

DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR BLACKWELL SUBDIVISION

THIS DECLARATION is made effective on the 17th day of November 2023, by Dennis Harmon (Developer), hereinafter referred to as "*Declarant*" or "*Grantor*",

WHEREAS, Declarant is the owner of certain real property in the County of Valley, State of Idaho, hereinafter referred to as the "Property", more particularly described as follows:

Blackwell Subdivision consists of one parcel of land:

A portion of the Southwest ¼ of the Southwest ¼, Section 9, Township 18 North, Range 3 East, Boise Meridian, Valley County, Idaho.

NOW, THEREFORE, Grantor hereby declares that the Property and each Lot, parcel, or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following terms, covenants, condition easements, and restrictions, all of which were declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Property, and to enhance the value, desirability, and attractiveness of the Property. The terms, covenants, conditions, reservations, easements, and restrictions set forth herein shall run with the land constituting the Property and with each estate therein and shall be binding upon all persons having or acquiring any right, title, or interest in the Property or any Lot, parcel, or portion thereof; shall inure to the benefit of every Lot, parcel, or portion of the Property and interest therein, and shall inure to the benefit of and be binding upon Grantor, its successors in interest, and each Grantee or Owner and his respective successors in interest, and may be enforced by Grantor, by any owner or his successors in interest.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Grantor's right to complete development of the Property, and to construct improvements thereon, nor Grantor's right to maintain model homes, construction, sales or leasing offices, or similar facilities on any portion of the Property, nor Grantor's right to post signs incidental to construction, sales, or leasing. Such sales or leasing offices shall, at first, be placed upon a lot in Blackwell Subdivision deemed appropriate by Grantor. Further Grantor may develop adjoining properties and construct improvements thereon.

ARTICLE 1

DEFINITIONS

- 1.1 "Articles" shall mean the Articles of Incorporation of the Association.
- 1.2 "Assessments" shall mean those payments required of Owners and Association Members including Regular, Special, and Limited Assessments of the Association as further defined in this declaration.
- 1.3 "Association" shall mean and refer to Blackwell Subdivision Homeowners' Association, Inc., an Idaho non-profit corporation, its successors, and assigns.
- 1.4 "Association Rules" shall mean those rules and regulations promulgated by the Association governing conduct upon the use of the Property under jurisdiction or control of the Association, the imposition of fines and forfeitures for violation of Association Rules and Regulations, and procedural matters for use in the conduct of business of the Association.
- 1.5 "Beneficiary" shall mean a mortgagee under a mortgage or beneficiary under a deed of trust, as the case may be and/or the assignees of such mortgagee, beneficiary, or holder, which mortgage or deed of trust encumbers parcels of real property on the Property.
- 1.6 "Board" shall mean the Board of Directors or other governing board or individual, if applicable, of the Association.
- 1.7 "Building Lot" shall mean and refer to any plot of land showing upon any recorded plat of the Property with the exception of Common Area.
- 1.8 "Bylaws" shall mean the bylaws of the Association.
- 1.9 "Committee" shall mean the Architectural Committee described in Article VI.
- 1.10 "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including the landscaped drainage swales on Floating Feather Road and the landscaped drainage swales on Mustang Place.
- 1.11 "Declaration" or "Supplemental Declaration" shall refer to this declaration as hereafter amended and supplemented from time to time.
- 1.12 "Declarant" shall mean and refer to Dennis Harmon (Developer), and its successors and assigns, if such successors and assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development and as part of such conveyance, the Declarant assigns and transfers to such transferee the Declarant rights with respect to such Lots.
- 1.13 "Grantor" shall mean and refer to the Declarant.

1.14 "Improvement" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property, including, but not limited to buildings, fences, streets, drives, sidewalks, curbs, landscaping, signs, lights, mailboxes, electrical lines, pipes, pumps, ditches, waterways, swimming pools, and other recreational facilities of any kind whatsoever.

1.15 "Lot" shall mean and refer to a Building Lot.

1.16 "Member shall mean each person or entity holding a membership in the Association.

1.17 "Mortgage" shall mean and refer to any mortgage or deed of trust and "Mortgagee" shall refer to the mortgagee, or beneficiary under a deed of trust, and "Mortgagor" shall refer to the mortgagor, or grantor of a deed of trust.

1.18 "Owner shall mean and refer to the record Owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.19 "Plat" shall mean the recorded Plat of Blackwell Subdivision and the recorded Plat of any other Properties annexed hereto.

1.20 "Properties" or "Property" shall mean and refer to the real property herein before described, and such additions thereto as may hereafter be annexed and brought within the coverage of this declaration as more particularly for herein.

