

After recording return to: Carolynn M. Fagan Sullivan, Tabaracci & Rhoades, PC 1821 South Ave. West Missouia, MT 59801 (406) 721-9700

NOTICE OF AIRPORT INFLUENCE AREA BOUNDARIES

WHEREAS, pursuant to Montana Code Annotated § 67-4-201, Missoula County created an Airport Influence Area by Resolution No. 78-96 (Book 121 Micro Records, Page 1391), 78-187 (Book 135 Micro Records, Page 474) and 87-021(Book 255 Micro Records, Page 2383);

WHEREAS, the above referenced Resolutions provide criteria and guidelines to control noise sensitive land uses and the height of structures and trees within the airport influence area:

WHEREAS, Missoula International Airport is operated by the Missoula County Airport Authority (the "Authority) pursuant to Title 67, Chapter 11, Montana Code Annotated; and

WHEREAS, the AUTHORITY desires to give notice to the public and those owning or purchasing real property within the Airport Influence Area of the provisions of the above-referenced Resolutions;

NOW, THEREFORE, the Authority gives notice of the boundaries of the Airport Influence Area. Pursuant to Montana Code Annotated § 67 4-202, "After the designation of an airport influence area, a person may not recover from a local government, an airport authority, an airport operator, or an airport owner damages caused by noise and vibrations from normal and anticipated normal airport operations."



Attached to this Notice, as Exhibit "A", is a legal description and map setting forth the boundaries of the Airport Influence Area.

DATED this // day of April, 2005.

MISSOULA COUNTY AIRPORT AUTHORITY

Joe Easton Acting Director

State of Montana)) ss. County of Missoula)

This instrument was acknowledged before me by Joe Easton, on behalf of the Missoula County Airport Authority, this 1000 day of April, 2004.

SEAL

Notary Public for the State of Montana

Printed Name: ATHELINE L. TOL

Residing at: MISSOULA

My commission expires: 5-6-200



AUUDUOLOU Page: 3 of 5 04/12/2005 04:00P Bk-750 Pg-919

EXHIBIT "A"

MISSOULA INTERNATIONAL AIRPORT INFLUENCE AREA

LEGAL DESCRIPTION

A tract of land located in Sections 6, 7, 8 and 18, Township 13 North, Range 19 West, Sections 1, 2, 3, 4, 10, 11, 12, 13 and 14, Township 13 North, Range 20 West, Sections 21, 22, 26, 27, 28, 32, 33, 34, 35 and 36, Township 14 North, Range 20 West, Principal Meridian Montana, Missoula County Montana, being that land area described in Missoula County Commissioners Resolution No. 78-96 and being further described as

Commencing at the section corner common to Sections 1 and 2, Towrship 13 North, Range 20 West and Sections 35 and 36, Township 14 North, Range 20 West Principal Meridian Montana, thence S58°30′33″E, 14146.35 feet to the most easterly corner of the Airport Influence Area, the true point of beginning, the section corner common to Sections 5, 6, 7 and 8, Township 13 North, Range 19 West bears approximately N35°03′31″W, 2583.58 feet; thence S40°27′54″W, 10560.00 feet to the most southerly corner of the Airport Influence Area, the southeast corner of Section 13, Township 13 North, Range 20 West bears approximately S09°25′14″E, 529.13 feet; thence N49°32′06″W, 29499.71 feet to the most westerly corner of the Airport Influence Area, the southeast corner of Section 32, Township 14 North, Range 20 West bears approximately S19°49′31″E, 3967.17 feet; thence N40°27′54″E, 10560.00 feet to the most northerly corner of the Airport Influence Area; thence S49°32′06″E, 29499.71 feet to the point of beginning. Containing 7,151 acres more or less and being subject to all easements, dedications or reservations shown, existing or of record.

SURVEYORS STATEMENT

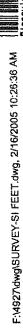
This exhibit "A" is a correct representation and depiction of Missoula International Airport influence area as prepared by me or under my direct supervision. This exhibit represents the size and dimensions of the airport influence area as adopted under Missoula County resolution no. 78-96 on July 5, 1978 and amended December 6, 1978. The dimensions are referenced under section 1.05 (definitions), line item 9. (airport influence area) and also referenced under chapter II (airport land use districts) section 2.01 (purposes).

