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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR

TRAILVIEW SUBDIVISION

This Declaration of Covenants, Conditions, Restrictions and Easements for TRAILVIEW (the "Declaration") is made this 2nd day of October, 2019, by Trail View, LLC, a Montana limited liability company (hereinafter the "Declarant").

ARTICLE I
STATEMENT AND PURPOSE AND IMPOSITION OF COVENANTS

Section 1.1. *Owner.* The Declarant is the owner of the property in Flathead County, Montana, lying and situated in the northwest one-quarter of the northwest one-quarter (NW1/4 NW1/4) of Section 5, Township 30 North, Range 21 West, P,M.M., more particularly described as follows (the "Property"):

See Exhibit "A" which is attached hereto and incorporated by reference.

Section 1.2. *Purpose.* The purpose of the Declarant in making this Declaration is to implement and impose covenants for the subdivision known as Trailview on the Property (the "Project" or "Trailview").

The Declarant intends to ensure the attractiveness of the Property, including the residences and other improvements constructed on it; to prevent any future impairment of the Property and to guard against the construction on the Property of improvements of improper or unsuitable materials or with improper quality or methods of construction; to protect and enhance the value and amenities of the Property; to provide for the operation, administration, use and maintenance of the private roadway areas within the Property; to preserve, protect and enhance the values and amenities of the Property; and to promote the health, safety, and welfare of the owners of the Property.

Section 1.3. *Imposition of Covenants.* To accomplish the purposes indicated above, the Declarant hereby declares that from the date of recording this Declaration forward, the Property

will constitute a subdivision known as Trailview, and will be held, sold, and conveyed subject to the following covenants, conditions, restrictions and easements (collectively, these "Covenants"). These Covenants will run with the land and will be binding upon all persons or entities having any right, title, or interest in all or any part of the Property (including Declarant) and their heirs, successors, and assigns, and their tenants, employees, guests, and invites. These Covenants will inure to the benefit of each owner of the Property.

ARTICLE II
DEFINITIONS

The following terms, as used in this Declaration, are defined as follows:

Section 2.1. *"Annual Assessment"* means the Assessment levied annually pursuant to Section 9.3.

Section 2.2. *"Articles" or "Articles of Incorporation"* means the Articles of Incorporation of the Trailview Homeowners' Association, a Montana non-profit corporation, which have been filed with the Montana Secretary of State, as such articles may be amended from time to time.

Section 2.3. *"Assessments"* means the Annual, Special and Default Assessments levied pursuant to Article IX to meet the estimated cash requirements of the Association.

Section 2.4. *"Bylaws"* means the bylaws of the Association which establish the methods and procedures of its operation, as such bylaws may be amended from time to time.

Section 2.5. *"Common Area"* means any real property shown as roads, alleys, easements, common areas, open space or as an access lot on the final Plat or Plats of Trailview, records of Flathead County, Montana and any other property in which the Association owns an interest for the common use, benefit and enjoyment of the Members. The internal road shown as "Trailview Way" on the Trailview Subdivision Plats is open to public access at all times.

Section 2.6. *"Common Expenses"* means (i) premiums for the insurance carried by the Association under Article XIII; (ii) all other expenses incurred by the Association in administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Area and any Improvements located on it; (iii) all expenses expressly declared to be Common Expenses by the Trailview Documents; (iv) all expenses lawfully determined to be Common Expenses by the Board of Directors; and (v) all expenses to be allocated among the Owners as provided in Article IX.

Section 2.7. *"Declarant"* means Trail View, LLC, a Montana limited liability company, or its successors or assigns, including any Successor Declarant.

Section 2.8. *"Default Assessment"* means any Assessment levied by the Association pursuant to Section 9.5 below.

Section 2.9. *"Design Guidelines"* means the guidelines and rules that may published and amended and supplemented from time to time by the Design Review Committee.

Section 2.10. *"Design Review Committee" or "Committee"* means the committee formed pursuant to Article VI to maintain the quality and architectural harmony of improvements in Trailview.

Section 2.11. *"Development Rights"* is defined in Section 11.1.2.

Section 2.12. *"Expansion Property"* means such additional real property now owned or in the future acquired by Declarant (including any Successor Declarant) as Declarant may make subject to the provisions of this Declaration, by duly recorded Declaration of Annexation.

Section 2.13. *"Trailview Homeowners' Association"* or the *"Association"* means the Trailview Homeowners' Association, a Montana non-profit corporation, and any successor of that entity by whatever name.

Section 2.14. "*Trailview Rules*" means the rules and regulations adopted by the Association from time to time.

Section 2.15. *"Improvement(s)"* means all buildings, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, ponds, lakes, trails, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original improvements and all later changes and improvements.

Section 2.16. *"Lot"* means a parcel of land designated as a lot on any Plat of the Property.

Section 2.17. *"Maintenance Fund"* means the fund created by Assessments and fees levied pursuant to Article IX below to provide the Association with the funds required to carry out its duties under this Declaration.

Section 2.18. *"Member"* means any person or entity holding membership in the Association.

Section 2.19. "*Owner*" means the owner of record (including Declarant, and including the most recent contract purchaser, but excluding all contract sellers), whether one or more persons or entities, of fee simple title to any Lot or, if the Lot is subject to one or more contracts for deed, the owner of the purchaser's interest in the most recent contract for deed, but "Owner" does not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a mortgage or trust indenture, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

Section 2.20. "*Period of Declarant Control*" means the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana, and ending on the date which is the later of i) the 15 year anniversary of the recording of this Declaration, or ii) the Declarant's arm's length sale to third parties of all Lots within the Project. The Period of Declarant Control may be terminated on a date earlier than specified herein, in the sole discretion of the Declarant, upon the Declarant providing sixty (60) days written notice of intent to terminate early to all Owners.

Section 2.21. "*Person*" (whether or not in capitalized form) means a natural person, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or combination of the foregoing.

Section 2.22. "*Plat*" means any plat or survey of all or part of the Property, together with such other diagrammatic plans and information regarding the Property as may be required by applicable law, or as may be included in the discretion of Declarant, as each such plat or survey may be supplemented from time to time, and all as recorded in the office of the Clerk and Recorder for Flathead County, Montana.

Section 2.23. "*Property*" means and includes the property described on *Section 1.1* and initially subjected to this Declaration, and also refers to any additional real property that may be incorporated in the Project from time to time and made subject to these Covenants pursuant to the provisions of this Declaration.

Section 2.24. "*Special Assessment*" means an Assessment levied pursuant to Section 9.4.

Section 2.25. "*Special Declarant Rights*" is defined as set forth in Article XI and Article XII below.

Section 2.26. "*Trailview Documents*" means the basic documents creating and governing Trailview, including, but not limited to, this Declaration, the Articles of Incorporation, the Bylaws and any other procedures, rules, regulations or policies adopted under such documents by the Association, all as may be amended from time to time.

Section 2.27. "*Successor Declarant*" means any party or entity to who Declarant assigns any or all of its rights, obligations or interest as Declarant, as permitted by Section 18.7 of this Declaration and evidenced by an assignment or deed of record in the office of the Clerk and Recorder of Flathead County, Montana, designating such party as a Successor Declarant, signed by the transferor and the transferee. Upon such recording, Declarant's rights and obligations under the Declaration will cease and terminate to the extent provided in such document, and all such rights and obligations shall be transferred to and assumed by the Successor Declarant to the extent provided in such document.

ARTICLE III
EXPANSION AND PLAT

Section 3.1. *Development Rights*. Declarant reserves the right to exercise all Development Rights in connection with the Trailview subdivision in accordance with Article XI and Article XII below.

Section 3.2. *Declaration of Lot Boundaries*. The boundaries of each Lot are delineated on the Plats, and each Lot is identified by the number noted on the Plats.

Section 3.3. *Plats*. The Plat or Plats of the various phases have or will be filed of record in the office of the Clerk and Recorder of Flathead County, Montana.

ARTICLE IV
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 4.1. *Membership*. Every Owner, by virtue of being an Owner, and for so long as it is an Owner, will be a Member of the Association. Membership will be appurtenant to and may not be separated from ownership of any Lot. No Owner, whether one or more persons, will have more than one membership per Lot owned, but all of the persons owning each Lot will be entitled to rights of membership and of use and enjoyment appurtenant to such ownership. The Declarant shall be considered an Owner and shall be a Member of the Association with all of the same privileges of the other Owners and Members. For purposes of voting, the Declarant shall have one vote for each Lot owned by the Declarant.

Section 4.2. *Transfer of Membership*. An Owner may not transfer, pledge or alienate its membership in the Association in any way except upon the sale or encumbrance of his Lot, and then only to the purchaser or Mortgagee of his Lot.

Section 4.3. *Classes of Membership*. The Association will have one class of voting membership, composed of all Owners, including Declarant, except that the Declarant shall have such additional rights and responsibilities as expressly provided in this Declaration.

Section 4.4. *Voting Rights*. All Members will be entitled to vote on Association matters on the basis of one vote for each Lot owned.

Section 4.5. *Appointment of Officers and Directors by Declarant*. Until the expiration of the Period of Declarant Control, Declarant will retain the exclusive powers to appoint, remove and replace Directors and officers of the Association.

ARTICLE V
POWERS AND DUTIES OF TRAILVIEW HOMEOWNERS' ASSOCIATION

Section 5.1. *Association's Management Duties*. Subject to the rights and obligations of Declarant as set forth in this Declaration, the Association will be responsible for the administration and operation of the Trailview subdivision. The Board of Directors will exercise for the Association all powers, duties and authority vested in or obligated to be taken by the Association and not reserved to Declarant or the other Members by this Declaration, or by other applicable law.

Section 5.2. *Common Area.*

5.2.1. *Use of Common Area.* The Common Area generally is designated by this Declaration for the common use, benefit and enjoyment of the Owners and their families,

tenants, employees, guests and invitees. The internal road shown as "Trailview Way" on the Trailview Subdivision Plats is open to public access at all times.

5.2.2. *Association's Responsibility for Common Area.* The Association, subject to the rights and obligations of the Owners set forth in this Declaration, shall be responsible for the management, maintenance and control of the Common Area and shall be responsible for maintaining all private roads, alleys and parking areas within the Property, except private driveways located on the Lots located on the Property, which shall be the responsibility of the Owners of the Lot. Such maintenance will include repair and replacement of such private roads, as well as periodic maintenance of the surface and regular snow, ice, and trash removal from all private roads within the Property (See Long-Term Maintenance Plan). All Owners shall pay to the Association such amounts for road and storm system maintenance and repairs, including a reserve for replacement, as may be set from time to time by the Association relating to the Common Area.

5.2.3. *Association's Agreement Regarding Storm Water System.* The Association shall be responsible for maintaining the storm system which includes the collection system and the hydrodynamic vortex separator unit. Such maintenance will include repair and replacement as well as periodic inspection and maintenance as set forth in the Long-Term Maintenance Plan for Trailview Subdivision.