1.21 "Set Back" means the minimum distance established by law between the dwelling unit or other structure referred to and a given street, road, or Lot line.

1.22 "Unit" shall mean one residence that shall be situated upon a Lot

ARTICLE II

GENERAL COVENANTS, CONDITIONS, AND RESTRICTIONS

2.1 Land Use and Building Type. No Lot shall be used except for residential purposes, and no Lot or the Common Area shall be used for the conduct of any trade or business or professional activity. Notwithstanding the foregoing, the Board may in its discretion and upon request by an Owner, allow an Owner to conduct a "garage sale" upon such Owner's Lot.

No improvements shall be erected, altered, placed, or permitted to remain on any Lot other than one designed to accommodate no more than one (1) single-family residential dwelling.

2.1.1 Size Limitations. No split-levels allowed. 2 or 3 Story levels above ground must have not less than 1800 interior floor area, 800 square feet on the ground floor, exclusive of

porches and garages. Single Level Units shall have not less than 1600 square feet of interior floor area, exclusive of porches and garages.

2.1.2 Garages. Each Unit constructed with the Property shall include at least a three (2) car, enclosed garage that is an integral part of the Unit structure.

2.1.3 Roofing Material. The roof of each Unit must be constructed of 30 year or better Architectural Shingles or Metal Roofing. Color to be approved prior to installation by the Architectural Control Committee.

2.1.4 Driveways. All driveways shall be paved with concrete no later than the date of completion of construction of the residence on any lot. However, may be asphalted subject to the approval in writing of the ACC.

2.1.5 Elevation and Grading Requirements. Each home to be constructed so that the bottom of the crawl space is a minimum of 1.0' foot above high ground water. Lots to be graded so that all runoffs run to the drainage easement. No runoff shall cross any lot line onto another lot except within a drainage easement.

2.1.6 Outbuildings, Shops, and Sheds. All out buildings must be constructed with the same quality, design, & materials as the main Unit structure. Plans for out buildings must be submitted and approved in writing by the Architectural Control Committee prior to construction.

2.2 Architectural Control. No improvements which will be visible above the ground or which will ultimately affect the visibility of any above ground improvement shall be built, erected, placed or materially altered, including without limitation, change of exterior colors or materials on the Property, unless and until the building plans, specifications, and plot plan have been reviewed in advance by the Architectural Control Committee and the same have been approved by the Committee. The review and approval or disapproval may be based upon the following factors: design and style elements, mass and form, topography, setbacks, exterior color and materials, physical or artistic conformity to the terrain and the other improvements on the Property which the Architectural Control Committee, in their reasonable discretion, deems relevant. Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of the improvements. This Declaration is not intended to serve as authority for the Architectural Control Committee to control the interior layout or design of buildings except to the extent incidentally necessitated by use and size requirements.

2.3 Exterior Maintenance: Owner's Obligations. No improvements, including

mailboxes and landscaping, shall be permitted to fall into disrepair, and each improvement shall at all times be kept in good condition and repair. In the event that any Owner shall permit any improvement, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, or damage to Property or facilities on or adjoining their Lot which would otherwise be the Associations' responsibility to maintain, the Board, upon fifteen (15) days prior written notice to the owner of said Lot, shall have the right to correct such condition, and to enter upon such Owner's Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall be a Limited Assessment and shall create a lien enforceable in the same manner as other Assessments set forth herein. The owner of the offending Lot shall be personally liable, and his Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefore, or the amounts may, at the option of the Board, be added to the amounts payable by such Owners as Regular Assessments. Each Owner shall have the remedial rights set forth herein if the Association fails to exercise its rights within a reasonable time following written notice.

In the event the improvements on any Lot shall suffer damage or destruction from any cause, the Owner thereof shall undertake the repair, restoration, or reconstruction thereof within ninety (90) days of such damage or destruction. If after ninety (90) days of the repair, restoration, or reconstruction of such damaged or destroyed improvements have not taken place, the Association, upon fifteen (15) days prior written notice to the owner of such Property, shall have the right to correct such condition, and to enter upon Owners Lot for the purpose of doing so and such Owner shall bear all costs incurred by the Association, a lien shall be applied to the Lot.

2.4 Improvements Location. No improvements shall be constructed in violation of setback requirements established by law, or by this Declaration as set forth on the recorded plat of the Subdivision.

2.5 Nuisances. No noxious or offensive activity, including without limitation, those or, shall be carried on upon any Lot or the Common Area nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2.6 Temporary Structures. No improvements of a temporary character, trailer, basement, tent, shack, garage, bam, or other outbuilding shall be placed or used on any Lot at any time as a residence either temporarily or permanently.