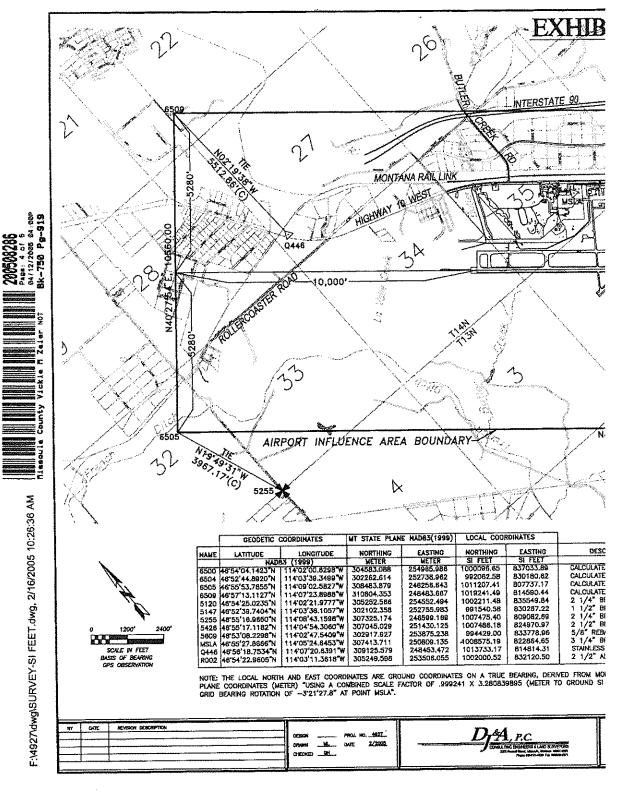
GLENN R. HOWARD

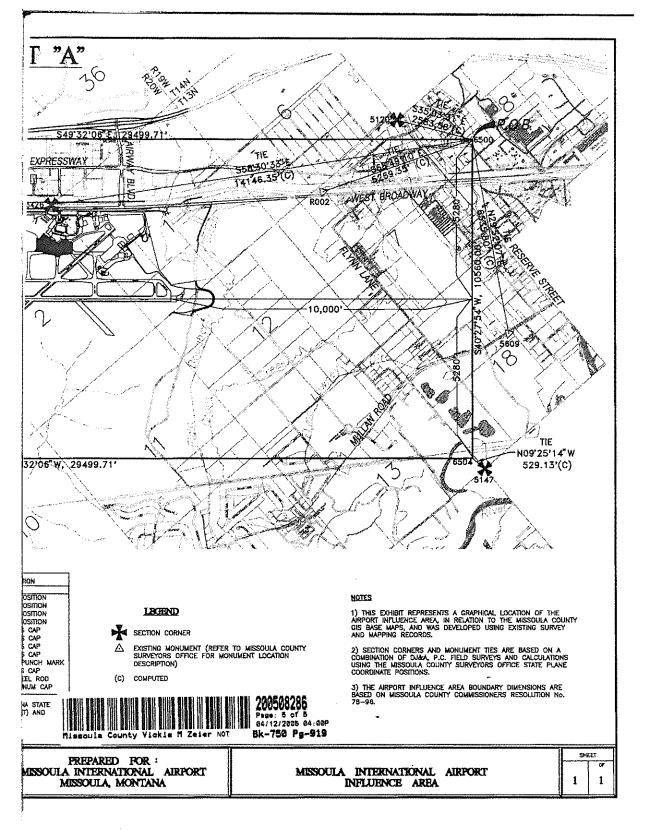
GIENN P HOWARD PLS

GLENN R. HOWARD, P.L.S.

2/16/05









AFTER RECORDING RETURN TO: Robert J. Sullivan Boone Karlberg P.C. P.O. Box 9199 Missoula, MT 59807-9199

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 44 RANCH

This Declaration is made this 12¹¹ day of <u>OCTONOC</u>, 2006, by Shelter West, Inc. and Grass Valley Project, LLC, of PO Box 4746, Missoula, Montana 59806, hereinafter referred to collectively as Declarant, provides as follows:

RECITALS

- 1. Declarant, the Owners of certain real property located in Missoula County, Montana, which is described as 44 Ranch, recorded plat or plats, records of Missoula County, Montana located in the SE ¼ of Section 11, the S ½ Section 12, the NW ¼ of Section 13 and the NE ¼ of Section 14, T. 13 N., R. 20 W., Principal Meridian, Montana (herein "Real Property").
- 2. Declarant, its successors and assigns, intend to cause to be constructed upon the Real Property, described in Paragraph 1 of these Recitals, a development to be known as 44 Ranch, which will encompass detached single family homes.
- 3. Declarant, its successors and assigns, intends to cause the subdivision of the Real Property, described in Paragraph 1 of these Recitals, to be platted in phases, therefore, the final plat for the first phases will be filed with this Declaration and the final plats of the subsequent phases will be filed thereafter.
- 5. Declarant wishes to place restrictions, covenants and conditions upon Real Property described in Paragraph 1 of these Recitals for the use and benefit of the property, its future Owners.



DECLARATION

NOW THEREFORE, Declarant declares that all the Real Property described above shall be held, sold, and conveyed subject to the following restrictions, covenants, conditions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Real Property as a desirable residential development. These restrictions, covenants, conditions and easements shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property, or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the Owner thereof.

- 1. Definitions. For the purposes of this Declaration the following definitions shall apply.
 - a. <u>Association</u>. "Association" shall mean the 44 Ranch Homeowners' Association, Inc., its successors or assigns
 - b. <u>Board of Directors</u>. "Board of Directors" shall mean the Board of Directors of the Association, duly elected pursuant to the Bylaws of the Association or appointed by Declarant.
 - c. <u>Bylaws</u>. "Bylaws" shall mean the Bylaws adopted by the Association as amended from time to time.
 - d. <u>Common Area</u>. "Common Area" shall mean that area as depicted upon the final plat or plats of the property identified as common area, which includes any common area parks.
 - e. <u>Declarant</u>. "Declarant" shall mean Shelter West, Inc., a Montana corporation and Grass Valley Project, LLC, a Montana limited liability company, their successors and assigns if such successor or assigns should acquire a majority of the undeveloped lots from the Declarant for the purpose of development.
 - f. <u>Declaration</u>. "Declaration" shall mean this "Declaration of Covenants, Conditions and Restrictions for 44 Ranch" as may be amended from time to time.
 - g. <u>Single Family Lots</u>. "Single Family Lots" are shown upon the recorded plat map of the Real Property, or as will be shown upon the recorded plat map of future phases of the Real Property.
 - h. Owner and Member. "Owner" and "Member" shall mean the record Owner of a fee, or undivided fee, whether one or more persons or entities,



of any Lot, including buyers under a contract for deed, but excluding any person or entity who has sold or is selling any Lot under a contract for deed and those having such interest merely as security for the performance of an obligation.