5.2.4. *Association's Agreements Regarding Common Area.* The Association, acting through the Board of Directors, may grant easements, rights-of-way, leases, licenses and concessions through or over the Common Area without the independent approval by the Owners. Without limiting the generality of the foregoing, the Association may grant such rights to suppliers of utilities serving the Project or property adjacent to the Project, and to developers or owners of property adjacent to the Project for the purpose of accommodating minor encroachments onto the Common Area or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Area by the Owners.

Section 5.3. *Delegation by Association.*

5.3.1. *Committees.* The Association may delegate any of its rights, duties or responsibilities to any committee or other entity (in addition to the Design Review Committee) that the Board may choose to form.

5.3.2. *Limitation.* Any delegation by the Board under this Section is subject to compliance with the Bylaws and the requirement that the Board, when so delegating, will not be relieved of its responsibilities under the Trailview Documents.

Section 5.4. *Books and Records.* The Association will make available for inspection by Owners and Mortgagees, upon request, during normal business hours or under other reasonable circumstances, current copies of the Trailview Documents, and the books, records, and financial statements of the Association prepared pursuant to the Bylaws.

Section 5.5. *Reserve Account.* The Association will establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Section 9.3 below for maintenance, repair or replacement of the private road and landscaping or improvements located within the Common Area.

Section 5.6. *Successor to Declarant.* Except as expressly provided otherwise herein, the Association will succeed to all of the rights, duties and responsibilities of the Declarant under this Declaration upon termination of the Period of Declarant Control.

ARTICLE VI
DESIGN REVIEW COMMITTEE

Section 6.1. *Committee.* There is hereby established a Design Review Committee, which will be responsible for the review and approval of all proposed Improvements on the Lots.

Section 6.2. *Committee Membership.* During the Period of Declarant Control, the Committee will be composed of at least two but no more than three persons. After expiration of the Period of Declarant Control, the Committee will be composed of three persons. All of the members of the Committee will be appointed, removed, and replaced by Declarant, in its sole discretion, until the expiration of the Period of Declarant Control or such earlier time as Declarant may elect to voluntarily waive this right by notice to the Association, and at that time the Board of Directors will succeed to Declarant's right to appoint, remove, or replace the members of the Committee.

Section 6.3. *Purpose and General Authority.* No Improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the Improvements have been approved by the Committee; provided, however, that Improvements that are completely within a building may be undertaken without such approval. The Owner shall submit a site plan and a building plan including elevations showing the design, location, material, color and exterior finish of proposed Improvements to the Design Review Committee. All expenses of the committee will be paid by the Association and will constitute a Common Expense. The Committee will have the right to charge a fee for application submitted to it for review, in an amount which may be established by the Committee from time to time. Until modified by the Committee and notice provided to the Owners, the review fee for remodeling, additions, or alterations shall be $250. All plans shall be submitted in accordance with the rules and procedures described in the Design Guidelines. All Improvements shall be constructed only in accordance with approved plans.

Section 6.4 *Design Guidelines.* The Design Review Committee may publish Design Guidelines which update the initial Design Guidelines described below and which set forth the procedures and criteria for review of Improvements to be constructed on any Lot, and for review of landscaping plans. Failure to follow procedures or criteria set forth in the published Design Guidelines shall form an adequate basis for rejection of the submitted site plan and elevations; provided, however, that this requirement shall not be construed as preventing the Declarant or the Design Review Committee, at their option, from waiving or amending the Design Guidelines at any time or with respect to any application. Failure to follow such procedures or criteria set forth in the Design Guidelines shall also be deemed a breach of this Declaration by such Owner and shall entitle the Association or the Design Review Committee to exercise and pursue the rights and remedies provided herein with respect to such breach.

Section 6.5. *Failure to Act.* In the event the Design Review Committee fails to approve or disapprove such design, location, materials, color and exterior finish within sixty days after the detailed site plan and elevations have been submitted to it, approval shall not be required and such Owner shall be deemed in compliance with this Article. Any plans, elevations and proposals so approved, either expressly in writing or by the expiration of the sixty day period hereinabove provided, shall then permit the Owner to commence construction in accordance with said plans and elevations, but any deviation from said plans and elevations which in the judgment of said Design Review Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plans and elevations as submitted.

Section 6.6. *Expert Consultation/Committee Discretion.* The Committee may avail itself or other technical and professional advice and consultants as it deems appropriate, and the Committee may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Committee. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant will be equivalent to approval or disapproval by the entire Committee. The Committee will exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in the Design Guidelines and the other Trailview Documents. The Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements.

Section 6.7. *Binding Effect.* The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, will be conclusive and binding on all interested parties.

Section 6.8. *Organization and Operation of Committee.*

6.8.1. *Term.* The term of office of each member of the Committee will be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Committee member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 6.2.

6.8.2. *Chairman.* So long as Declarant appoints the Committee, Declarant will appoint the chairman. At such time as the Committee is appointed by the Board of Directors, the chairman will be elected annually from among the members of the Committee by a majority vote of the members. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

6.8.3. *Operations.* The Committee chairman will take charge of and conduct all meetings and will provide for reasonable notice to each member of the Committee prior to any meeting. The notice will set forth the time and place of the meeting, and notice may be waived by any member.

6.8.4. *Voting.* The affirmative vote of a majority of the members of the Committee will govern its actions and be the act of the Committee.

Section 6.9. *Other Requirements.* Compliance with the Trailview design review process is not a substitute for compliance with Flathead County building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction.

Section 6.10. *Enforcement.*

6.10.1. *Inspection.* Any member or authorized consultant of the Design Review Committee, or any authorized officer, Director, employee or agent of the Association
may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being built in compliance with the Trailview Documents and the plans and specifications approved by the Design Review Committee.

6.10.2. *Deemed Nuisances.* Every violation of these Covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against Member will be applicable. Without limiting the generality of the foregoing, these Covenants may be enforced as provided below.

(i) *Fines for Violations.* The Committee may adopt a schedule of fines for failure to abide by the Committee rules and the Design Guidelines, including fines for failure to obtain any required approval from the Committee.

(ii) *Removal of Nonconforming Improvements.* The Association may, upon request of the Committee and after reasonable time after notice to the Owner, without being deemed guilty of trespass, remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants. The Owner of the Improvement will immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within 30 days after the Association gives the Owner notice of the expenses, the sum owed to the Association will bear interest at the maximum rate permitted under Montana law from the date the expense was incurred by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in Article IX.

Section 6.11. *Continuity of Construction.* All Improvements commenced on the Property will be prosecuted diligently to completion. If an Improvement is commenced and construction is then abandoned for more than ninety days, or if construction is not completed within the required twelve-month period described below in Section 7.4, then after notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine of not more than $50.00 per day to be charged against the Owner of the Lot until construction is resumed, or the Improvements are completed, as applicable.

Section 6.12. *Construction Damage Deposit.* Upon submitting an application to the Design Review Committee, the Owner shall submit a $2,500 construction damage deposit to the Association. The construction damage deposit shall be deposited and held in the Association's account and shall be returned to the Owner upon completion of construction if the Owner and the Owner's contractors do not damage the private roadway, curbs, gutters, sidewalks, common landscaping and other common elements. If damage occurs that is not promptly repaired by the Owner, the damage deposit will be utilized to repair the damage. If damage exceeds the damage deposit, the Owner shall be liable to the Association for all excess costs.

ARTICLE VII
PROPERTY USE RESTRICTIONS

Section 7.1 *General Restriction.* The Property will be used only for the purposes set forth in these Covenants, as permitted by the applicable regulations of the Flathead County, Montana and the laws of the State of Montana and the United States, and as set forth in the Trailview Documents or other specific recorded covenants affecting all or any part of the Property and no structure which fails to meet the following minimum standards shall be erected, placed or allowed to remain on any Lot. In general, the Design Review Committee shall have no power to approve any Improvement failing to meet the following minimum baseline standards. However, the Design Review Committee or The City of Whitefish shall have the power to grant individual variances on a case-by-case basis. The grant of a variance shall in no way be deemed to set a precedent for future variances or to otherwise waive the restrictions contained in these Covenants.

Section 7.2 *Single-Family Residence.* Upon obtaining the approval of the Design Review Committee, no more than one (1) single-family residence and one (1) garage may be built on each Lot.

Section 7.3. *Further Subdivision.* No Lot, other than Lots owned by the Declarant, shall be further subdivided.

Section 7.4. *Continuity of Construction.* All Improvements constructed on the Property will be prosecuted diligently to completion and shall be completed within twelve months from the date of commencement.

Section 7.5. *Temporary Buildings, Square Footage, etc.* No temporary building, shack, tent, house trailer, mobile home or modular structure shall be located on any Lot. No Improvement shall include a basement.

Section 7.6. *Building Materials.* All exterior building materials and surfaces shall be submitted to and approved by the Design Review Committee. All materials shall have finishes and textures compatible with the natural surroundings and the other Improvements situated in Trailview.

Section 7.7 *Exterior Colors.* The exterior colors of all Improvements must be submitted to and approved by the Design Review Committee. Bright and/or primary colors are not permitted. Colors shall be compatible with the natural surroundings and the other Improvements in Trailview.

Section 7.8. *Building Height.* The height of Improvements constructed on any Lot shall not exceed thirty eight feet maximum from the highest point on any Lot, projected in a vertical line to the natural existing grade directly below. The height of the Improvements must be in character with the natural surroundings and the other residences. Residences shall be nestled into the land, remaining low, in order to be a part of the Lot rather than perched upon it, which may result in unnecessary height.

Section 7.9. *Siting.* The location and orientation of all Improvements shall be submitted to and approved by the Design Review Committee prior to construction. A detailed site plan shall be submitted that shows the location and orientation of all proposed Improvements.

Section 7.10. *Projections.* All projections from Improvements, including but not limited to, chimney flues, vents, gutters, downspouts, utility boxes, railings, and exterior stairways shall match the color of the surface from which they project, or shall be a color approved by the Design Review Committee.

Section 7.11. *Site Work.* Owners are encouraged to alter as little of the Lot as possible from its native condition protecting native vegetation, water sheds, and drainage ways wherever possible. Residences shall be limited to the areas on the site where drainage, soil, and geological conditions provide a stable location for a foundation. Upon completion of construction, the soil around the residence shall be re-graded as nearly as possible to the original grade of the Lot. The Design Review Committee shall have the right to designate and flag major terrain features or vegetation (including trees) which are to be preserved during construction.

Section 7.12. *Landscaping.*

7.12.1 All proposed landscaping shall be reviewed and approved by the Design Review Committee. Owners shall submit a detailed landscape plan to the Design Review Committee. The type, size, and location of all trees and shrubs shall be specified in the plan.

7.12.2 Landscaping in Trailview shall be based on a concept of compatibility with the existing natural landscape, sensitivity to its fragile ecosystems, and a commitment to low water usage and energy-conserving techniques.

7.12.3 Existing natural features such as stands of trees, unique vegetative groupings, and natural drainage ways shall be preserved whenever possible.

7.12.4 Immediately after construction of any Improvement, all disturbed ground must be landscaped or re-vegetated.

7.12.5 All introduced boulder and rock features must be of a similar type and color to existing onsite rock settings. Artificially colored rocks shall not be permitted.

7.12.6 Weather permitting, all landscaping must be completed within two months of completion of construction of any Improvement. If construction is completed during winter months, landscaping shall be completed no later than the end of May.