2.7 Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet advertising the Property for sale or rent, or signs used by a builder or the Declarant to advertise the Property during the construction and sales period.

2.8 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon the Property, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon the Property.

2.9 Animals. No Animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot - with an exception of dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and provided that the keeper of such pets complies with all city and county laws, rules, and regulations. Dog runs or kennels shall not be allowed. All pets must be kept under the control of the Owner and cannot be out of the Owner's yard without appropriate restraint by a leash. The association may adopt rules and regulations relative to the keeping of animals on any lot.

2.10 Parking. No vehicles shall be permitted to park on the roads that serve as a means of ingress or egress for a period exceeding twenty-four (24) hours. No vehicles, including trailers and boats shall be permitted to park on driveways for a period of twenty-four (24) hours. No vehicles or similar equipment, motorcycles, snowmobiles, trucks (working or non working) greater than three-quarter (3/4) of a ton in size shall regularly or as a matter of practice be parked or stored on any portion of the Property (including streets and driveways) unless enclosed by a structure or screened from view in a manner approved in writing by the Architectural Control Committee.

2.11 Dirt Bikes and/or ATV. No unlicensed motor vehicles including motorcycles, dirt bikes, , motor scooters, ATV's, etc. shall be permitted on any road within the plat nor shall dirt bikes or ATV's be permitted to operate on any Owner's lot or on adjacent roads in an unsafe manner or in such a way to create a hazard or nuisance.

2.12 Auto Repair. No major repair shall be permitted except within enclosed garages, which are kept closed. The only repairs permitted on the balance of the Property are casual repairs and maintenance activities such as tune-ups or oil changes.

2.13 Building Setbacks. No building shall be located near the front, rear, or side lot line than permitted by the City of McCall, Idaho ordinances or as shown on the face of the final plat map, or as may be approved by the City of McCall, Idaho.

2.14 Firearms. The use of firearms is expressly prohibited.

2.15 Bathrooms. All bathrooms, sink, and toilet facilities shall be inside residence buildings and shall be connected by underground pipes directly with the sewer system.

2.16 Antennae. No exposed or exterior radio or television transmission or receiving antennas or satellite dishes shall be erected, placed, or maintained on any part of such premises except as approved by the ACC prior to installation or construction. All satellite dishes must be no larger than two (2) feet in diameter and must not be visible from any street. Any waiver of these restrictions shall not constitute a waiver as to other Lots or lines or antennas.

2.17 Hazardous Activities. No activity shall be conducted on or in any Unit, Lot, or Common Area, which is or might be unsafe or hazardous to any person or Property. Without limiting the generality of the foregoing, no firearms shall be discharged upon said Property; no open fires shall be lighted or permitted on any property except in a self contained barbecue unit while attended and in use for cooking purposes or with a safe and well designed fireplace except such controlled and attended fires required for clearing or maintenance of land.

2.18 Unsightly Articles. No unsightly articles shall be permitted to remain on any Lot or Common Area as to be visible from any other portion of the Property. Without limiting the foregoing, no clothing or household fabrics shall be hung, dried, or aired in such a way as to be visible from any other portion of the Property. No lumber, (grass, tree, or shrub clippings), plant waste, compost piles, metals, building materials, scrap materials, or other articles/materials shall be kept, stored, or allowed to accumulate on any portion of the Property except within an enclosed structure or appropriately screened from view as approved in writing by the Architectural Control Committee. "Screened" is defined as being concealed or made non visible from eye level, at grade, at all points within the Property.

2.19 Light Sound - General. No light shall be emitted from any Lot or from Common Area which light is unreasonably bright or causes unreasonable glare. No sound shall be emitted from any Lot or Common Area, which is unreasonably loud, or annoying, and no odors shall be emitted on any property, which are noxious or offensive to others.

2.20 Fencing. Grantor is under no obligation to fence any portion of said Property and may, at its discretion, fence only portions deemed necessary by Grantor. If o Lot or Lots, only vinyl fencing will be allowed. Style, Height & Color of vinyl fencing must be the same as the existing perimeter fencing located along the north property lines of the Subdivision bordering Floating Feather Road. If Grantor installs fencing on any portion of the Property it will be the Owner (s) sole responsibility to maintain any portion of such fencing that crosses, encloses, and/or resides on Owner (s) Lot.

2.21 Irrigation Water. It is hereby published that the pressurized irrigation provided to Blackwell Subdivision is for irrigation only. Said water has not and will not be deemed potable. At no time shall said irrigation water be used for drinking or cooking. All parties are advised against drinking from hoses or other outside spigots.