- i. Real Property. "Real Property" shall mean that certain Real Property as described in Paragraph 1 of the Recitals.
- j. Zoning District. "Zoning District" shall mean the 44 Ranch Planned Unit Development, enacted by the City of Missoula.
- k. <u>Architectural Committee</u>. "Architectural Committee" shall mean the committee created pursuant to these Declarations and charged with architectural approval and control of the improvements within the Real Property.
- I. <u>Building</u>. "Building" shall mean, refer to and include any structures built upon, or placed upon, the Real Property as residences or for other purposes.
- m. <u>Lot</u>. "Lot" shall include all lots designated on any final plat for 44 Ranch approved and recorded in the records of Missoula County as well as lots designated on the preliminary plat for 44 Ranch conditionally approved in May, 2005.
- 2. Homeowners' Association. Until such time as Lots are sold by the Declarant, Declarant shall act as the Association. At such time as Lots are sold, Declarant, together with other Owners, shall act as the Association. It is Declarant's intention that within six (6) months after Declarant sells its last Lot, the responsibility for maintaining, administering and enforcing the covenants, easements, conditions and restrictions set forth herein shall be assumed by the 44 Ranch Homeowners' Association, Inc., or its successor entity, if any.
- Membership & Voting Rights.
 - a. Membership. Every person or entity who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of the Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. Acceptance of a deed, notice of purchasers' interest or documentation evidencing an ownership interest in a Lot shall be deemed to be consent to membership in the Association. The recording of a deed or other document evidencing an ownership interest shall be prima facie evidence of acceptance of that document by the receiver of the interest transferred.



- b. <u>Voting Rights</u>. The Association shall have one class of voting membership. When more than one person or entity owns an interest in any Lot which qualifies for membership, the vote for such Lot shall be exercised as such persons or entitles determine, but in no event may more than one vote per Lot be cast, except as stated below. Members shall be entitled to one vote for each Lot owned.
- c. <u>Declarant Voting</u>. For so long as the Declarant owns one or more Lots, the Declarant shall be entitled to five (5) votes for each Lot it owns. The Declarant's entitlement to votes shall apply to all Lots whether the final plat for such Lot or Phase in which the Lot is located is filed or not.
- 4. Responsibility and Authority of Association.
 - a. Maintenance of Trees and Landscaping. The Association shall maintain the trees and landscaping located on all Common Areas comprising parks, as illustrated on the final plat(s) of the Real Property. The maintenance shall include, without limitation, watering, mowing and landscaping in such fashion so as to maintain the trees and landscaping in an attractive appearance. Provided in the event a Special Improvement District (SID) or Rural Special Improvement District (RSID) is created for maintenance of these areas, the Association's responsibility for such maintenance shall cease.
 - b. Maintenance of Alleys. The Association shall maintain the alleys in a neat and attractive appearance, including but not limited to snow removal and general maintenance thereof, so as to permit the reasonable use of the alleys for their designed purposes. Provided in the event a Special Improvement District (SID) or Rural Special Improvement District (RSID) is created for maintenance of these areas, the Association's responsibility for such maintenance shall cease.
 - c. Other. Additionally, the Association may provide additional services as it sees fit. The Association may provide such services for all or a portion of the property within its jurisdiction or with which it may contract and levy assessments on such portion of its Members or others as derive benefits from services concerned. Further, the Association may retain the services of a professional manager or management company to carry out its duties under the terms of this Declaration.

5. Assessments.

a. <u>Purpose of Assessments</u>. The assessments levied by the Association shall be used exclusively for the purpose of the Association discharging its responsibilities, as described herein, and for the administration and enforcement of this Declaration and any Bylaws of the Association.



- b. <u>Uniform Rate of Assessment</u>. All Lots, for which the final plat has been recorded shall be subject to assessments. Assessments may not be levied against any Lot, the final plat of which has not yet been filed. Both regular and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. However, a bare Lot shall be assessed at a rate 25% of that assessed a developed Lot.
- c. <u>Types of Assessments</u>. The assessments levied by the Board of Directors of the Association shall be utilized to provide funds consistent with the purposes of the Association. The assessments may include, but shall not be limited to, the following:
 - i. Regular Assessment: A regular assessment for administration of the Association, including, but not limited to maintenance costs, liability insurance, other normal expenses and to provide funds for such other purposes as the Board of Directors may find necessary and consistent with the purposes of the Association.
 - ii. Special Assessments: The Association may levy in any year a special assessment for the purpose of defraying in whole or in part, the costs of any construction or reconstruction, unexpected repair or replacement of any capital improvement, including the necessary fixtures and personal property related thereto, or for such other capital improvements as are determined necessary or desirable. However, no special assessment in excess of \$100.00 per Lot shall be levied, which has not been approved by the affirmative vote of seventy-five percent (75%) of the votes of the Members who are voting in person or by proxy at a meeting duly called to consider such special assessment. No special assessment shall be established to cover a period in excess of five (5) years.
 - Emergency Assessments: The Board of Directors is authorized to levy in any assessment year an emergency assessment, which shall not exceed four (4) times the amount of the regular assessment for that year. Additional emergency assessments require the approval of a simple majority of the votes of the Members who are voting in person or by proxy at a meeting duly called to consider such additional emergency assessment. Emergency assessments shall be levied only to meet costs and expenses precipitated by an emergency causing damage or a change of condition that must be remedied promptly to insure a safe and adequate continuation of facilities φr services.
 - iv. <u>Legal Reserve and Compliance Assessments</u>: In addition to the assessments herein provided, the Board of Directors may levy an



assessment for the purpose of establishing a legal reserve fund for legal fees and costs to enforce this Declaration. Nothing herein shall be interpreted to preclude the Board of Directors from utilizing other funds for compliance purposes.

