaws.

If a meeting cannot be organized because a quorum is not present, those present may adjourn the meeting from time to time until a quorum is present at which time any business may be transacted that could have been transacted at the meeting as originally called.

6. **Voting.** Membership shall be determined as of the date the Notice of Meeting is mailed. Each member shall be entitled to one vote. For voting purposes, co-owners of a single lot or unit shall be considered to be a single member, with one vote for that lot or unit. A member may vote either in person or by proxy properly executed. At each election for directors, every member entitled to vote at such election shall have the right to vote in person or by proxy duly executed for as many persons as there are directors to be elected.

7. **Proxies.** Every proxy must be dated and signed by the member and given to the Secretary-Treasurer before or at the time of the meeting. No proxy shall be valid after the



expiration of 11 months from the date of its execution. Every proxy shall be revocable by the member executing it.

8. **Order of Business.** The order of business at all meetings of the members shall be as follows:

- (a) Proof of notice of meeting or waiver of notice.
- (b) Reading of minutes of preceding meeting.
- (c) Reports.
- (d) Business.

9. **Informal Action.** Resolutions required or permitted to be approved by members may be approved without a meeting of members if the written resolution is signed by at least 51% of the members entitled to vote, and filed with the corporate records.

BOARD OF DIRECTORS

10. **Directors.** This Association shall be governed by a board of five Members. Directors, except for Steve Baillie, Rod Wilson and Jeff Junkert, shall be elected by majority vote of the members present at the annual meeting. Nominations shall be made from the floor at the annual meeting. Each owner shall be entitled to one vote for each vacancy in the Board of Directors; cumulative voting shall not be permitted. If a quorum is present, in person or by proxy at the annual meeting, the candidate(s) receiving the greatest number of votes shall serve for the term. No person shall serve as a director for more than four consecutive years, except for Steve Baillie, Rod Wilson and Jeff Junkert. If a quorum cannot be obtained for an annual meeting, the existing Directors shall continue to serve until the next annual or special meeting is held and new Directors are elected, or as an alternative, the existing Directors may contact members to determine who is willing to serve as a Director, and deliver a written ballot to all owners for voting. The ballot shall include the names of all owners willing to serve for the term(s) to be filled. The Directors



shall serve without compensation.

11. Term. At the first annual meeting of this Association, two Directors shall be elected. Rod Wilson, Jeff Junkert and Steve Baillie, as representatives of Grand Peaks, LLC and of J & S Development, Co., shall serve as the remaining three Directors until all homes in Grand Peaks Subdivision are sold. The initial term of one of the elected Directors and of Jeff Junkert shall be fixed at one year. The term of three of the Directors shall be fixed at two years. All Directors elected at subsequent annual meetings shall serve two-year terms, subject to the requirement that Steve Baillie, Jeff Junkert and Rod Wilson must be three of the five Directors until the sale and closing of the last home. A Director may be re-elected to successive terms. After sale of all homes, the number of Directors may be increased upon affirmative vote of 75% of the members entitled to vote.

12. Initial Directors. Until the first annual meeting, ROD WILSON, JEFF JUNKERT and STEVE BAILLIE shall serve as Directors and Officers.

13. Powers and Duties of Directors. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of this Association, including the following:

- (a) To determine when and what maintenance is needed for the improvements described in the original Declaration of Covenants for Grand Peaks Subdivision, or its subsequent amendments and such other maintenance as may be authorized by vote of 75% of the Members entitled to vote.
- (b) To levy and collect regular assessments and special assessments for the purposes set forth in the Declaration of Covenants for Grand Peaks Subdivision.
- (c) To prepare an annual budget and obtain contractors' bids for repair and maintenance of the improvements described in the Declaration of Covenants for Grand Peaks Subdivision.
- (d) To take appropriate legal action to collect



delinquent assessments, to file a lien against any home having delinquent assessments, and to levy approved late fees and interest.