2.22 Landscaping of Lot or Lots. Each Owner is responsible for sodding front and side yards upon substantial completion of home or occupancy, whichever comes first, or as soon as weather permits. Landscaping must contain plantings as per the accepted Landscape plan.

(10) Front, Side, & Rear automatic sprinklers are required. All other areas of the Lot or Lots must be sodded or hydro seeded within 60 days of occupancy. All landscape plans & designs must be approved in writing from the Architectural Control Committee prior to installation.

2.23 Pressurized Irrigation. The Grantor shall provide facilities to deliver irrigation water to each Lot via pumps and distribution lines from a central pump station. Maintenance, taxes, insurance, water-rights costs, and general operation of the pumps, enclosures and pressurized irrigation system shall be the responsibility and cost of the Home Owners Association, along with maintenance and care of the common area. Water use shall be on a rotation basis. Distribution systems within each Lot shall be the responsibility of each homeowner. The supply of irrigation water to the common area & swales shall be included in the water rotation. The costs and expenses incurred for the operation and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII below. At all times the Home Owners Association shall cause Blackwell Subdivision to be in compliance with the Idaho Code Section 31-3805, concerning irrigation water usage.

ARTICLE III

PROPERTY RIGHTS

3.1 Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

3.1.1 The Association has the right to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid.

3.1.2 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed on by the members. Such dedication or transfer shall be effective upon the recording of an appropriate instrument executed by the President and Secretary of the Association and upon which said officers affirm that the Owners of 2/3 majority of the Lots approved the transfer or dedication.

3.2 Damages. Each Owner shall be liable for any damage to such Common Areas or other

property owned or maintained by the Association that may be sustained by reason of the negligence or willful misconduct of said Owner or of his family and guests, tenants, or contract purchasers, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be charged as a limited assessment against the owner and his Lot and may be collected as provided herein for the collection of other assessments.

ARTICLE IV

BLACKWELL SUBDIVISION

4.1 Organization of Association. The Blackwell Subdivision Homeowners' Association ("Association") is an Idaho corporation formed under the provisions of the Idaho Non-Profit Corporations Act and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.2 Membership. Each Owner of a Lot subject to this Declaration (including the Declarant) by virtue of being such an Owner and for so long as such owner be a Member of the Association, and no Owner shall have more than one membership in the Association, except as hereinafter set forth with the respect to voting. Memberships in the Association shall not be assignable, except to the successor-in-interest of the owner, and all memberships in the Association shall be appurtenant to the Lot owned by such Owner. The memberships in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

4.3 Voting. The Association will have two (2) classes of voting memberships.

4.3.1 Class A. Class A members shall be the Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than 1 person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with the respect to any Lot.

4.3.2 Class B. The Class B member shall be the Declarant. Upon the recording hereof, Declarant shall be entitled to three (3) votes for each Lot of which Declarant is the Owner. The Class B membership shall cease and be converted to Class A membership when the Declarant no longer owns any Lots within the property subject to the Declaration.

4.4 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles, Bylaws, and this Declaration as the same may be amended and supplemented from time to time.

4.5 Powers and Duties of the Association.

4.5.1 Powers. The Association shall have all the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles, and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to the performance of the other responsibilities herein assigned, including without limitation.

4.5.1.1 Assessments. The power to levy assessments (Annual, Special, and Limited) on the Owners of Lots and to force payment of such assessments, all in accordance with the provisions of this Declaration.

4.5.1.2 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent hereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, of the Articles, or the Bylaws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise, all provisions hereof.

4.5.1.3 Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm, or corporation to act as manager. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty or power to delegate.

4.5.1.4 Association Rules. The powers to adopt, amend, and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable and which are consistent with this Declaration (the Association Rules). The Association rules shall govern the use of the Common Area by the Owners, families of the Owners, or by an invitee, licensee, lessee, or contract purchaser of any Owner; provided, however, that the Association may not discriminate among Owners and shall not be

inconsistent with this Declaration, the Articles, or Bylaws. A copy of the Association rules as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery or posting, said Association rules shall have the same force and effect as if they were set forth in and are a part of this Declaration. In the event of any conflict between such Association rules, the provisions of this Declaration, the Articles, or Bylaws to the extent of any such inconsistency shall supersede them.

4.5.1.5 Emergency Powers. The Association or any person authorized by the Association may enter upon any Lot in the event of an emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with, as little inconvenience to the Owners as practicable and the Association shall repair any damage caused thereby.