- d. Payment of Assessments. The assessments provided for herein shall be computed on a yearly basis, commencing on the 1st day of January of each year and terminating on the 31st day of December of the same year. The assessments for any year shall become due and payable monthly, quarterly, annually and/or in advance, at the discretion of the Board of Directors. The Board of Directors shall fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of the due date specified herein and shall at that time, prepare a roster of the Lots and assessments applicable to each, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.
- Effect of Non-Payment of Assessment. If the assessments are not paid by e. midnight on the date when due, then such assessment shall become delinquent and shall, together with any interest thereon, become a continuing lien upon the Lot, against which the non-paid assessment was levied, which lien shall run with the land. Such lien shall have a priority from the date the Association records proper notice of lien on the records of Missoula County, Montana. If the assessment remains unpaid for thirty (30) days after such due date, the assessment shall bear interest from the due date at the maximum annual percentage rate permitted by law. The obligation of the then Owner to pay any assessment or interest shall not be affected by any conveyance or transfer of title to said Lot. The Association may bring an action at law against the Owner obligated to pay the same and/or Lot, and there shall be added to the amount of such assessment their costs of collecting the same for foreclosing the lien thereof, including reasonable attorneys' fees.
- f. <u>Exempt Property</u>. Any part of the Real Property which is either Common Area or dedicated to and accepted by a public authority or agency shall be exempt from the assessments created herein.
- 6. General Restrictions and Covenants. These restrictions and covenants are made for the purposes of creating and keeping the premises, insofar as is possible, desirable, attractive, beneficial and suitable in architectural design, materials and appearance; and guarding against an unnecessary interference with the natural beauty of the property; all for the mutual benefit and protection of the Owners of Lots within the Real Property.



- a. Zoning District. The Real Property is subject to the Zoning District enacted by the City of Missoula. The Zoning District establishes restrictions and limitations upon the use of the Real Property and upon the nature, location and size of the structures to be erected thereon. Said restrictions and limitations as set out in the Zoning District are hereby incorporated into this Declaration, by this reference, as if fully set forth herein. In the event of any conflict or inconsistency between this Declaration and the Zoning District, the more restrictive of the two shall control.
- b. Architectural Guidelines. Declarant or the Architectural Control Committee may choose to establish architectural guidelines, so as to establish further restrictions and limitations upon the use of the Real Property, upon the nature, location, design and size of structures beyond those set out in the Zoning District or this Declaration. In the event such architectural guidelines are established, the terms and provisions thereof may be enforced as any term or provision of this Declaration. However, in the event of any conflict between an express term in this Declaration and such guidelines, this Declaration shall control.
- c. Manufactured Homes. No trailers, mobile homes (either double or single-wide), modular homes or other structures constructed primarily away from the Real Property on which they would be situated, shall be permitted. Declarant shall not be restricted by this section or this Declaration from manufacturing or assembling components of structures on a site other than the Lot on which the building is to be located.
- d. <u>Boundary Control Monuments</u>. It shall be the responsibility of the Owner of each Lot to provide for immediate professional replacement of any survey monuments that are removed or become lost or obliterated from his Lot.
- e. <u>Noxious or Offensive Activity and Materials</u>. No noxious or offensive activity shall be carried on upon the Real Property, nor shall anything be done thereon which constitutes an annoyance or nuisance to the neighborhood.
- f. Easements. Declarant shall have and does hereby reserve a perpetual easement the right to locate, install, erect, construct, expand, maintain, and use, or authorize the location, installation, erection, construction, expansion maintenance, and use of waterlines, drains, sewer lines, electric lines, telephone lines, and other utilities, and to give or grant a right-of-way easement, not more than twenty feet (20') in width thereof over any part of any Lot within the Real Property, providing that such location, installation, erection, construction, expansion, maintenance, and use is harmonious with the development of the Real Property.



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- g. Trash and Garbage. No Real Property shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate except in sanitary containers which shall be emptied on at least a weekly basis by a local garbage collection firm. All garbage shall be stored in containers of metal, plastic, or other suitable material which has sufficiently tight-fitting covers to prevent the escape of noxious odors and to prevent entrance by pets. Trash receptacles shall be secured so as to prevent spillage due to winds or animals. All trash receptacles shall be kept in the alleys or indoors only.
- h. Parking. No vehicles shall at any time be placed or parked so as to impede, obstruct or interfere with pedestrian or vehicular traffic along any street, alley, sidewalk, trail or right-of-way with in the Real Property. Trucks exceeding one ton capacity, semi-tractors, semi-trailers, mobile homes, equipment, unsightly vehicles, recreational vehicles such as motor homes, travel trailers, fifth wheel trailers, pickup truck campers, boats, snowmobiles, or utility trailers are not permitted on the streets, alleys or upon the front or side yards of any Lots for more than twenty-four (24) hours unless stored in the backyard of a Lot, a garage or other structure as approved by the Architectural Committee.
- i. <u>Exterior Maintenance</u>. Each Owner of a Lot on which there is a structure shall provide exterior maintenance upon such Lot and structure to include painting and repairing the structure, maintaining any lawn and the entire Lot to preclude weeds, underbrush and other unsightly objects to accumulate or remain on the grounds.
- j. <u>Boulevard Maintenance</u>. Each Owner shall maintain the trees and landscaping within the boulevard area adjacent to each Owner's Lot. The maintenance shall include, without limitation, watering, mowing and landscaping in such fashion so as to maintain the trees and landscaping in an attractive appearance. Maintenance shall be in conformance with existing City regulations.
- k. <u>Seeding and Planting</u>. Within six (6) months of the completion or occupancy of the primary structure erected on any Lot, whichever occurs first, the Owner of such Lot shall seed, plant and landscape the entire Lot.
- Fences. No fence or comparable structure shall be constructed or placed on any Lot until after the height, color, type, design and location thereof shall have been approved by the Architectural Committee. No fence shall be allowed in the front of any dwelling unit. No fende shall be placed outside of a property line. Fences are structures and are specifically included under the provisions of this Declaration addressing exterior maintenance. Fences shall only be constructed of wood, chain-link, decorative wrought iron or vinyl. The height of such fences shall be no

greater than six feet. Maintenance shall be in conformance with existing City regulations.