Section 7.13. *Signs.* Except for the Trailview entrance sign, signs used by contractors, signs locating utilities, and address identification devices, no sign, billboard or advertising structure of any kind shall be erected, used or maintained on the Property. All address identification signs shall be visible from the roadway, either at the driveway entrance, the sidewalk entrance or on the residence as approved by the City of Whitefish fire Marshal.

Section 7.14. *Driveways.* All driveways shall be paved with asphalt or concrete from the street or alley to the garage.

Section 7.15. *Commercial Activity.* No profession, business, manufacturing, trade or commercial activity may be conducted on any Lot except home occupations as defined by City of Whitefish ordinance and which do not significantly increase traffic within the Trailview subdivision. No church, synagogue, mosques or other place of worship shall be located on any Lot. No Owner shall operate any daycare, pre-school or other child or person care facility on their Lot.

Section 7.16. *Setbacks.* Other than driveways, related appurtenances and landscaping related improvements, no Improvement shall be constructed outside of the setbacks for each Lot which shall be 25 feet in front, 3 feet in rear, and 10 feet total between buildings with a minimum of 3 feet on one side, except those properties boarding Monegan Road which shall have a setback of 10 feet from the Right of Way of Monegan Road on the easterly side of each such lot. Increased setbacks may be imposed by the Design Review Committee if the proposed construction fronts a natural drainage or an established wildlife habitat.

Section 7.17. *Front Setbacks.* Every Owner and the Association shall have a right and easement of enjoyment in and to the Common Area, including the easements over the Front Setback Area of every Lot, which shall be appurtenant to and shall pass with the title to every Lot. The Association shall, and the Lot owners shall not, maintain the Front Setback Area of each Lot. No lot owner shall install any improvement within the Front Setback Area of any Lot except as allowed in Section 11-2-3 of the City of Whitefish Municipal Code No owner shall store any item within the Front Setback Area of any Lot. The Association may use the Front Setback Area of any Lot as an area on which to plow snow.

Section 7.18. *Fuel Tanks.* No above or belowground fuel tanks shall be permitted on any Lot.

Section 7.19. *Motorized Vehicles.* No trucks exceeding one-ton capacity, trailers, unsightly or inoperable vehicles, boats, recreational vehicles of any kind or any type of equipment shall be parked or stored upon any Lot unless completely within an enclosed garage.

Section 7.20. *Maintenance.* All improvements located on any Lot shall be maintained in the same condition as at the time of initial construction, normal wear and tear excepted. All improvements shall be preserved and of a pleasant appearance by maintaining paint, stain or sealer as needed. If any improvement or landscaping is damaged or destroyed, the Owner shall promptly rebuild, repair and restore the structure to its appearance and condition prior to the casualty. Reconstruction or repair shall be completed within nine months of any casualty that damaged or destroyed the improvement or landscaping.

Section 7.21. *Roofing.* All roofing materials must be approved by the Design Review Committee. In general, metal roofs are not permitted. However, the Design Review Committee may grant variances to the no metal roof policy on a case by case basis for certain architectural grade metal roofs. Pursuant to the Conditions of Preliminary Plat approval issued by the Board of Commissioners of Flathead County, wood shake or wood shingles, treated or otherwise, are prohibited and all roofing materials must be either Class A or Class B fire resistant materials.

Section 7.22. *Fences.* The style, color, and location of all fences must be approved by the Design Review Committee. Fences shall not exceed four feet. Front yard fences are not permitted. For purposes of small animal control, upon obtaining the approval of the Design Review Committee, small areas attached to the side of the primary residence or garage may be enclosed with a solid wood fence that does not exceed four feet in height.

Section 7.23. *Utilities.* All utilities shall be buried underground. There shall be no exterior antennas except for small satellite dishes, which shall be unobtrusive.

Section 7.24. *Lighting.* All exterior lighting of the Improvements and grounds on the Property will be subject to review by the Design Review Committee and must follow the City of Whitefish Outdoor Lighting Standards (11-3-25). Site lighting is defined as lighting mounted on buildings, ground, trees, fences, or walls for the purpose of providing security, decorative accent or functional lighting to outdoor spaces. Building mounted lighting is defined as lighting built into or attached to buildings on walls, ceilings, eaves, soffits or fascias.

7.24.1. Site lighting must be directed downward onto vegetation or prominent site features and may not be used to light walls or building elements. Up lighting more than 45 degrees above the horizontal is prohibited and lighting aimed between zero and 45 degrees above horizontal must be directed toward the interior of the lot upon which it is located.

7.24.2 Building mounted lighting must be directed downward away from adjacent lots, streets and open spaces, and may not be used to light walls or building elements for decorative purposes.

7.24.3 All exterior lighting must provide for significant shielding to ensure that light sources and lamps do not impede the enjoyment of adjacent Lot by the Owners thereof. Recessed lights in exterior soffits, eaves, or ceilings shall have the lamp recessed a minimum of 3" into the ceiling.

7.24.4 Only incandescent lamps with a maximum wattage of 75 watts or LED lamps with a maximum wattage of 14 watts will be allowed for exterior lighting unless specific approval is received from the Design Review Committee. Low voltage lighting is recommended since these fixtures are typically small and can be easily concealed within the native vegetation. Colored lights will not be allowed for exterior lighting.

7.24.5 No lighting will be permitted in natural areas or outside the areas enclosed by patio or building walls. Site lighting must be confined to areas enclosed by walls or be in the immediate vicinity of the main entrance or outdoor living spaces of the residence.

7.24.6 Lights on motion detectors for the purpose of security illumination are prohibited but may be allowed subject to specific approval of the Design Review Committee if the lights so activated do not illuminate adjacent properties. If allowed by the Design Review Committee, these lights will only be allowed to operate on a motion detector and stay lit for a maximum of 5 continuous minutes. Security lights on any type of location must still meet the requirements of shielding the light sources, and the light sources may not be visible from neighboring property. If problems with these lights occur, the Design Review Committee reserves the right to demand that the fixtures be disconnected. If allowed, care must be taken to avoid setting off the motion detector by the motion of vegetation and the movement of wildlife. Generally, the motion detector's range should be limited to the setback perimeter of the Lot. Such lights will not be allowed to operate for the purpose of general illumination.

Section 7.25. *Animals.*

7.25.1. Except as provided below, no poultry or other birds (except pet birds kept inside a residence), horses, hogs, or other livestock or animals shall be kept or raised on any Lot.

7.25.2. Dogs, cats or other small household pets, not to exceed two in total, may be kept on each Lot.

7.25.3. All animals are to be leashed, fenced or otherwise confined to the Owner's Lot and not allowed to roam at any time.

7.25.4. No Owner shall have or keep any animal which whines or creates an ongoing disturbance for any other Lot Owner.

Section 7.26. *Nuisances.* No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which is or which may become an annoyance or nuisance to other Owners.

Section 7.27. *Landscape Maintenance.* All yards and landscaping features shall be maintained and shall not be allowed to become unsightly. Lawns and native grasses shall be watered and mowed on a regular basis. All weeds, including noxious weeds, shall be eradicated or controlled and all Owners shall fully comply with state and local law regarding the control and eradication of noxious weeds, including the Weed Management Plan promulgated by the Flathead County Weed Department and City of Whitefish Regulations (Title 4, Chapter 3). Undeveloped Lots must be mowed at least twice each year and may not be used as a dumping area for trimmings or grass clippings. Removal of trees of six inches or more in diameter shall require the written approval of the Association.

Section 7.28. *Garbage.* City of Whitefish Municipal Code for Solid Waste (Chapter 4 Title 2), shall be followed by all Lot owners. No Lot shall be used or maintained as a dump site or storage ground for rubbish, trash, garbage, junk vehicles, equipment or other waste. All refuse and other waste shall be removed as quickly as possible and not be allowed to become a noxious or visual detriment. Except on the collection day, all trash receptacles shall be screened from public view. Refuse receptacles shall be removed from public view no later than 7:00 p.m. on the collection day. All refuse shall be protected from disturbance by wind and animals.

Section 7.29. *Firearms.* Firearms shall not be discharged upon any Lot or the Common Area located on the Property.

Section 7.30. *Outhouses.* No outhouse or privy shall be permitted or maintained on any Lot, except that a chemical toilet shall be permitted on a Lot during the time a residence or other Improvements are being constructed.

Section 7.31. *Excavation.* No excavation will be made except in connection with Improvements approved as provided in this Declaration. For purposes of this Section, "excavation" means any disturbance of the surface of the land which results in a removal of earth, rock, or other substance a depth of more than 18 inches below the natural surface of the land.

Section 7.32. *Noise.* No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or improvements, will be placed or used on any portion of the Property.

Section 7.33. *Storage Sheds.* Storage sheds are permitted in Trailview subject to regulation and approval by the Design Review Committee. All storage sheds shall be designed and constructed to compliment the primary residence and shall be constructed of similar materials. Metal or plastic storage sheds are not permitted. No tools or implements (i.e. ladders, hoses) shall be hung on the exterior of storage sheds. Storage sheds shall comply with the setback requirements.

Section 7.34. *Gardens.* A detailed diagrammatic plan of any proposed garden shall be submitted to the Design Review Committee for review and approval. All gardens shall be for personal and family use only and no crops shall be grown for commercial purposes. Gardens shall be fenced to avoid attracting wildlife.

Section 7.35. *Construction Hours.* Per City of Whitefish Municipal Code (5-2-5), no construction activities that produce noise shall be performed from ten o'clock (10:00) P.M. until seven o'clock (7:00) A.M. the following morning. This restriction shall not apply to services performed by a public entity, including, but not limited to, trash removal services, snowplowing services, or emergency services; nor shall it apply to private snowplowing services.

Section 7.36. *Enforcement.* The Association may take such action as it deems advisable to enforce these Covenants as provided in this Declaration. In addition, the Association will have a right of entry on any part of the Property for the purposes of enforcing this Article, and any costs incurred by the Association in connection with such enforcement which remain unpaid 30 days after the Association has given notice of the cost to the Owner will be subject to interest at the Default Rate from the date of the advance by the Association through the date of payment in full by the Owner and will be treated as a Default Assessment enforceable as provided in Article IX.

ARTICLE VIII
OWNER'S OBLIGATIONS FOR MAINTENANCE

Section 8.1. *Owner's Responsibility for Lot.* Except as provided in the Trailview Documents or by written agreement with the Association, all maintenance of a Lot and the

Improvements located on it will be the sole responsibility of the Owner of the Lot. The Association will, in the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner is not satisfactory. Before assuming the maintenance responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within 30 days after the mailing of such written notice, then the Association will proceed. The expenses of the maintenance by the Board will be reimbursed to the Association by the Owner within 30 days after the Association notifies the Owner of the amount due, and any sum not reimbursed within that 30 day period will bear interest at the maximum rate permitted under Montana law from the date of the expenditure until payment in full.