4.5.1.6 Licenses, Easements, and Rights-of-Way. The power to grant and convey to any third party such licenses, easements, and rights-of-way in, on, or under the common Area as may be necessary or appropriate for the orderly maintenance, preservation, and enjoyment of the Common Area and for the preservation of the health, safety, convenience, and welfare of the Owners, for the purpose of construction, erecting, operating, or maintaining:

4.5.1.6.1 Underground lines, cables, wires, conduits, and other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes.

4.5.1.6.2 Public sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

4.5.1.6.3. Any similar public or quasi-public improvements or facilities.

The right to grant such licenses, easements, and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-one (21) years after the death of the individuals executing this declaration, on behalf of the Declarant, and their issue who are in being as of the date hereof.

4.5.2 Duties of the Association. In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agents, if any, shall have the obligation to conduct all business affairs of Common interest to all Owners, and to perform each of the following duties:

4.5.2.1 Operation and Maintenance of Common Area. Operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of the Common Area and open spaces, including the repair and replacement of property damaged or destroyed by casualty loss and other property acquired by the Association.

4.5.2.2 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area owned and managed by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state, or local, including income to corporate taxes, levied against the Association in the event that the Association is denied the status of a tax-exempt corporation.

4.5.2.3 Water and Other Utilities. Acquire, provide, and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, and gas and other necessary services for the Common Area and the property owned or managed by it.

4.5.2.4 Insurance. Obtain from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the following policies of insurance.

4.5.2.4.1 Comprehensive public liability insurance insuring the Board, the Association, the Declarant, and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Area or their property owned or managed by it. Limits of liability of such coverage shall be as follows: not less than Five Hundred Thousand Dollars (\$500,000) per occurrence with the respect to personal injury or death, and property damage.

4.5.2.4.2 Full coverage directors and officers liability insurance with

a limit of Two Hundred Fifty Thousand Dollars (\$250,000), if the Board so elects.

4.5.2.4.3 Such other insurance including Workmen's Compensation insurance to the extent necessary to comply with all applicable laws and indemnity, faithful performance, the Association against any loss from malfeasance or dishonesty of any employee or their person charged with the management or possession of any Association funds or other property.

4.5.2.4.4 The Association shall be deemed trustee of the interests of all Members of the Association in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith.

4.5.2.4.5 Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the annual assessments levied by the Association.

4.5.2.4.6 Notwithstanding any other provision herein, the Association shall continuously maintain in effect such other additional casualty, flood, and liability insurance, as the Board deems necessary or appropriate.

4.5.2.5 Rule Making. Make, establish, promulgate, amend, and repeal the Association rules.

4.5.2.6 Architectural Committee. Appoint and remove members of the Committee, all subject to the provisions of this Declaration.

4.5.2.7 Drainage Systems. Operate, maintain, repair, and replace all drainage systems and facilities located within the Property and shown on the Plat and shown in Exhibit "C", which are not maintained by public authorities. Maintenance to be done as required in the "Storm Drainage Maintenance Operation Manual" a copy of which is attached as Exhibit "B". Valley County Highway District to take care of "heavy maintenance". Drainage easement areas or swales may not be altered without written authorization from ACHD.

4.5.2.7.1 Light Maintenance of Storm Water Retention Facilities. The drainage retention facilities are located on Floating Feather Frontage, of Blackwell Subdivision and unplatted property described on Exhibit "C" (herein "Drainage Lot"). A copy of the

plat, unplatted property, and a drawing of the facilities are included in the Homeowner's Maintenance manual. The maintenance area of the Drainage Lots shall include the easement area in which the facilities are located. For the various light maintenance items involved, periodic inspections are to be made of the Drainage Lot in addition to any work required in each of the categories below. These inspections shall be done a minimum of once every month and the Homeowner's Association shall keep a maintenance log.

4.5.2.7.1.1 Trash Cleanup. During the periodic inspections, the banks of the Drainage Lot shall be checked for any water spots, water entering the Drainage Lots from adjacent lots, rodent holes, and bank erosion. If any of these problems are found, the Homeowner's Association shall contact a licensed earthwork contractor to make the necessary repairs to the facilities.

4.5.2.7.1.2 Operation. The system shall be operated and maintained by the Homeowner's Association as it was designed and constructed by the developer or his agent.

4.5.2.7.2 Heavy Maintenance of Storm Water Retention Facilities. The Association shall maintain all Drainage Lots. The Drainage Lots shall be maintained as follows:

4.5.2.7.2.1 Heavy Maintenance of Drainage Lots. Heavy maintenance consists of periodically inspecting the Drainage Lots to insure they are functioning properly; cleaning out the piping and mucking out the Drainage Lots when the sediment levels exceed the designated storage level. All other maintenance shall be referred to herein as "light maintenance". Valley County Highway District (VCHD) has opted to perform this heavy maintenance and shall be allowed, by the Homeowner's Association, to perform this maintenance work. In the event VCHD shall decide not to do such "heavy maintenance," then the Association shall do it.