- m. <u>Decks</u>. Decks are permitted, but may only be located in the backyard areas and may not wrap around the sides of the dwelling subject to the prior approval of the Architectural Committee.
- n. <u>Grade</u>. All buildings shall be situated such that the finished grade has positive drainage away from the building. The Architectural Committee may act in an advisory capacity for such matters.
- o. Animals. There shall be no livestock whatsoever allowed upon the premises. No more than two dogs or two cats or one cat and one dog may be kept on each Lot. No cats or dogs shall be permitted or allowed to run at large. Any kennel must be located in the back yard area, out of sight from other Lots. No commercial breeding operation may be maintained on the premises. Dogs should be kept in an enclosed structure when not under the direct supervision of its owner. Pet food shall be stored indoors.
- p. Storage Sheds/Playhouses. Storage sheds and playhouses may be located in back yards only. Storage sheds and playhouses must be constructed of materials and with design standards and color schemes similar to those of the dwelling they serve. Storage sheds may not exceed 100 square feet and cannot exceed a height of eight feet from grade to the highest point of the structure.
- q. Temporary Dwellings. No structure of a temporary character shall be constructed, placed or used on any Lot at any time as a residence or otherwise, nor shall any building be occupied for residential purposes until it is completely finished in accordance with the plans approved by the Architectural Committee. Campers, trailers, mobile homes or recreational vehicles shall not be used as either permanent or temporary dwellings. Provided that Declarant's construction offices, sales offices, construction buildings shall not be prohibited by this Declaration for so long as the Declarant owns one or more Lots.
- r. <u>Utility Connection Costs</u>. The Owner of each Lot shall pay all utilities and utility connection costs including those for television cable and the cost of the water meter utilized on each Lot.
- s. Wood Burning Devices. No solid fuel burning devices of any type shall be permitted or used in any residential structure erected upon any Lot in the Real Property. This specifically includes, but is not limited to, fireplaces, wood burning stoves, pellet stoves, fireplace inserts, or similar devices.



- t. <u>Mining</u>. No mining or mineral removal activity, including the removal of gravel or sand except for as necessary for the construction of a permitted structure and/or landscaping purposes shall be permitted on any Lot or roadway within the Real Property.
- u. <u>Ingress and Egress</u>. Declarant retains rights of ingress and egress to, upon, and from the Real Property for purposes of locating, installing, erecting, constructing, maintaining, expanding or using waterlines, drains, sewer lines, electric lines, telephone lines and other utilities.
- v. Weed Control. The Owner of each Lot shall maintain his Lot in conformity with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. The Owner of each Lot shall be responsible for the control of noxious weeds and vegetation on the entirety of such Owner's Lot. In the event an Owner fails to provide such control, the Homeowners' Association may enter the Lot and provide such control at the expense of the Owner of the Lot concerned.
- w. <u>Utilities, Wiring and Antennas</u>. All utility service lines shall be located underground. No exterior television or radio antennas, or satellite dishes larger than one meter in diameter shall be placed or permitted to remain on any Lot and shall be located so as to be as inconspicuous as possible, at such location as approved by the Architectural Committee.

Electrical above ground transformers (herein "Pad Mounted Transformers") may be located in the utility easements on the Real Property by the electrical service provider for the Development in order to provide the electrical service for the Property. Construction, erection or placement of any structure or building on Lots which have Pad Mounted Transformers on them must comply with this paragraph and comply with applicable electrical service regulations. There must be a 10 foot clearance between Pad Mounted Transformers and any combustible structures or walls constructed on the Real Property unless a noncombustible wall or surface is constructed between the Pad Mounted Transformer and the combustible structure in conformance with applicable electrical construction standards. A non-combustible wall or surface must be constructed a minimum of 2 feet from the Pad Mounted Transformer of 500kVA, or less, and a minimum of 3.5 feet from Pad Mounted Transformer of 750kVA, or more. The combustible structure, wall or overhang must be a minimum of 10 feet, measured by the direct line of sight not passing through the non-combustible structure, from the Pad Mounted Transformer to the combustible structure, wall or overhang. Non-combustible materials include brick, concrete, stone, steel or cinderblock materials that have been approved by the Architectural Committee.

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- x. <u>Wildlife</u>. The Declarant advises the Owners of the potential problems associated with the occasional presence of bears, mountain lions, deer and other wildlife. Owners are advised to protect vegetation from damage, to confine their pets and to properly store garbage and other items that might attract wildlife. Artificial feeding of wildlife is prohibited. Owners should refer to Montana Fish Wildlife and Parks brochure, entitled *Living With Wildlife* and exert their best efforts to adhere to the information and practices provided therein.
- y. <u>Radon Mitigation</u>. EPA has designated Missoula County as having a high radon potential (Zone 1). All residences should incorporate passive radon mitigation systems into the design.
- z. Address Signs. All residences within this subdivision shall post address signs visible from the street. Address numbers need to be placed on a contrasting background. All signs must be approved by the Architectural Committee and of a size and design as meets the requirements of the Missoula City Engineer and Missoula City Fire Department standards.
- aa. Basements. Basements shall be prohibited in all phases until such time as the developer provides sufficient evidence to the appropriate governmental agencies that no threat to the public safety or loss of property will result in those areas proposed for basements. In Phases of the Development west of Belt Buckle Way, the lowest finished floor, of any structure and mechanical equipment shall be at least 2' above the 100-year flood elevation of Grant Creek as established by HDR, Inc. Pre and post construction Elevation Certificates shall be submitted documenting the lowest floor and utility elevations are a minimum of 2' above the base flood elevation.
- bb. Water Wells. The individual lots in the Real Property are supplied by a public water system and service. In order to protect the aquifer and the public water supply, no individual water wells shall be allowed on any residential lot. This restriction does not apply to the Common Areas or Parks. In the event that water wells are used for the Common Areas or Parks, no use of water from such wells shall be allowed for any individual residential lots in the Real Property.
- water Ditches and Water Rights. The lots in 44 Ranch have no surface water rights. To the extent that water ditches adjoin any lot, the water in the ditches is <u>not</u> the property of either individual Lot owners of 44 Ranch or of the Home Owners Association. Owners and the Home Owners Association are not allowed to use the ditch water for any purpose or to interfere with the delivery of water through any water ditch as designated on the Plat for 44 Ranch. No structures or vegetation shall be placed



within the ditch area or near any water ditch which will interfere with the construction, maintenance, repair or inspection of any water ditch.