- (e) To enter into and carry out contracts as necessary to its duties herein.
- (f) To establish a bank account for this Association and to keep records in accordance with common accounting procedures.
- (g) To elect and remove officers of this Association and to employ and pay a Secretary-Treasurer.
- (h) To enforce the provisions of the Declaration of Covenants for Grand Peaks Subdivision and these Bylaws by appropriate action.
- (i) To send written notice of any change in the regular assessments and written notice of any special assessment to each owner at least 30 days before its due date.
- (j) To record and foreclose a lien against any home for unpaid assessments or other monies owed the Association by an owner or to bring an action at law against the owner personally obligated to pay the same.
- (k) To adopt a schedule of late payment fees, with consent of 75% of the members entitled to vote.
- (l) To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- (m) To procure and maintain insurance required or authorized to be purchased by the Association.
- (n) To pay all debts of the Association.
- (o) To file annual corporate reports with the Montana Secretary of State and to pay the required fee.
- (p) To prepare income tax returns for the Association, if required by state or federal law, and to pay all taxes owed.
- (q) To provide any notices required by these Bylaws.



- (r) In its discretion, to delegate any of the above-mentioned powers and duties to one or more officers or employees of the Association or to an independent contractor or agent.
- (s) To supervise all officers, agents, and employees of the Association to ensure that they properly perform their duties.

14. **Removal of Directors.** Any Director, except Jeff Junkert, Steve Baillie and Rod Wilson, may be removed for good cause by a vote of a majority of the members entitled to vote, at any regular or special meeting of this Association called for that purpose. In the event of such removal, a successor may then and there be elected to fill the vacancy thus created.

15. **Vacancies in Board of Directors.** Vacancies in the Board of Directors caused by any reason other than the removal of a Director by vote of the members, shall be filled by a vote of the majority of the remaining Directors, and each person so selected shall serve until the next annual meeting of this Association, at which time the members shall elect a successor to fill out the balance of the unexpired term.

16. **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least one such meeting shall be held during each calendar year. Notice of such regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, facsimile or e-mail, at least three days prior to the date of such meeting. If notice is given by e-mail, the Association shall maintain a record of all e-mails sent.

17. **Special Meetings.** Special meetings of the Board of Directors may be called by the President on ten days notice to each Director, given personally or by mail, telephone, facsimile or e-mail, which notice shall state the time, date, place and purpose of the meeting.



18. **Quorum.** A quorum of the Board for transaction of business at any meeting shall be a majority of the Directors.

19. **Proxies.** Only Directors will be allowed an official vote at Directors' meetings. No Director may authorize another person to act on the Director's behalf at Directors' Meetings.

20. **Telephone Meetings.** Directors may have telephone meetings so long as all Directors are present or are given the opportunity to be present, and so long as each Director is able to speak to and be heard by the others.

OFFICERS

21. **Designation.** The officers of this Association shall be a President, a Vice-President and a Secretary-Treasurer.

22. **Election and Term of Officers.** The officers shall be elected by the Board of Directors, and shall continue in office at the pleasure of the Board. The Board may elect themselves as Officers. The President and Vice President shall be members of this Association; the Secretary-Treasurer need not be a member of this Association.

23. **Payment of Officers.** The President and Vice-President shall serve without salary; the Secretary-Treasurer may be paid a reasonable salary, as determined by the Board.

24. **Removal of Officers.** Any officer may be removed at any time by vote of a majority of the Directors then in office.

25. **Filling Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, shall be filled by the Board of Directors.

26. **President.** The President shall be the chief executive officer of this Association and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the affairs of this Association. The President shall preside at all meetings of the Board of Directors and of the members.

27. **Vice-President.** In the absence or disability of the



President, the Vice-President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to, all the restrictions upon the President.

28. **Secretary-Treasurer.** The Secretary-Treasurer shall keep the minutes of every meeting held and conduct such correspondence as the Board deems necessary. The Secretary-Treasurer shall have the care and custody of and be responsible for all funds and securities of this Association and shall deposit such funds and securities in the name of this Association in such bank or other depository as the Board of Directors may designate. The Secretary-Treasurer shall have authority to pay out and dispose of all orders for payment of money under the direction of the President or the Board of Directors. The Secretary-Treasurer shall keep accurate books of account of all its business and transactions and shall at all reasonable hours, with reasonable advance notice, exhibit books and accounts to any Director or Member of this Association. The records of the Association shall be kept at the principal office of the Association. The Secretary-Treasurer shall provide a copy of any corporate documents to a member upon request; the cost of copying shall be paid by the requesting member. The Secretary-Treasurer shall render a report of the condition of the finances of this Association at each regular meeting of the Board of Directors and regular meeting of members, and shall perform all duties incident to the office of Secretary-Treasurer.