Section 8.2. *Owner's Negligence.* If the need for maintenance, repair or replacement of any portion of the Common Area (including Improvements located on it) arises because of the negligent or willful act or omission of an Owner or his family member, guest, invitee or tenant, then the expenses incurred by the Association for the maintenance, repair or replacement will be a personal obligation of that Owner. If the Owner fails to repay the expenses incurred by the Association within 30 days after the notice to the Owner of the amount owed, then those expenses will bear interest at the maximum rate permitted under Montana law from the date of the advance by the Association until payment by the responsible Owner in full.

ARTICLE IX
ASSESSMENTS

Section 9.1. *Creation of Lien and Personal Obligation for Assessments.* Except as otherwise provided by this Declaration, Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by accepting a deed for a Lot, is deemed to covenant to pay to the Association (1) the Annual Assessments imposed by the Board of Directors as necessary to generally carry out the functions of the Association; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (3) Default Assessments which may be assessed against a Lot pursuant to the Trailview Documents for the Owner's failure to perform an obligation under the Trailview Documents or because the Association has incurred an expense on behalf of or caused by the Owner under the Trailview Documents.

9.1.1. *Declarant Exempt.* Notwithstanding the ownership of any Lot, the Declarant shall not be obligated to pay any of the Assessments described in this Declaration.

9.1.2. *Assessment Lien.* All Assessments, together with fines, interest, costs, and reasonable attorneys' (and legal assistants') fees, will be a charge on the land and will be a continuing lien upon the Lot against which each such Assessment is made until paid.

9.1.3. *Assessment Remedies.* Each such Assessment, together with fines, interest, costs, and reasonable attorneys' fees and costs, will also be the personal and individual obligation of the Owner of such Lot as of the time the Assessment falls due, and two or more Owners of a Lot will be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessments by abandonment of his Lot or

by waiver of the use or enjoyment of the Common Area. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 9.2. *Purpose of Assessments.* The Assessments levied by the Association will be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Trailview subdivision.

Section 9.3. *Annual Assessments.*

9.3.1. *Calculation of Annual Assessments.* The Board of Directors will prepare a budget before the close of each fiscal year of the Association. Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Area; and premiums for insurance coverage as deemed desirable or necessary by the Association; snow removal, landscaping, care of grounds and common lighting within the Common Area; routine renovations within the Common Area; wages; common water and utility charges for the Common Area; legal and accounting fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs and replacement of improvements within the Common Area on a periodic basis, as needed.

9.3.2. *Apportionment of Annual Assessments.* Except as otherwise provided herein, each Owner will be responsible for that Owner's share of the Common Expenses, which will be divided equally among the Lots included in the Project under this Declaration from time to time. Accordingly, at any given time, an Owner's share of Common Expenses will be determined as a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which is the number of Lots then platted and incorporated into the Project. Further, the costs of utilities may be assessed in proportion to usage.

9.3.3. *Collection.* Annual Assessments will be collected in periodic installments as the Board may determine from time to time, but until the Board directs otherwise, they will be payable annually in advance on the date determined by the Board. The omission or failure of the Association to fix the Annual Assessments for any Assessment period will not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same.

Section 9.4. *Special Assessments.*

9.4.1. *Determination by Board.* The Board of Directors may levy, in any fiscal year, one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or, after adopting and submitting a revised budget to the Association as may be required to make up any shortfall in the current year's budget.

9.4.2. *Apportionment and Collection of Special Assessments.* The Board will apportion Special Assessments among the Lots and collect payment according to the same guidelines as set forth for Annual Assessments in Section 9.3.2

9.4.3. *Notice.* Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least 30 days prior to the due date.

Section 9.5. *Default Assessments.* All monetary fines, penalties, interest or other charges or fees (excluding Annual and Special Assessments) levied against an Owner pursuant to the Trailview Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Trailview Documents, and any expense (including without limitation attorneys' fees and costs) incurred by the Association as a result of the failure of an Owner to abide by the Trailview Documents, constitutes a Default Assessment, enforceable as provided in this Declaration below.

Section 9.6. *General Remedies of Association for Nonpayment of Assessment.* Any installment of an Annual Assessment, Special Assessment or Default Assessment which is not paid within 30 days after its due date will be delinquent. In the event that an installment of an Annual Assessment or Special Assessment becomes delinquent, or in the event any Default Assessment is established under this Declaration, the Association, in its sole discretion, may take any or all of the following actions:

9.6.1. Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

9.6.2. Charge interest from the date of delinquency at the maximum rate permitted under Montana law;

9.6.3. Suspend the voting rights of the Owner during any period of delinquency;

9.6.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year will be due and payable at once;

9.6.5. Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges;

9.6.6. File a statement of lien with respect of the Lot and foreclose as set forth in more detail below.

9.6.7. For a delinquent Assessment related to the provision of utilities, the utility service to the Lot may be suspended after giving the Owner ten days' written notice that the service will be suspended unless the delinquent Assessment is paid.

The remedies provided under this Declaration will not be exclusive, and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 9.7. *Assessment Lien.* Any Assessment chargeable to a Lot will constitute a lien on the Lot, effective the due date of the Assessment. To evidence the lien, the Association may, but will not be obligated to, prepare a written lien statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association, and the delinquent Assessment amounts then owing. Any such statement will be duly signed and acknowledged by an officer or Director of the Association and will be served upon the Owner of the Lot by mail to the address of the Lot or at such other address as the Association may have in its records for the Owner. At least ten days after the Association mails the statement to the Owner, the Association may record the statement in the office of the Clerk and Recorder of Flathead County, Montana. Thirty days following the mailing of such notice to the Owner, the Association may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Montana.

Section 9.8. *Successor's Liability for Assessment.* All successors to the fee simple title of a Lot will be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' and legal assistants' fees against such Lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor.

Section 9.9. *Statement of Status of Assessments.* The Association will furnish to an Owner or his designee or to any Mortgagee, within fourteen days of request, a statement setting forth the amount of unpaid Assessments then levied against the Lot in which the Owner, designee or Mortgagee has an interest.

Section 9.10. *Failure to Assess.* The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE X
EASEMENTS AND PROPERTY RIGHTS OF OWNERS

Section 10.1. *Owner's Easements of Access and Enjoyment.* Every Owner has a perpetual, non-exclusive easement for ingress, egress and utilities to and from his Lot and for the use and enjoyment of the Common Area, which easement is appurtenant to and will pass with the title to every Lot, subject to the provisions set forth in this Declaration.

Section 10.2. *Delegation of Use.* Any Owner may delegate, in accordance with the Trailview Documents, its rights of access and enjoyment described in Section 10.1 above to its tenants, employees, family, guests or invitees.

Section 10.3. *Easements of Record and of Use.* The Property will be subject to all easements shown on any recorded Plat and to any other easements of record or of use as of the date of recordation of this Declaration.

ARTICLE XI
SPECIAL DECLARANT RIGHTS
AND ADDITIONAL RESERVED RIGHTS

Section 11.1. *General Provisions.* Until the expiration of the Period of Declarant Control, Declarant will have the following Special Declarant Rights:

11.1.1. *Completion of Improvements.* The right to complete Improvements as indicated on any Plat filed with respect to the Property.

11.1.2. *Development Rights.* The right to exercise all Development Rights in connection with the development of Trailview, including without limitation the right or combination of rights hereby reserved by Declarant, as follows:

(i) The right to create Lots, common areas, pedestrian and bike trails, and private roadways on the Property.

(ii) The right to subdivide Lots and convert Lots into common area or private roadways on any part of the Property.

(iii) The right to withdraw real estate from the Trailview subdivision.

11.1.3. *Sales Activities.* The right to maintain sales and management offices, signs advertising Trailview and model residences on the Common Area and on Lots owned by Declarant.

11.1.4. *Easements.* The right to use easements through the Common Area on the Property for the purpose of making Improvements on the Property.

11.1.5. *Association Directors and Officers.* The right to appoint any officer or Director of the Association, as provided in this Declaration or the Bylaws.

11.1.6. *Order of Exercise of Declarant's Rights.* Declarant makes no representations and gives no assurances regarding the legal description of the boundaries of any phase of the Property or the order or time in which the phases of the Property may be developed or incorporated in Trailview, or whether or to what extent any of the Property will be developed or incorporated into the Project. Further, the fact that Declarant may exercise one or more of Declarant's Development Rights or other Special Declarant Rights on one portion of the Property will not operate to require Declarant to exercise a Development Right or other Special Declarant Right with respect to any other portion of the Property.

Section 11.2. *Supplemental Provisions Regarding Declarant's Rights.* Without limiting the generality of the foregoing, certain of these Special Declarant Rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Right or any other Special Declarant Right, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 11.3. *Utility Easements.* There is hereby created an easement upon, across, over, in, and under the Common Area and the areas designated on the final Plat Trailview as utility easements for the installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electrical, television and other communications systems. By virtue of this easement, it will be expressly permissible and proper for the companies providing utility services to install and maintain necessary equipment on and under the Common Area and the areas designated on the final plat of Trailview as utility easements and to affix and maintain utility pipes, wires, circuits, conduits and other equipment under those areas. Any utility company using this easement will use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and Declarant; will prosecute its installation and maintenance activities as promptly and expeditiously as reasonably possible; and will restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the easement granted above request a specific easement by separate recordable document, either Declarant or the Association will have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area and the areas designated on the final Plat or Plats of Trailview as utility easements without conflicting with the terms of this Declaration. This easement will in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 11.4. *Reservation for Expansion and Construction.* Declarant hereby reserves for itself and its successors and assigns and for Owners in all future phases of Trailview, a perpetual easement and right-of-way for access over, upon, and across the Property for construction, utilities, drainage, ingress and egress, and for use of the Common Area. The location of these easements and rights-of-way may be made certain by Declarant or the Association by instruments recorded in Flathead County, Montana.

Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility, ingress and egress, and other easements over and across the Common Area, and to create other reservations, exemptions, and exclusions convenient or necessary for the use and operation of any other property of Declarant.

Section 11.5. *Reservation of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access.* Declarant reserves for itself and its successors and assigns and hereby grants to the Association, acting through the Board of Directors, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Area, for purposes including but not limited to streets, paths, walkways, drainage, recreational areas and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners and the Association.

Section 11.6. *Maintenance Easement.* An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the Association, and any member of the Board of Directors, and their respective officers, agents, employees, and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Trailview Documents.

Section 11.7. *Drainage Easement.* An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the Association, its officers, agents, employees, successors and assigns to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb the uses of the Owners, the Association and Declarant, as applicable, to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work.

Section 11.8. *Declarant's Rights Incident to Construction.* Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights will be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his family, tenants, employees, guests, or invites.

Section 11.9. *Easements Deemed Created.* All conveyances of Lots hereafter made, whether by Declarant or otherwise, will be construed to grant and reserve the easements contained in this Declaration, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE XII
EXPANSION AND WITHDRAWAL

Section 12.1. *Reservation of Right to Expand.* Declarant reserves the right, but will not be obligated, to expand the effect of this Declaration to include all or part of the Expansion Property. The consent of the existing Lot Owners and Mortgagees will not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. Declarant will have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded.

Section 12.2. *Completion of Expansion.* When Declarant has determined that no further property shall be added to the Project, Declarant shall notify the Association in writing. Until such notice is given, Declarant retains the right to designate additional property as Expansion Property.