- 7. Lot Restrictions and Covenants.
 - a. Type of Residential Structures. No residential structures shall be erected, altered, placed or permitted to remain on any Single Family Lot other than one single family residential structure. A single-family residential structure may include a one story, one and one-half story or two-story residence. All structures shall be constructed of new materials. However, suitable used materials or recycled materials, such as used brick or beams, may be utilized for aesthetic purposes and but must have prior approval by the Architectural Committee before use of such used or recycled materials. No old structures whether intended for use in whole or in part as the primary building or as a garage or other structure shall be moved upon any Lot.
 - b. Residential Structure Size. The ground floor area of any main structure located on a Lot, exclusive of open porches and garages, shall be not less than 800 square feet for a one-story house and 1100 square feet of above ground living area for a one and one-half story or two-story house.
 - c. Residential Use. All Lots shall be known and described as residential Lots and no business, trade, or commercial activity of any kind or description shall be conducted thereon, other than as permitted pursuant to the Zoning District. This restriction shall not be deemed to prohibit the rental of a Single Family Dwelling for residential purposes.
 - d. Maintenance of Original Design. No single family dwelling or garage shall be renovated or remodeled so as to change the external appearance of such structure. Such restriction shall include, but is not limited to, a prohibition against enclosing or removing the front porches on the single family dwellings. Any outbuildings placed on a Lot shall also comply with the common architectural theme as the single family dwelling located on the same Lot, including consistency with siding and roofing materials and color themes. Prior to undertaking any renovation, remodeling or adding an outbuilding to a Single Family Lot, each Owner shall present the plans and first obtain the consent and approval of the Architectural Committee for such renovation, remodel or addition as provided in this Declaration.
 - e. Re-Subdivision. No Lot may be further subdivided.
 - f. <u>Signs</u>. No advertising signs, billboards or unsightly objects shall be erected, placed or permitted on any Lot. However, exceptions are permitted as follows:



- For one small (less than six square feet) "For Rent" sign or For Sale" upon each Lot;
- ii. For a period of ten years from the date of this Declaration, the Declarant shall be permitted to place signs within the Real Property to promote the development of the Real Property; and
- iii. For signs pertaining to any political campaign or ballot issue, but only for a period of thirty days prior to the election to which the sign pertains.
- g. Garages. Garages may be attached to the residential structure or constructed as a detached structure. All garages must be constructed with materials and design standards and color schemes similar to and compatible with those of the dwelling they serve. Garages on lots less than 60 foot wide that are adjacent to an alley and a 1 foot no-access strip between the Lot and the street shall be accessed from the alley.
- h. <u>Carports</u>. No carports are permitted.
- i. RSID/SID Waiver. Acceptance of a deed for a Lot within 44 Ranch constitutes assent of the Lot Owner to waive the right to protest any future RSID/SID for improvements for the benefit of 44 Ranch property including, but not limited to, the installation of paving, drainage facilities, curbs and gutters, traffic control devices, pedestrian walkways or bikeways to George Elmer Drive, Chuck Wagon Drive (previously known as Half Hitch Drive in the Preliminary Plat), Shindig Drive and all istreets within, and providing access to, 44 Ranch subdivision based upon the benefit to the 44 Ranch Subdivision. This waiver shall run with the land and shall be binding upon the transferees, successors and assigns of owners of land within 44 Ranch.
- 8. Architectural Control Committee.
 - a. Appointment of Architectural Committee. An Architectural Committee, consisting of three members, shall be appointed in order to carry out the duties as set out in this Declaration. The Architectural Committee shall be appointed by the Declarant, until such time as Declarant no longer holds an ownership interest in any Lot. Thereafter, the Board of Directors of the Association will appoint three persons to serve on the Architectural I Committee, which shall consist of two Directors and any additional Members. No person shall be a member of the Architectural Committee who is not actively engaged and/or experienced in land development, land planning, architecture, engineering or such other fields that would lend background experience to such person to responsibly and reasonably judge the intent of these restrictions and the conformity of the submitted

plans and specifications to the development of the Properties and these covenants.

- b. Architectural Committee Approval of Construction Plans. No site work or preparation shall be commenced, no building or other structure shall be started, constructed, installed, erected or maintained on any Lot, nor shall any addition, renovation or remodeling thereto or change or alteration therein, be made until the complete plans and specifications for the same has been submitted to and approved in writing by the Architectural Committee. Said plans and specifications shall include but not be limited to the following; site plan, the designs, dimensions, location and principal materials, colors and color schemes to be used, as well as a full description of all fences, lighting, off-street parking, and landscaping planned in connection with the construction. Prior to commencement of any construction or approval of plans for construction, the Architectural Committee shall require the submission of the following detailed preliminary information:
 - (i) Location of all proposed and/or present structures;
 - (ii) Location of all access points, roads or driveways'
 - (iii) Proposed materials to be used in construction;
 - (iv) Proposed fences, location and materials:
 - (v) Landscaping;
 - (vi) Site grading plan;
 - (vii) Contour plot plan of the area to be developed;
 - (viii) Location of all utilities and services;
 - (ix) Building footprint;
 - (x) Building plans:
 - (xi) Detailed exterior elevations and exterior openings of Buildings
 - (xii) Exterior finishes, materials and colors;
 - (xiii) Square footage.