Valley County Highway District must concur with any proposed changes in the previously *approved* Maintenance Manual. Valley County has the right to perform periodic inspections.

The District may assess the cost of any required maintenance to the property within the development, including the use of liens and/or assessment of maintenance costs against the real property taxes owed by the lots within the development

4.5.2.7.2.2 Light Maintenance of Drainage Lots. The Association shall perform all "light maintenance" of the Drainage Lots pursuant to that certain Manual for Light Maintenance the original of which shall be kept on file with the Homeowner's with copies made available to any interested party upon request. Said Manual for Light Maintenance is incorporated herein by this reference.

4.5.2.8 Right-of-Way Maintenance. Maintain, repair, and replace the sprinkler system for swales & irrigation lines installed thereon located on Mustang Place or any other public right-of-way adjacent to the Property and such other landscaping located within public right-of-way as the Board deems necessary to appropriate.

4.5.2.9 Irrigation Maintenance. Maintain, repair, replace all irrigation lines or channels located on or serving this subdivision (in accordance with Exhibit "C" attached, and to pay all maintenance and construction fees of any Irrigation Association with respect to the Property, which amounts shall be assessed against each lot as provided herein.

4.5.2.10 Streetlights. Maintain, repair, and replace streetlights within the Property to the extent such streetlights are not operated, maintained, repaired, and replaced by the City of McCall or other governmental entity, which has jurisdiction of such matters.

4.5.2.11 Subdivision Approval Responsibilities. Perform all continuing duties and responsibilities imposed upon the Grantor pursuant to any governmental approvals relating to the Property including, without limitation, those set forth in the preliminary plat approval for the Subdivision.

4.6 Personal Liability. No member of the Board or any committee of the Association or the Architectural Control Committee or any officer of the Association, or the Declarant, or the manager, if any, shall be personally liable to any Owner, or any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, the Declarant or the Architectural Control Committee, any other committee or any officer of the Association, or the Declarant, provided that such person, has upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

ARTICLE V

COVENANT FOR MAINTENANCE AND ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association.

5.1.1 Annual regular assessments or charges.

5.1.2 Special assessments for capital improvements, such as assessments to be established and collected as hereinafter provided, and

5.1.3 Limited assessments as hereinafter provided.

The Regular, Special, and Limited assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless assumed by them.

5.2 Purpose of Assessments.

5.2.1 Regular Assessments. The regular assessments levied by the Association shall be used exclusively and to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, to pay property taxes and other assessments, to pay the annual assessments of any irrigation district and to pay such other reasonable costs and expenses which are incurred by the Association in carrying out the duties and business of the Association.

5.2.2 Special Assessments for Capital Improvement. In addition to the annual regular assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, costs and expenses for the Association which exceed the regular assessments or the costs and expenses or any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall be approved by a two-thirds (2/3) vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Additionally, upon the sale of each Lot by Grantor, the purchaser shall pay a one-time special assessment of Fifty and NO/100 Dollars (\$50.00) per Lot. Such special assessment shall be paid on or before the date of recordation of the deed from Grantor to the purchaser. Grantor, as agent for the Association, shall be entitled to collect this onetime special assessment at the closing of the Lot sale. This one-time special assessment shall be used to defray organizational costs for the Association and general costs of operation.

5.2.3 Limited Assessments. The limited assessments may be levied against any Owner in an amount equal to the costs and expenses incurred by the Association, including legal fees for corrective action necessitated by such Owner, without limitation, costs and expenses incurred for the repair and replacement of the Common Area or other property owned or maintained by the Association, damaged by negligent or willful acts of any Owner or occupant of a Lot who is occupying the Lot with the consent of such Owner, or for maintenance of landscaping performed by the Association which has not been performed by Owner as provided herein.

5.3 Maximum Annual Regular Assessment. The initial maximum annual regular assessment to be assessed by the Association, shall be five hundred dollars (\$1,800.00) per Lot per year plus a setup fee for each transfer of ownership of a lot of \$250.00.

5.3.1 The maximum annual assessment may be increased by the Board each year by not more than ten percent (10%) above the maximum assessment for the previous year without a vote from the membership of the Association as provided below.

5.3.2 The maximum annual assessment may be increased above ten percent (10%) by a two-thirds (2/3) vote from each class of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

5.3.3 The Board of Directors of the Association may fix the amount of the annual assessment at an amount not in excess of the *maximum* amount established from time to time.