Section 12.3. *Declaration of Annexation.* Any expansion of the Project may be accomplished by recording a Declaration of Annexation and one or more supplemental Plats in the records of the Clerk and Recorder of Flathead County, Montana, before the expiration of the Period of Declarant Control. The Declaration of Annexation will describe the real property to be expanded, submitting it to these Covenants and provide for voting rights and Assessment allocations as provided in this Declaration. Specifically, each new Lot in the annexed area will be allocated one vote and liability for the Common Expenses equal to the liability allocated to each of the other Lots, and the proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly. Such Declaration of Annexation will not require the consent of Owners, the Association, or the Board of Directors.

Any such expansion will be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

Upon the recordation of any such Declaration of Annexation, the definitions used in this Declaration will be expanded automatically to encompass and refer to Trailview as expanded. Such Declaration of Annexation may add supplemental covenants peculiar to the Expansion Property in question, or delete or modify provisions of this Declaration as it applies to the Expansion Property added. However, this Declaration may not be modified with respect to that portion of the Property already subject to this Declaration, except as provided below for amendment.

Section 12.4. *Withdrawal of Property.* Declarant reserves the right to withdraw from the jurisdiction of these Covenants any parcel of the Property (including the Expansion Property), provided, however, that no parcel may be withdrawn after it has been conveyed to a purchaser.

ARTICLE XIII INSURANCE

Section 13.1. *Authority to Purchase.* All insurance policies relating to the Common Area will be purchased by the Board of Directors or its duly authorized agent. The Board of Directors and the Declarant will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs.

Section 13.2. *General Insurance Provisions.* All such insurance coverage obtained by the Board of Directors will be governed by the following provisions:

13.2.1. As long as Declarant owns any Lot, Declarant will be protected by all such policies in the same manner as any other Owner.

13.2.2. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Lots or to only some of the Lots, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners), or as an item to be paid from working capital reserves established by the Board of Directors.

Section 13.3. *Physical Damage Insurance on Common Area.* The Association will obtain insurance for such insurable Improvements and with such coverages, limits, deductibles and other terms and conditions as the Board may determine from time to time.

Section 13.4. *Liability Insurance.* The Association may obtain a comprehensive policy of public liability insurance and property damage insurance with such coverages and limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Association, and the respective employees, agents, and all persons acting as agents against any liability to the public or the Owners (and their guests, invites, tenants, agents, and employees) arising in connection with the ownership, operation,

maintenance or use of the Common Area within Trailview and any other areas under the control of the Association. Declarant will be included in the coverage as an additional insured in Declarant's capacity as an Owner or Director.

ARTICLE XIV GUIDELINES FOR WILDLIFE

Section 14.1. *General.* Owners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Owners must be aware of potential problems associated with the occasional presence of wildlife such as deer, bear, foxes, skunks, etc. Owners are encouraged to contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife."

Section 14.2. *FWP Suggestions.* The following suggestions, prepared by Montana Fish, Wildlife and Parks, were written to inform citizens and to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

14.2.1 There is potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

14.2.2 Gardens and fruit trees can attract wildlife. Keep the produce and fruit picked off the ground, because rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be installed. All fences shall be pre-approved by the Design Review Committee. Netting over gardens can help deter birds from eating berries.

14.2.3 Do not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to provide supplemental feed attractants if it results in a "concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners should be aware that deer might occasionally attract a mountain lion to the area.

14.2.4 Birdseed can attract bears. If used, bird feeders should: 1) be suspended adequately above the ground level; 2) be at least four (4) feet from any support poles or points; and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

14.2.5 Garbage should be stored in secure bear resistant containers or indoors to avoid attracting animals such as bears, raccoons, dogs, etc. It is best not to set garbage cans out until the morning of garbage pickup.

14.2.6 Pets should be confined to the house, in a fenced yard, or in an outdoor kennel area, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).

14.2.7 Pet food and livestock feed should be stored indoors or in animal resistant containers in order to avoid attracting wildlife such as bears, skunks, raccoons, etc. When feeding pets or livestock, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.

14.2.8 Consider fencing that is no higher than 3 ½ feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence.

14.2.9 Compost piles could attract skunks and bears and should be avoided in this subdivision. If used they should be kept indoors or built to be wildlife resistant.

ARTICLE XV
ENFORCEMENT OF COVENANTS

Section 15.1. *Violations Deemed a Nuisance.* Every violation of this Declaration or any other violation of the Trailview Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants will be available.

Section 15.2. *Compliance.* Each Owner or other occupant of any part of the Property will comply with the provisions of the Trailview Documents as the same may be amended from time to time.

Section 15.3. *Failure to Comply.* Failure to comply with the Trailview Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws will be given to the delinquent party prior to commencing any legal proceedings.

Section 15.4. *Who may Enforce.* Any action to enforce the Trailview Documents may be brought by Declarant or the Board in the name of the Trailview Homeowners' Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the Trailview Documents, then the aggrieved Owner may bring such an action.

Section 15.5. *Nonexclusive Remedies.* All the remedies set forth herein are cumulative and not exclusive.

Section 15.6. *No Waiver.* The failure of the Board of Directors, Declarant, or any aggrieved Owner to enforce the Trailview Documents in any one or more instances will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Trail View Documents at any future time.

Section 15.7. *No Liability.* No member of the Board of Directors, the Declarant or any Owner will be liable to any other Owner for the failure to enforce any of the Trailview Documents at any time.

Section 15.8. *Recovery of Costs.* If legal assistance is obtained to enforce any of the provisions of the Trailview Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Trailview Documents or the restraint of violations of the Trailview Documents, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees (and legal assistant's fees) as may be incurred, or if suit is brought, as may be determined by the court.

ARTICLE XVI
RESOLUTION OF DISPUTES

If any dispute or question arises between Members or between Members and the Association or relating to the interpretation, performance or nonperformance, violation, or enforcement of the Trailview Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE XVII
DURATION OF THESE COVENANTS AND AMENDMENT

Section 17.1 *Term.* This Declaration and any amendments or supplements hereto will remain in effect from the date of recordation until the 30th anniversary of the date this Declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana. Thereafter these Covenants will be automatically extended for five successive periods of 10 years each, unless otherwise terminated or modified as provided below.

Section 17.2. *Amendment.* This Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property as follows:

17.2.1. *During Period of Declarant Control.* Before the sale of a Lot, Declarant (including any Successor Declarant) may terminate, extend, modify, amend or revoke this Declaration as to the whole or any portion of the Property. After the sale of a Lot but before expiration of the Period of Declarant Control, Declarant (including any Successor Declarant) may terminate, extend, modify, amend or revoke this Declaration as to the whole or any portion of the Property. A copy of the document stating the action intended to be taken by the Declarant and a notice of the Owners' rights under this Section shall be mailed to each Owner by first class mail, postage prepaid, to the address of the Owner on the records of the Association. Unless written objection is received by the Declarant from the Owners holding 80% or more of the votes within 30 days of the mailing of the notice to the Owners, the action

proposed to be taken by the Declarant shall be considered approved and shall become final. The Declarant shall then record in the records of Flathead County, Montana, a document stating the action taken, together with a certificate certifying that notice was given to the Owners as required herein and that fewer than 80% of the Owners objected to the action.

17.2.2. *After the Period of Declarant Control.* After the Period of Declarant Control, this Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property upon the written consent of Owners holding 67% or more of the votes in the Association. Any such amendment shall require Whitefish City Council approval. If such consent is received, any such document will be immediately effective upon recording in the records of Flathead County, Montana, a copy of such executed and acknowledged by the necessary number of Owners, or alternatively, upon the recording in the records of Flathead County, Montana, of a copy of the document together with a certificate signed by an officer of the Association stating that the required number of consents of Owners were obtained.

Section 17.3. *Declarant's Approval.* Notwithstanding the provisions of Section 17.2, no termination, extension, modification or amendment of this Declaration will be effective in any event during the Period of Declarant Control unless the written approval of Declarant is first obtained.

Section 17.4. *Effect of Amendments.* Amendments made pursuant to this Section will inure to the benefit of and be binding upon all Owners, their families, guests, invitees and employees, and their respective heirs, successors, and assigns. Joinder of the first mortgagees shall not be required in order to effect an amendment.

ARTICLE XVIII
MISCELLANEOUS PROVISIONS

Section 18.1. *Severability.* This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 18.2. *Construction.* In interpreting words in this Declaration, unless the context will otherwise provide or require, the singular will include the plural, the plural will include the singular, and the use of any gender will include all genders.

Section 18.3. *Headings.* The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

Section 18.4. *Waiver.* No failure on the part of the Association or the Board to give notice or default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Association.

Section 18.5. *Limitation of Liability.* Neither the Declarant, the Association nor any partner, officer or member of either the Declarant or the Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through, or under the Trailview Documents if the action or failure was made in good faith. The Association will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

Section 18.6. *Conflicts Between Documents.* In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

Section 18.7. *Assignment.* Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Flathead County, Montana.

IN WITNESS WHEREOF, Declarant has signed this Declaration on the date first shown above.

TRAIL VIEW, LLC

By: Jerry Dunker
Its: Member

By: David Brandt
Its: Member

STATE OF MONTANA)
:ss
County of Flathead)

This instrument was acknowledged before me on this 13th day of October, 2020 ~~2019~~ by Jerry Dunker and David Brandt as Members of Trail View, LLC.

TODD D OLSON
Notary Public
for the State of Montana
Residing at:
Whitefish, Montana
My Commission Expires:
February 24, 2021

TODD D OLSON NOTARIAL SEAL STATE OF MONTANA

Todd D. Olson
Printed Name of Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION

Tracts 1 and 2 of Certificate of Survey No. 20495, being two tracts of land lying and being in the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section 5, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana.

EXHIBIT "B"

LONG TERM MAINTENANCE

Trailview Subdivision

Long-Term Maintenance Plan

STORM SYSTEM:

Collection System

The collection system should be visually inspected twice a year. As sediment accumulation in catch basin and manhole sumps reaches 75 % of the sump depth, the sediment and debris should be removed by the use of vacuum trucks. The condition of inlet grates, concrete structures and pipe connections should be visually inspected, repairs or replacement should be completed as necessary.

Schedule

- ✓ Semi Annual – Visual inspection of sediment levels in the sump of catch basins and manholes
- ✓ Annual – Inspect integrity of structures, castings and orifice plates.

Hydrodynamic Vortex Separator Unit

The mechanical treatment unit should be inspected twice a year at a minimum. Inspections shall be completed per the manufactures recommendations. Scheduling of inspections is recommended for fall and spring, with removal of trash and debris from the structure following spring snow melt.

Vacuum trucks should be used to remove accumulated sediment and debris, this should be completed when no flow is passing through the structure. Accumulation of hydrocarbons and other greases and oils shall be removed following the manufacturer's recommendations and using absorbent pads. All debris and cleaning products shall be disposed of in accordance to City of Whitefish and Flathead County Solid Waste standards.