Approval or disapproval by the Architectural Committee shall be in writing. In the event the Architectural Committee fails to act on a request for an approval within sixty (60) days of the submission of all required materials and payment of fees, no specific approval shall be required and the provisions requiring Architectural Committee approval shall be deemed met.

The Architectural Committee shall not be liable to any owner for any damage, loss or prejudice suffered as a result of the performance of the Architectural Committee; provided however such Architectural Committee has, with the knowledge before them, acted in good faith.

c. <u>Fees for Approval</u>. The Architectural Committee reserves the right to require reasonable fees to be paid with the filing of the plans and



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specifications and the issuance of building or other approvals. Any undertaking that is approved under this section shall be concluded in strict accordance with the approved plans and specifications. Approvals may be based on engineering, architectural, legal or aesthetic grounds.

Airport Influence/Affected Area. This property is in the Airport Influence/Affected Area and subject to the requirements of the Airport Influence Area Resolution. The 44 Ranch Subdivision may also be within an Extended Approach and Departure Zone for a proposed second runway as shown in the Airport Authority's 2004 Plan and Lot Owners should be aware of the resultant safety risk. Lot owners should consult the Airport Layout Plan and any relevant documents to determine the status of the proposed runway location at the time of purchase. The placement and construction of any proposed second runway is subject to prior governmental approval.

The portion of the Property that is located within the Missoula County Airport Influence/Affected Area is subject to the requirements of the Missoula County Airport Influence/Affected Area Resolutions. The resolutions that created the Airport Influence Area were adopted by the Board of County Commissioners for Missoula County pursuant to resolution No. 78-96 and amended by Resolution No. 78-187 dated July 5, respectively, and recorded in Book 121 of Micro 1978 and December 6, 1978, Records, page 1391 (Resolution 78-96), Book 135 of Micro Records, page 474 (Amendment by Resolution 78-187) and Book 749 of Micro Records, Page 1077 (Amendment by Resolution 2005-033). A portion of the real property is further subject to an Avigation Easement entered between the Declarant and the Missoula County Airport Authority, dated the 11th day of October, 2006 and recorded on the records of the Missoula County Clerk and Recorder in Book 784, Micro Records at Page 1519, all of which limit and restrict the rights of the Owners of 44 Ranch, now and into the future. The limitations and restrictions set out in these documents should be reviewed carefully prior to purchase by all prospective purchasers of Lots. Prospective purchasers and Owners are advised that the operations at the airport may change and/or expand in the future, thereby changing and/or expanding the impacts felt on the portion of the Real Property subject to the Avigation Easement. Prospective purchasers and Owners are advised and should consider before purchasing a Lot that noise, vibration, dust, fumes, smoke, vapor and other such similar effects from aircraft may occur, which may cause inconvenience or annoyance that may vary from Lot to Lot and that may affect people in different ways or extent. Federal funding for soundproofing, other mitigation of these impacts, or for acquisition of these properties is not available at present, nor in the future. The provisions of paragraph 3 of the above-described Avigation Easement executed by the Declarant provides for a full waiver and release by Lot Owner and Declarant of any right or cause of action which it now has or may have in the future against the Missoula County Airport Authority, its successors and assigns, on account of or arising out of such noise, vibration, dust, fumes, smoke, vapor or other similar effects heretofore or hereafter caused by the aircraft in said air space and/or by operations at the Missoula County Airport. The acquisition of a Lot or Lots in 44 Ranch subject to the Avigation Easement and the aforementioned Resolutions by a prospective purchaser shall constitute an express acknowledgment and agreement by

such prospective purchaser on behalf of prospective purchaser, its heirs, personal representatives, successors and assigns, that prospective purchaser fully waives and releases Declarant, Shelter West and Grass Valley Project, LLC, and their successors and assigns, as well as the Missoula County Airport Authority and its successors and assigns, of any right or cause of action which prospective purchaser or Lot Owner now has or may have in the future as the purchaser and occupant of 44 Ranch against Grass Valley Project, LLC, Shelter West, Inc., and/or the Missoula County Airport Authority and their respective successors and assigns, on account of or arising out of such noise, vibration, dust, furnes, smoke, vapor or other similar effects heretofore or hereafter caused by the operation of aircraft in the air space and/or by the operations at the Missoula County Airport within the Missoula County Airport Influence/Affected Area. This paragraph may not be revised without the written consent of the Missoula County Airport Authority, which consent shall not be unreasonably withheld.

- 10. <u>Duration.</u> The covenants, conditions, charges and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, or assigns in perpetuity.
- 11. Enforcement. The Association, any Owner or the Declarant shall have the option and right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this Declaration. The method of enforcement may include legal action seeking an injunction to prohibit any violation, to recover damages, or both. Failure by the Association, any Owner, or by the Declarant, to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter.
- 12. Attorney's Fees. Should any lawsuit or other legal proceeding be instituted against an Owner, who is alleged to have violated one or more of the provisions of this Declaration, the prevailing party in such proceeding shall be entitled to reimbursement for the costs of such proceeding, including reasonable attorney's fees.
- 13. <u>Severability</u>. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
- Amendment. The Declarant reserves the sole right to amend, modify, make additions to or deletions from this Declaration that it alone deems appropriate, for so long as Declarant owns one or more of the Lots, whether final platted or described by preliminary plat, subject to this Declaration. After that time the right to amend shall pass to the Owners, who upon the written consent of 66% of the Owners may amend, modify, make additions to or deletions from this



Declaration. No such modification or amendment shall be effective until a written instrument evidencing such modification or amendment, together with the necessary consents are executed and recorded upon the records of the Missoula County Clerk and Recorder. No part of this Declaration, or covenant contained herein, relating to maintenance of common areas and alley, may be changed without prior written consent of the Governing Body. Further, Section 9, Airport Influence/Affected Area shall not be amended, without prior written consent of the Missoula County Airport Authority, which consent shall not be unreasonably withheld.