5.3.4 The total annual regular assessment, levied against the Lots owned by the Declarant, shall be the lesser of (a) the amount of the regular assessment per Lot multiplied by the number of lots owned by the Declarant or (b) the difference between the total annual assessment levied against lots owned by the other parties, other than the Declarant, and the reasonable expenditure of the Association for the purposes described in Section 5.2.1 for this fiscal year.

5.4 Notice and Quorum for any Action Authorized Under Sections 5.2.2 and 5.3. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.2 and 5.3 shall be sent to all members not less than ten days (10) nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more

than sixty (60) days following the preceding meeting.

5.5 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or other basis as determined by the Association from time to time.

5.6 Date of Commencement of Annual Assessments-Due Dates. The annual regular assessments or any special assessments then in effect as provided for herein shall commence as to a Lot or Lots on the first day of the first year following the conveyance of the Lot or Lots from Declarant to an Owner or Owners. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board of Directors shall establish the due dates. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

5.7 Effect of Non-Payment of Assessments - Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date on a rate of twenty-one percent (21%) per annum or at the highest rate allowed by law if such rate is less than 21%. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclosure the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

5.8 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payment, which becomes due prior to such sale or transfer but shall not extinguish personal liability. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI

ARCHITECTURAL COMMITTEE

6.1 Members of the Committee. The Architectural Control Committee for the Property, sometimes referred to as the "Committee", shall consist of three (3) members. Declarant hereby designs the following persons as the initial members of the Committee for the Property.

Dennis Harmon

November 17, 2023 - page 18

<u>Name</u>	<u>Address</u>
Dennis Harmon (Developer)	12332 Whitechapple Way Nampa, ID 83686

Each of said persons shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause.

6.2 Right of Appointment and Removal. At any time, Grantor is the owner of at least one (1) of the Lots, Grantor shall have the right to appoint and remove all members of the Committee. Thereafter, the Board of Directors of the Association shall have the power to appoint and remove all members of the Committee. Members of the Committee may be removed at any *time*, without cause.

6.3 Review of Proposed Construction. The Committee shall consider and act upon any and all proposals of plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties as from time to time shall be assigned to it by the Board of the Association, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. The Board shall have the power to determine, by rule or their written designation consistent with this Declaration, which types of improvements shall be submitted to the Committee for review and approval. The Committee shall approve proposals, plans and specifications submitted for its approval only as it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of any structure affected thereby, will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association.

6.3.1 Conditions on Approval. The Committee may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, or upon the agreement of the Owner submitting the same ("Applicant") to grant appropriate easements to an Association for the maintenance thereof, upon the agreement of the Applicant to reimburse the Association for the cost of maintenance, or upon all three, and may require submission of additional plans and specifications or other information before approving or disapproving material submitted.

6.2.2 Committee Rules and Fees. The Committee also may establish from time to time, rules and/or guidelines setting forth procedures for the required content of the applications and plans submitted for approval. Such rules may require a fee to accompany each application for approval, or additional factors, which it will take

into consideration in reviewing submissions. The Committee shall determine the amount of such fee in a reasonable manner, provided that in no event shall such fee exceed One Hundred Dollars (\$100.00). such fees shall be used to defray the costs and expenses of the Committee or for such other purposes as established by the Board.

Such rules and guidelines may establish, without limitation, procedures, Specific rules and regulations regarding design and style elements, landscaping, and fences and other structures such as animal enclosures as well as special architectural guidelines applicable to Building Lots located adjacent to public and/or private open space.

6.3.3 Detailed Plans. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, landscape plans, drainage plans, elevation drawings and descriptions or samples of exterior material colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plan submitted for approval.

6.3.4 Committee Decisions. Decisions of the Committee and the reasons therefore shall be transmitted by the Committee to the Applicant at the address set forth in the application for approval within seven (7) days after filing all materials required by the Committee. Any materials submitted pursuant to this Article shall be deemed approved unless written disapproval by the Committee shall have been mailed to the Applicant within seven (7) days after the date of the filing of said materials with the Committee. The said seven (7) day period shall only commence to run when an authorized representative of the Committee has executed an application form acknowledging acceptance of such application and acknowledging that such application is complete.

6.4 Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing, designate a Committee Representative (who may, but not need be, one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting variances pursuant to section 6.9. In the absence of such designation, the vote of any two (2) members of the Committee, or the written consent of any two (2) members of the Committee taken without a meeting, shall constitute an act of the committee.