Schedule

- ✓ Semi Annual – Visual inspection of sediment levels in the sump
- ✓ Semi Annual – Inspect separation screen and internal baffles, ensure there are no blockages or restrictions

PRIVATE ROAD, PARKING AREA:

Parking, Roadway, Alleys, and Sidewalks

Paved surfaces should be inspected once a year to ensure that small problems in structural integrity can be identified early, and ADA accessibility can be maintained. The inspector should be looking for a few key issues that compromise the accessibility, safety, and overall appeal of the parking lot. Key issues include, but are not limited to: cracking, spalling, birdbaths (low spots), and potholes.

Sweeping the surface from built up debris is also a known key factor in extending the life expectancy of an asphalt surface. This built-up debris can cause undesirable ponding of water and/or mold build up, and will eventually lead to pavement distress. Allowing all the debris from a parking lot to drain to the sump can lead to sump failure. Active sweeping and washing helps prevent sumps from failing due to excess debris buildup.

Power washing should be completed on a biannual schedule to remove debris from the surface. Sweeping should be completed on an as-needed basis, which can be more frequent during the fall when leaves are falling

Snow Plowing is an important operational practice that must be completed to prevent freeze-thaw cycles from having a detrimental effect on the parking lot. If snow and ice is left on the surface; subsurface issues can begin to take shape. Potholes are a major issue that arise from freeze-thaw cycles, and can be a costly repair if not addressed immediately. Removing snow throughout the winter also helps to ensure usability and safe access. Snow and ice should be removed on an as-needed basis.

Striping is a practice that needs to be completed on a regular basis. With frequent plowing and changes of weather, striping will need to be completed every 3 years, or as inspections or practice necessitate. Striping allows for more organized parking and traffic patterns, and also allows for designated handicapped parking stalls.

Fog Seals are a proven method of preventing unwanted moisture from penetrating the asphalt surface and damaging the integrity of the base course. Double coat fog seals have been used effectively for parking lots with light vehicular use in the past typically lasting between 3-5 years.

Crack Sealing needs to be completed as needed in parking lots to ensure that water is not allowed to penetrate the asphalt and damage the base material. It is not as important in parking lots to maintain smoothness as it is in pedestrian trails, as long as the rougher edge is not taking place in an ADA accessible route.

Remove and Replace – Sometimes concrete and asphalt surface needs to be removed, the base layer needs to be re-compacted, and new asphalt needs to be applied and compacted. Patching is usually required in areas where potholes or large crack networks are prevalent, and crack seals will not be a sufficient repair to the surface.

Sidewalks should be inspected by a qualified individual who is looking for signs of settling, or surface flaking. Settlement usually requires the problem section of sidewalk to be replaced. Spalling can be fixed by removing loose material, grinding to maintain a smooth finish, and cleaning and refinishing the surface with a cement-based finish.

Schedule

- ✓ Annual – Visual inspection of all hardscape surfaces
- ✓ 3-5 Years – (or as needed) Striping, Fog Seal
- ✓ As-Needed – Sweeping, Snow Plowing, Striping, Crack Sealing, Remove and Replace failed areas.

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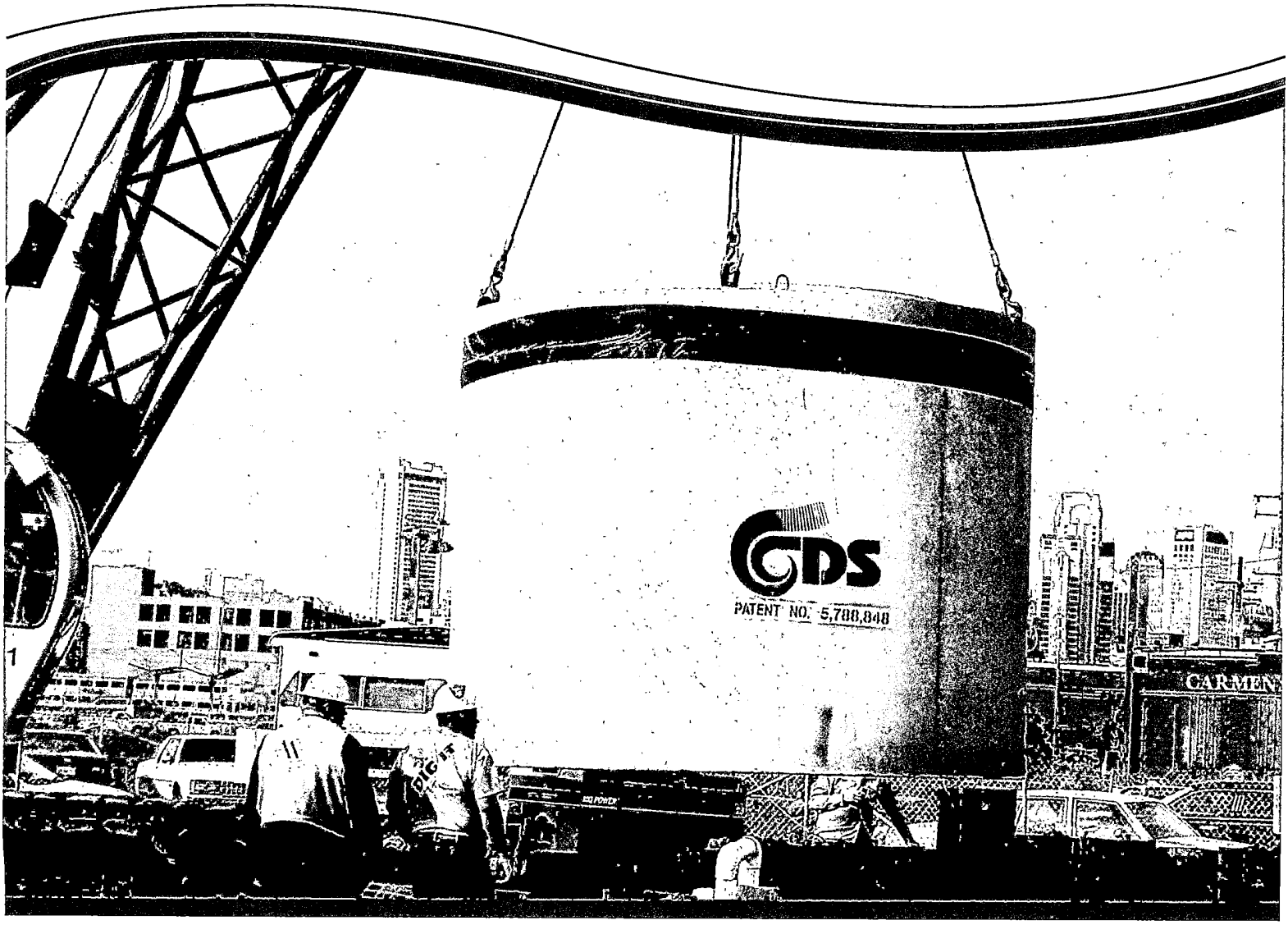
CONTECH®
ENGINEERED SOLUTIONS

CDS Guide
Operation, Design, Performance and Maintenance



CDS®

Using patented continuous deflective separation technology, the CDS system screens, separates and traps debris, sediment, and oil and grease from stormwater runoff. The indirect screening capability of the system allows for 100% removal of floatables and neutrally buoyant material without blinding. Flow and screening controls physically separate captured solids, and minimize the re-suspension and release of previously trapped pollutants. Inline units can treat up to 6 cfs, and internally bypass flows in excess of 50 cfs (1416 l/s). Available precast or cast-in-place, offline units can treat flows from 1 to 300 cfs (28.3 to 8495 l/s). The pollutant removal capacity of the CDS system has been proven in lab and field testing.

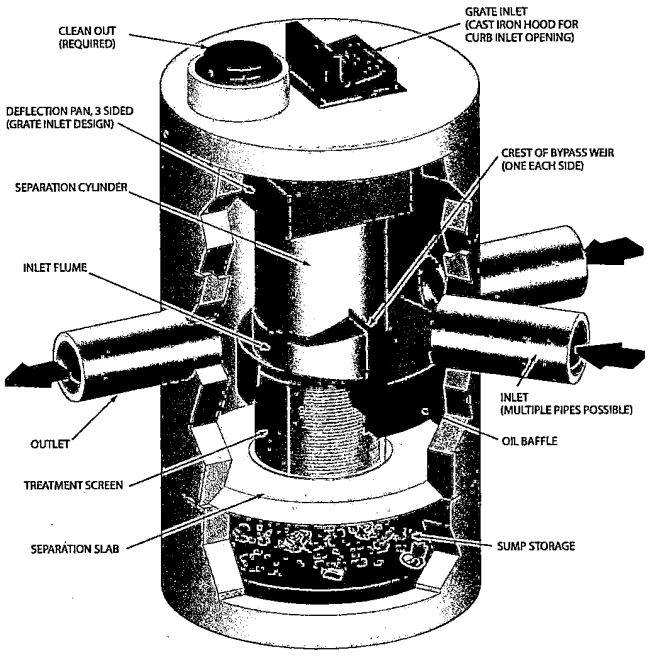
Operation Overview

Stormwater enters the diversion chamber where the diversion weir guides the flow into the unit's separation chamber and pollutants are removed from the flow. All flows up to the system's treatment design capacity enter the separation chamber and are treated.

Swirl concentration and screen deflection force floatables and solids to the center of the separation chamber where 100% of floatables and neutrally buoyant debris larger than the screen apertures are trapped.

Stormwater then moves through the separation screen, under the oil baffle and exits the system. The separation screen remains clog free due to continuous deflection.

During the flow events exceeding the treatment design capacity, the diversion weir bypasses excessive flows around the separation chamber, so captured pollutants are retained in the separation cylinder.



Design Basics

There are three primary methods of sizing a CDS system. The Water Quality Flow Rate Method determines which model size provides the desired removal efficiency at a given flow rate for a defined particle size. The Rational Rainfall Method™ or the and Probabilistic Method is used when a specific removal efficiency of the net annual sediment load is required.

Typically in the Unites States, CDS systems are designed to achieve an 80% annual solids load reduction based on lab generated performance curves for a gradation with an average particle size (d50) of 125 microns (μm). For some regulatory environments, CDS systems can also be designed to achieve an 80% annual solids load reduction based on an average particle size (d50) of 75 microns (μm) or 50 microns (μm).

Water Quality Flow Rate Method

In some cases, regulations require that a specific treatment rate, often referred to as the water quality design flow (WQQ), be treated. This WQQ represents the peak flow rate from either an event with a specific recurrence interval, e.g. the six-month storm, or a water quality depth, e.g. 1/2-inch (13 mm) of rainfall.

The CDS is designed to treat all flows up to the WQQ. At influent rates higher than the WQQ, the diversion weir will direct most flow exceeding the WQQ around the separation chamber. This allows removal efficiency to remain relatively constant in the separation chamber and eliminates the risk of washout during bypass flows regardless of influent flow rates.

Treatment flow rates are defined as the rate at which the CDS will remove a specific gradation of sediment at a specific removal efficiency. Therefore the treatment flow rate is variable, based on the gradation and removal efficiency specified by the design engineer.

Rational Rainfall Method™

Differences in local climate, topography and scale make every site hydraulically unique. It is important to take these factors into consideration when estimating the long-term performance of any stormwater treatment system. The Rational Rainfall Method combines site-specific information with laboratory generated performance data, and local historical precipitation records to estimate removal efficiencies as accurately as possible.