15. <u>Liability of Declarant</u>. The Declarant shall have no liability for any of its actions or failures to act, or for any action or failure to act of any Owner of any Lot.

GRASS VALLEY PROJECT, LLC a Montana Limited Liability Company

BY:

Kevin Mytty

ITS: Managing Member

STATE OF MONTANA County of Missoula

This instrument was acknowledged before me on this 12 day of cotoner, 2006, by Kevin Hytty, known to me to be the



<u>Managing Member</u> of Grass Valley Project, LLC, a Montana limited liability company.

B. CLONINGER Notary Public for the State of Montana Residing at Missoula, MT My Comm. Expires July 19, 2007.	Printed Name of Notary <u>Q Cloninger</u> Notary Public for the State of Montana Residing at My Commission Expires
SHELTER WEST, INC. a Montana Corporation	

Its: President (STATE OF MONTANA

County of Missoula

Kevin Mytty

This instrument was acknowledged before me on this tell day of October, 2006, by Kevin Mytty, known to me to be the President of Shelter West, Inc., a Montana Corporation.

B. CLONINGER Notary Public for the State of Montana Residing at Missoula, MT My Comm. Expires July 19, 2007.	Printed Name of Notary O. Cloninger Notary Public for the State of Montana Residing at My Commission Expires
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CERTIFICATION OF ATTORNEY

The undersigned ROBERT J. SULLIVAN, of the law firm of Boone Karlberg P.C., Missoula, Montana, does hereby certify that he is an attorney licensed to practice law in the State of Montana, that he prepared the foregoing Declaration of Covenants, Conditions and Restrictions, and that it is the opinion of the undersigned that the foregoing complies with the lawful subdivision regulations of the County of Missoula and City of Missoula.

2006.

State of Montana

County of Missoula

This instrument was acknowledged before me on this <u>اك</u> day of <u>المطابة</u>, 2006, by Robert J. Sullivan.

Printed Namé \

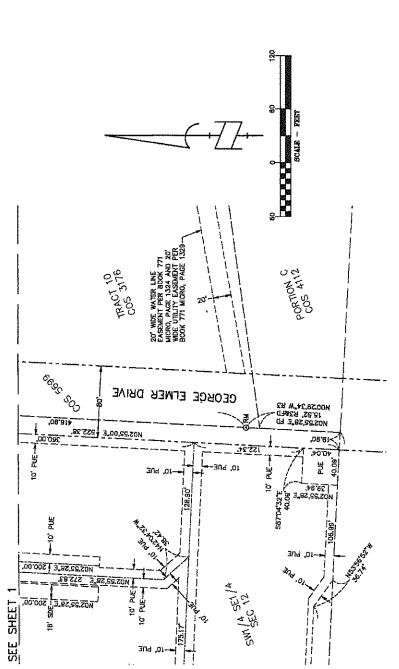
Notary Public for the State of Montana

Residing at Missoula, Montana

My Commission Expires: ___

Q PLAT OF 44 RANCH, I A SUBDIVISION OF TI LOCATED IN TH.

MONTANA THE S 1/2 OF SECTION W., PRINCIPAL MERIDIAN, 1 岩岩



THE FOLLOWING NOTES ARE PLACED HEREON AS REQUIRED BY THE CITY OF MISSOULA

ASSENT OF THE LOT OWNER TO WAVE THE RIGHT TO PROTEST A FUTURE RSID/SID ROSENT OF THE LOT OWNER TO WAVE THE RIGHT TO PROTEST A FUTURE RSID/SID PROMINENTS INCLUDING BUT NOT LIMITED. TO THE INSTALLATION OF PAYING, DRAINAGE FACILITIES, CURBS AND GUITERS, PEDESTRIAN WALKWAYS OF BIKEWAYS TO GEORGE ELMER DRIVE, CHUCK WAGON DRIVE, SHINDIG DRIVE, AND ALL STREETS WITHIN THE 44 RAND SHALL BE BINDING ON BENETT, THE WAVER SHALL RIGHTS WITHING THE OWNERS OF THE LAND.

2) THIS PROPERTY IS IN THE AIRPORT INFLUENCE AREA AND SUBJECT TO THE RECUIREMENTS OF THE AIRPORT INFLUENCE AREA RESOLUTION. THE 44 RANCH SUBDIVISION MAY ALSO BE WITHIN AIR EXTRIBED APPROACH AND DEARTHRE ZONE FOR A PROPRISE SECOND RUNNAY AS SHOWN IN THE AIRPORT AUTHORITY'S 2004 PLAN AND LOT OWNERS SHOULD BE AWARE OF THE RESULTANT SAFETY RISK. LOT DOWNERS SHOULD CONSULT THE AIRPORT LAYOUT PLAN AND ANY RELEVANT DECLARENTS TO DETERMINE THE STATUS OF THE PROPOSED RUNNAY LOCATION AT THE TIME OF PURCHASE.

CERTIFICATE * * * * SURVEYOR'S

I, KIRK F. ADKINS, PROFESSIONAL LAND SURVEYOR, MONTANA LICENSE NO. 167341S, HEREE THAT HOSE INERS SHOWN ON THE ATTACKED PLAT PERTAINING TO THE PRACTICE OF LAN AS DETNED IN TITLE 37. CHAPTER 67. MONTANA CODE ANNOTATED, REPRESENT A SURVEY MY DIRECT SUPERMISCH, AND FURTHER PHS SURVEY WAS COMPLETED ON THE DATE SHOW