6.5 No Waiver of Future Approvals. The approval of the committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other

matter requiring the approval and the consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

6.6 Compensation of Members. The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder and except as otherwise agreed by the Board.

6.7 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

6.7.1 Upon the completion of any work for which approved plans are required under the Article, the Owner shall give written notice of completion to the Committee.

6.7.2 Within sixty (60) days thereafter, the Committee or its duly authorized representative may inspect such improvements. If the Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying the particular non-compliance, and shall require the Owner to remedy the same.

6.7.3 If for any reason the Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt of the written notice of compliance from the Owner, the improvement shall be deemed to be in accordance with the approved plans.

6.8 Non-Liability of Committee Members. Neither the Committee nor any member thereof, nor its duly authorized Committee Representative, shall be liable to the Association, or to any Owner or Grantee for any loss, damage, or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, provided such person has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result in the immediate vicinity and to the Property generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishes, and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.

6.9 Variances. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area, or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental consideration may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Committee, and shall become effective upon recordation in the Office of the County Recorder of Valley County. If such variances are granted, no violation of the Restrictions contained in this Declaration, or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof, covered by the variance that was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration or of any supplemental Declaration for any purpose except as to the particular property and particular provision hereof, covered by the variance that was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including but not limited to zoning ordinances and Lot setback lines or requirements imposed by any governmental or municipal authority.

ARTICLE VII

EASEMENTS

7.1 Maintenance, Drainage, and Use Easement Between Walls and Property Lines. The Association or Owner of any Lot shall hereby be granted an easement of 5' width on the adjoining properties for the purpose of maintenance of fence and/or landscaping so long as such use does not cause damage to any structure or fence. All runoff of a lot shall be directed to this Easement.

7.2 Other Maintenance Easements. Easements for installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for these improvements for which a public authority or utility is responsible. A further easement is hereby reserved in favor of the Association for access to and maintenance of any irrigation facilities serving the Common Area.

7.3 Pressurized Irrigation Maintenance & Use. The owner of each Lot shall have the sole

responsibility of paying their portion of irrigation use fees and will be billed by the proper agencies. Owner is also responsible for maintaining all portions of irrigation pipes, materials, valves, etc. that cross or are located within Owner's Lot or Easements located on Owner's Lot. Owner's will also be responsible for the maintenance of the Pressurized Irrigation System, Pump, Holding Ponds, etc. and will be billed according to their assessed portion by the proper agencies in this regard.

ARTICLE VII

GENERAL PROVISIONS

8.1 Enforcement. The Association or any Owner, shall have the right to enforce, by the proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Severity. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect

8.3 Interpretation. The terms, covenants, and conditions hereof are to be read and interpreted consistently and in a manner to protect and promote Property values.

8.4 Terms and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years unless an instrument signed by seventy-five percent (75%) of the then Owners of the Lots has been recorded, agreeing to change said covenants in whole or in part. This Declaration may be amended, restated, replaced, terminated, or superseded during the first twenty (20) year period by an instrument signed by the President and Secretary of the Association affirming that such amendment was approved by two-thirds (2/3) of the owners of the Lots covered by this Declaration or by an instrument signed by two-thirds (2/3) of the Lot Owners; provided, however, that if Grantor is still the Owner of any Lots the provisions of Article VI may not be amended without written consent and vote of the Grantor and provided the amendment does not reduce the amount of solar access protection provided to the subdivision and the amendment is approved by the City of McCall.

ARTICLE IX

MISCELLANEOUS

A. Enforcement and Non-Waiver. Any lot owner, or homeowner association, whether or not directly affected, shall have the right to enforce, by a proceeding at law or in equity, any violation or threatened violation of a provision of this Declaration. The failure of any person to enforce any covenant or restriction herein contained shall not be deemed a waiver of any other branch. There can be no waiver of the right to solar access created by this Declaration.

B. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

C. Duration and Applicability to Successors: The covenants, conditions, and restrictions set forth in this Declaration shall be in effect perpetually, shall run with the land and shall insure to the benefit of and be binding upon the Declarant and all lot owners in the subdivision and their successors in interest.

D. Amendment: This Declaration may be amended by the action of the owners of a majority of the lots in the subdivision affected by such amendment provided the amendment does not reduce the amount of solar access protection provided to the subdivision and the amendment is approved by the City of McCall.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this _____ day of _____, 2023.

Dennis Harmon

BY: _____

STATE OF
IDAHO)

) ss.

County of _____)

On this _____ day of _____, _____, before me the undersigned, a Notary Public in and for said State, personally appeared Dennis Harmon known or identified to me to be the person who executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public

Residing at _____, Idaho

My Commission Expires: _____