CONTRACTS, CHECKS, DEPOSITS AND FUNDS

29. **Contracts and Instruments.** The President or Vice-President shall sign all contracts and instruments on behalf of this Association, after authorization has been granted and approval obtained from a majority of the Board of Directors.

30. **Checks and Drafts.** All checks, drafts, or other orders for payment of money, notes, or other evidence of



indebtedness, issued in the name of or payable to this Association, shall be signed or endorsed by any two of the officers of this Association.

31. Depository. All funds of this Association shall be deposited from time to time to the credit of this Association in such banks, or other depositories as the Board of Directors may select.

MISCELLANEOUS PROVISIONS

32. Waiver of Notice. Whenever any notice is required to be given under the provisions of law or under the provisions of the Articles of Incorporation or the Bylaws of this Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

33. Amendment of Bylaws. The provisions of these Bylaws, except the requirement that Steve Baillie, Jeff Junkert and Rod Wilson may be altered or amended by 75% of the members entitled to vote at any regular meeting or at any special meeting of this Association.

34. Expulsion of Members. Members may not be expelled from this Association and their voting rights cannot be canceled so long as the Member owns a lot or unit in Grand Peaks Subdivision. No member may withdraw from this Association so long as that member owns a lot or unit.

35. Reimbursement of Costs and Expenses. All officers and directors shall be reimbursed their costs and expenses directly incurred in work performed in furthering the purposes of this Association.

36. Dissolution. This Association may be dissolved only if maintenance of the storm water easements, sidewalks, benches, boulevards, entry signs, and the private roads is assumed by some other entity. In the event of dissolution of this Association, the funds of this Association shall be divided equally among its members, after payment of all debts of this Association.



BYLAWS DATED January 28, 2008.

GRAND PEAKS, LLC

By: Grand Peaks West, LLC, Member

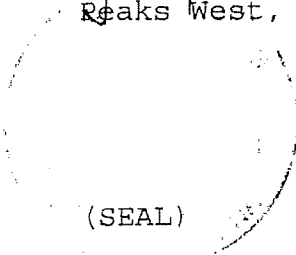
By: [Signature]
Jeff Junkert, Member

By: The Wilson Group, LLC, Member

By: [Signature]
Rod Wilson, Member

STATE OF MONTANA)
: ss.
County of Yellowstone)

This instrument was acknowledged before me on January 28th, 2008, by JEFF JUNKERT, Member of Grand Peaks West, LLC, one of the Members of Grand Peaks, LLC.

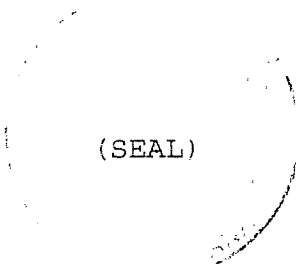


[Signature]
Pamela J Borgum
(print in black ink or type name of notary)
Notary Public for the State of Montana
Residing at Billings MT
My Commission Expires July 24, 2010

(SEAL)

STATE OF MONTANA)
: ss.
County of Yellowstone)

This instrument was acknowledged before me on January 28, 2008, by ROD WILSON, Member of The Wilson Group, LLC, one of the Members of Grand Peaks, LLC.



[Signature]
Pamela J Borgum
(print in black ink or type name of notary)
Notary Public for the State of Montana
Residing at Billings MT
My Commission Expires July 24, 2010

(SEAL)



J & S DEVELOPMENT CO.

BY: [Signature]
Its PRESIDENT

STATE OF MONTANA)
 : ss.
County of Yellowstone)

This instrument was acknowledged before me on
JANUARY 28th, 2008, by [Signature], as
PRESIDENT of J & S DEVELOPMENT CO.

[Signature]
Pamela Bjorgum

(print or type name of notary)
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission Expires July 29, 2010