Short duration rain gauge records from across the United States and Canada were analyzed to determine the percent of the total annual rainfall that fell at a range of intensities. US stations' depths were totaled every 15 minutes, or hourly, and recorded in 0.01-inch increments. Depths were recorded hourly with 1-mm resolution at Canadian stations. One trend was consistent at all sites; the vast majority of precipitation fell at low intensities and high intensity storms contributed relatively little to the total annual depth.

These intensities, along with the total drainage area and runoff coefficient for each specific site, are translated into flow rates using the Rational Rainfall Method. Since most sites are relatively small and highly impervious, the Rational Rainfall Method is appropriate. Based on the runoff flow rates calculated for each intensity, operating rates within a proposed CDS system are

determined. Performance efficiency curve determined from full scale laboratory tests on defined sediment PSDs is applied to calculate solids removal efficiency. The relative removal efficiency at each operating rate is added to produce a net annual pollutant removal efficiency estimate.

Probabilistic Rational Method

The Probabilistic Rational Method is a sizing program Contech developed to estimate a net annual sediment load reduction for a particular CDS model based on site size, site runoff coefficient, regional rainfall intensity distribution, and anticipated pollutant characteristics.

The Probabilistic Method is an extension of the Rational Method used to estimate peak discharge rates generated by storm events of varying statistical return frequencies (e.g. 2-year storm event). Under the Rational Method, an adjustment factor is used to adjust the runoff coefficient estimated for the 10-year event, correlating a known hydrologic parameter with the target storm event. The rainfall intensities vary depending on the return frequency of the storm event under consideration. In general, these two frequency dependent parameters (rainfall intensity and runoff coefficient) increase as the return frequency increases while the drainage area remains constant.

These intensities, along with the total drainage area and runoff coefficient for each specific site, are translated into flow rates using the Rational Method. Since most sites are relatively small and highly impervious, the Rational Method is appropriate. Based on the runoff flow rates calculated for each intensity, operating rates within a proposed CDS are determined. Performance efficiency curve on defined sediment PSDs is applied to calculate solids removal efficiency. The relative removal efficiency at each operating rate is added to produce a net annual pollutant removal efficiency estimate.

Treatment Flow Rate

The inlet throat area is sized to ensure that the WQQ passes through the separation chamber at a water surface elevation equal to the crest of the diversion weir. The diversion weir bypasses excessive flows around the separation chamber, thus preventing re-suspension or re-entrainment of previously captured particles.

Hydraulic Capacity

The hydraulic capacity of a CDS system is determined by the length and height of the diversion weir and by the maximum allowable head in the system. Typical configurations allow hydraulic capacities of up to ten times the treatment flow rate. The crest of the diversion weir may be lowered and the inlet throat may be widened to increase the capacity of the system at a given water surface elevation. The unit is designed to meet project specific hydraulic requirements.

Performance

Full-Scale Laboratory Test Results

A full-scale CDS system (Model CDS2020-5B) was tested at the facility of University of Florida, Gainesville, FL. This CDS unit was evaluated under controlled laboratory conditions of influent flow rate and addition of sediment.

Two different gradations of silica sand material (UF Sediment & OK-110) were used in the CDS performance evaluation. The particle size distributions (PSDs) of the test materials were analyzed using standard method "Gradation ASTM D-422 "Standard Test Method for Particle-Size Analysis of Soils" by a certified laboratory.

UF Sediment is a mixture of three different products produced by the U.S. Silica Company: "Sil-Co-Sil 106", "#1 DRY" and "20/40 Oil Frac". Particle size distribution analysis shows that the UF Sediment has a very fine gradation (d50 = 20 to 30 μm) covering a wide size range (Coefficient of Uniformity, C averaged at 10.6). In comparison with the hypothetical TSS gradation specified in the NJDEP (New Jersey Department of Environmental Protection) and NJCAT (New Jersey Corporation for Advanced Technology) protocol for lab testing, the UF Sediment covers a similar range of particle size but with a finer d50 (d50 for NJDEP is approximately 50 μm) (NJDEP, 2003).

The OK-110 silica sand is a commercial product of U.S. Silica Sand. The particle size distribution analysis of this material, also included in Figure 1, shows that 99.9% of the OK-110 sand is finer than 250 microns, with a mean particle size (d50) of 106 microns. The PSDs for the test material are shown in Figure 1.

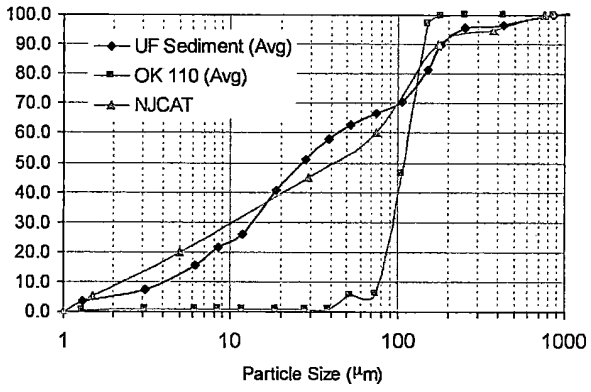


Figure 1. Particle size distributions

Tests were conducted to quantify the performance of a specific CDS unit (1.1 cfs (31.3-L/s) design capacity) at various flow rates, ranging from 1% up to 125% of the treatment design capacity of the unit, using the 2400 micron screen. All tests were conducted with controlled influent concentrations of approximately 200 mg/L. Effluent samples were taken at equal time intervals across the entire duration of each test run. These samples were then processed with a Dekaport Cone sample splitter to obtain representative sub-samples for Suspended Sediment Concentration (SSC) testing using ASTM D3977-97 "Standard Test Methods for Determining Sediment Concentration in Water Samples", and particle size distribution analysis.

Results and Modeling

Based on the data from the University of Florida, a performance model was developed for the CDS system. A regression analysis was used to develop a fitting curve representative of the scattered data points at various design flow rates. This model, which demonstrated good agreement with the laboratory data, can then be used to predict CDS system performance with respect

to SSC removal for any particle size gradation, assuming the particles are inorganic sandy-silt. Figure 2 shows CDS predictive performance for two typical particle size gradations (NJCAT gradation and OK-110 sand) as a function of operating rate.

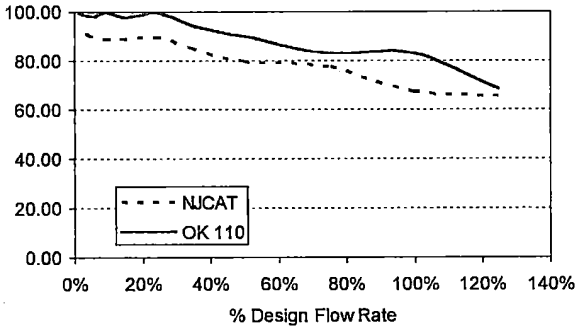


Figure 2. CDS stormwater treatment predictive performance for various particle gradations as a function of operating rate.

Many regulatory jurisdictions set a performance standard for hydrodynamic devices by stating that the devices shall be capable of achieving an 80% removal efficiency for particles having a mean particle size (d50) of 125 microns (e.g. Washington State Department of Ecology — WASDOE - 2008). The model can be used to calculate the expected performance of such a PSD (shown in Figure 3). The model indicates (Figure 4) that the CDS system with 2400 micron screen achieves approximately 80% removal at the design (100%) flow rate, for this particle size distribution (d50 = 125 μm).

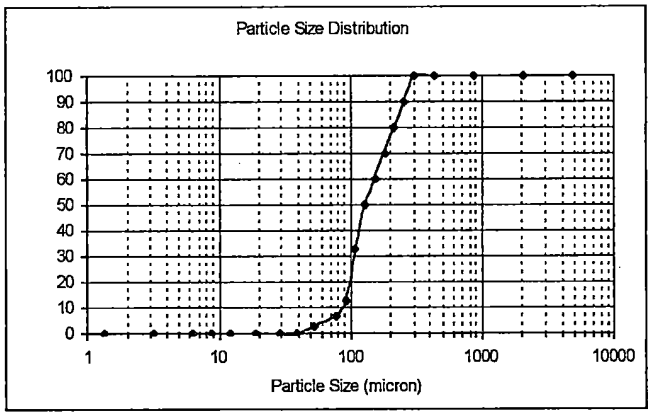


Figure 3. WASDOE PSD

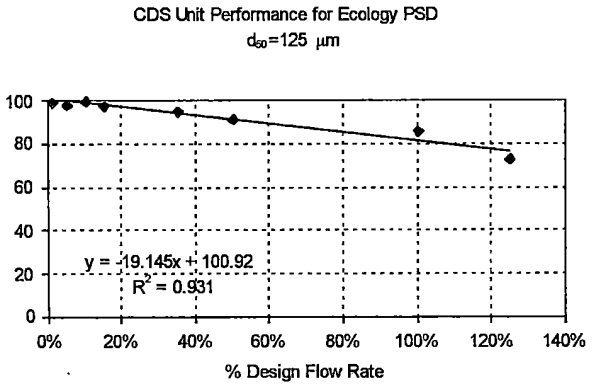


Figure 4. Modeled performance for WASDOE PSD.

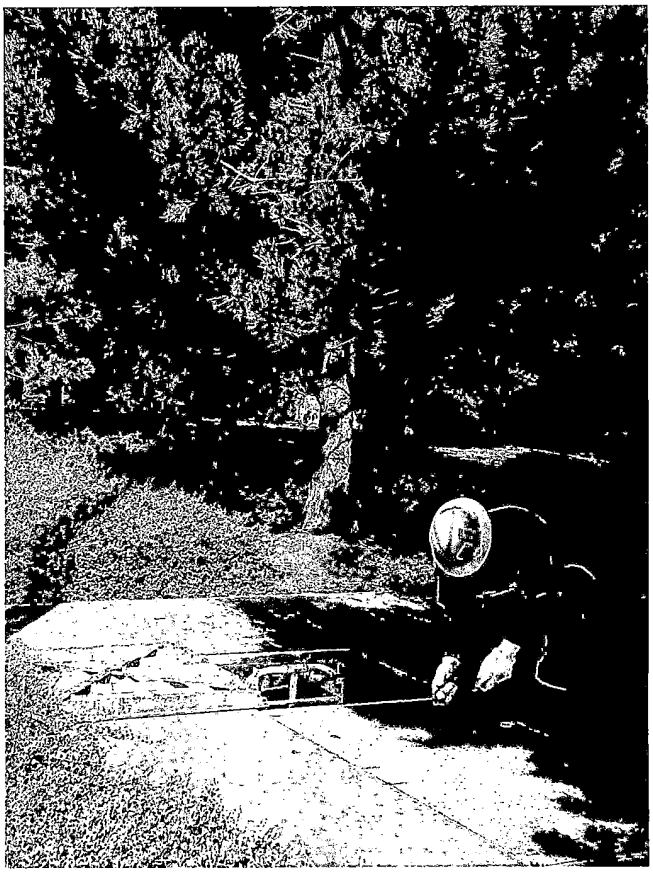
Maintenance

The CDS system should be inspected at regular intervals and maintained when necessary to ensure optimum performance. The rate at which the system collects pollutants will depend more heavily on site activities than the size of the unit. For example, unstable soils or heavy winter sanding will cause the grit chamber to fill more quickly but regular sweeping of paved surfaces will slow accumulation.

Inspection

Inspection is the key to effective maintenance and is easily performed. Pollutant transport and deposition may vary from year to year and regular inspections will help ensure that the system is cleaned out at the appropriate time. At a minimum, inspections should be performed twice per year (e.g. spring and fall) however more frequent inspections may be necessary in climates where winter sanding operations may lead to rapid accumulations, or in equipment washdown areas. Installations should also be inspected more frequently where excessive amounts of trash are expected.

The visual inspection should ascertain that the system components are in working order and that there are no blockages or obstructions in the inlet and separation screen. The inspection should also quantify the accumulation of hydrocarbons, trash, and sediment in the system. Measuring pollutant accumulation can be done with a calibrated dipstick, tape measure or other measuring instrument. If absorbent material is used for enhanced removal of hydrocarbons, the level of discoloration of the sorbent material should also be identified



during inspection. It is useful and often required as part of an operating permit to keep a record of each inspection. A simple form for doing so is provided.

Access to the CDS unit is typically achieved through two manhole access covers. One opening allows for inspection and cleanout of the separation chamber (cylinder and screen) and isolated sump. The other allows for inspection and cleanout of sediment captured and retained outside the screen. For deep units, a single manhole access point would allows both sump cleanout and access outside the screen.

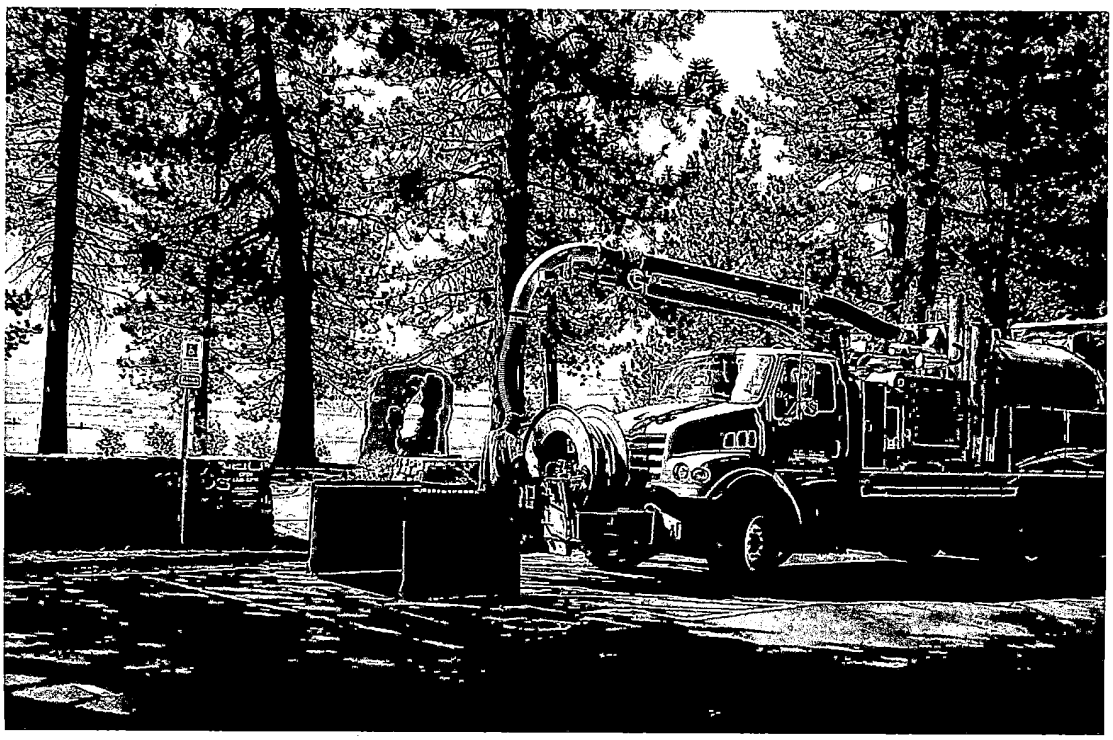
The CDS system should be cleaned when the level of sediment has reached 75% of capacity in the isolated sump or when an appreciable level of hydrocarbons and trash has accumulated. If absorbent material is used, it should be replaced when significant discoloration has occurred. Performance will not be impacted until 100% of the sump capacity is exceeded however it is recommended that the system be cleaned prior to that for easier removal of sediment. The level of sediment is easily determined by measuring from finished grade down to the top of the sediment pile. To avoid underestimating the level of sediment in the chamber, the measuring device must be lowered to the top of the sediment pile carefully. Particles at the top of the pile typically offer less resistance to the end of the rod than consolidated particles toward the bottom of the pile. Once this measurement is recorded, it should be compared to the as-built drawing for the unit to determine weather the height of the sediment pile off the bottom of the sump floor exceeds 75% of the total height of isolated sump.

Cleaning

Cleaning of a CDS systems should be done during dry weather conditions when no flow is entering the system. The use of a vacuum truck is generally the most effective and convenient method of removing pollutants from the system. Simply remove the manhole covers and insert the vacuum hose into the sump. The system should be completely drained down and the sump fully evacuated of sediment. The area outside the screen should also be cleaned out if pollutant build-up exists in this area.

In installations where the risk of petroleum spills is small, liquid contaminants may not accumulate as quickly as sediment. However, the system should be cleaned out immediately in the event of an oil or gasoline spill. Motor oil and other hydrocarbons that accumulate on a more routine basis should be removed when an appreciable layer has been captured. To remove these pollutants, it may be preferable to use absorbent pads since they are usually less expensive to dispose than the oil/water emulsion that may be created by vacuuming the oily layer. Trash and debris can be netted out to separate it from the other pollutants. The screen should be cleaned to ensure it is free of trash and debris.

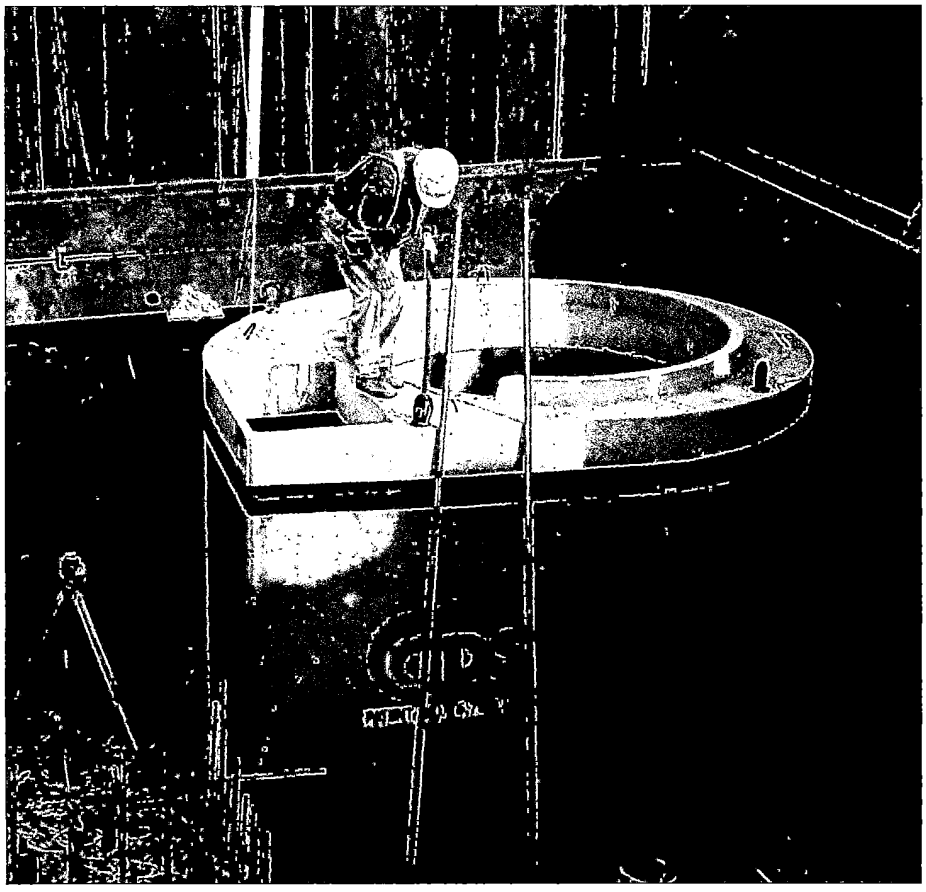
Manhole covers should be securely seated following cleaning activities to prevent leakage of runoff into the system from above and also to ensure that proper safety precautions have been followed. Confined space entry procedures need to be followed if physical access is required. Disposal of all material removed from the CDS system should be done in accordance with local regulations. In many jurisdictions, disposal of the sediments may be handled in the same manner as the disposal of sediments removed from catch basins or deep sump manholes. Check your local regulations for specific requirements on disposal.



CDS Model	Diameter		Distance from Water Surface to Top of Sediment Pile		Sediment Storage Capacity	
	ft	m	ft	m	yd3	m3
CDS2015-4	4	1.2	3.0	0.9	0.5	0.4
CDS2015	5	1.5	3.0	0.9	1.3	1.0
CDS2020	5	1.5	3.5	1.1	1.3	1.0
CDS2025	5	1.5	4.0	1.2	1.3	1.0
CDS3020	6	1.8	4.0	1.2	2.1	1.6
CDS3030	6	1.8	4.6	1.4	2.1	1.6
CDS3035	6	1.8	5.0	1.5	2.1	1.6
CDS4030	8	2.4	4.6	1.4	5.6	4.3
CDS4040	8	2.4	5.7	1.7	5.6	4.3
CDS4045	8	2.4	6.2	1.9	5.6	4.3

Table 1: CDS Maintenance Indicators and Sediment Storage Capacities

Note: To avoid underestimating the volume of sediment in the chamber, carefully lower the measuring device to the top of the sediment pile. Finer silty particles at the top of the pile may be more difficult to feel with a measuring stick. These finer particles typically offer less resistance to the end of the rod than larger particles toward the bottom of the pile.



CDS Inspection & Maintenance Log

CDS Model: _____ Location: _____

Date	Water depth to sediment[1]	Floatable Layer Thickness[2]	Describe Maintenance Performed	Maintenance Personnel	Comments

1. The water depth to sediment is determined by taking two measurements with a stadia rod: one measurement from the manhole opening to the top of the sediment pile and the other from the manhole opening to the water surface. If the difference between these measurements is less than the values listed in table 1 the system should be cleaned out. **Note: to avoid underestimating the volume of sediment in the chamber, the measuring device must be carefully lowered to the top of the sediment pile.**

2. For optimum performance, the system should be cleaned out when the floating hydrocarbon layer accumulates to an appreciable thickness. In the event of an oil spill, the system should be cleaned immediately.

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SUPPORT

- Drawings and specifications are available at www.ContechES.com.
- Site-specific design support is available from our engineers.

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