

**CORRECTED AND RE-RECORDED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF KIMBERLY MEADOWS SUBDIVISION NO. 1**

THIS CORRECTED AND RE-RECORDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 1st day of August, 2005, by **KIMBERLY MEADOWS, L.L.C.**, an Idaho Limited Liability Company (hereinafter referred to as "Declarant").

RECITALS:

THIS CORRECTED AND RE-RECORDED DECLARATION IS MADE in contemplation and furtherance of the following facts and purposes:

A. Declarant is the owner of certain real property located in the City of Kimberly, Twin Falls County, State of Idaho, more particularly described on Exhibit "A" hereto (hereinafter referred to as the "Property").

B. It is the intent of the Declarant to develop the Property, in phases, and to reserve unto itself, or its successors, the right to adopt this Corrected and Re-Recorded Declaration of Covenants, Conditions and Restrictions, by reference, in an instrument making the same applicable to any other residential subdivisions which may hereafter be developed within the Property, thereby annexing and placing such subdivisions under and within the purview of this Corrected and Re-Recorded Declaration, and imposing and extending to all such subdivisions and all lots, residential units and common areas situated therein, and to the owners thereof, the obligations and benefits of this Corrected and Re-Recorded Declaration of Covenants, Conditions and Restrictions.

C. A portion of the Property has been subdivided as Kimberly Meadows Subdivision No. 1, according to the official plat thereof recorded in the records of Twin Falls County, Idaho, and a Declaration of Covenants, Conditions and Restrictions for said subdivision, and, at the option of the Declarant, for other subdivisions of the Property, was executed by the Declarant and recorded on June 30, 2005, as Instrument No. 2005-014111, records of Twin Falls County, Idaho ("Original Declaration").

D. The Original Declaration inadvertently failed to include the legal description of the Property referred to therein, which was supposed to be attached as Exhibit "A" thereto, and this Corrected and Re-Recorded Declaration of Covenants, Conditions and Restrictions of Kimberly Meadows Subdivision is intended to provide said missing legal description in order that subsequent subdivided phases of the Kimberly Meadows Property may be placed under and within the purview of the covenants, conditions and restrictions for Kimberly Meadows Subdivision No. 1.

E. It is Declarant's intent that this Corrected and Re-Recorded Declaration of Covenants, Conditions and Restrictions of Kimberly Meadows Subdivision No. 1 replace and supersede the Original Declaration (Twin Falls County Inst. No. 2005-014111) in its entirety.

DECLARATION

Declarant hereby declares that the Kimberly Meadows Subdivision No. 1, according to the official plat thereof recorded in Book 20 of Plats, page 11, records of Twin Falls County, Idaho, and all real property, lots, residential units and common areas situated therein, or in any other residential subdivision hereafter placed under or within the purview of this Declaration shall be held, conveyed, encumbered, leased and used subject to the covenants, conditions, restrictions and equitable servitudes hereinafter set forth or provided for, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said subdivision, and which shall run with title to the land situated therein, and shall be binding upon, and benefit, all parties now or hereafter having or acquiring any right, title or interest therein, or to any part thereof.

ARTICLE I REPLACEMENT

1. It is the Declarant's intent that this Corrected and Re-Recorded Declaration of Covenants, Conditions and Restrictions of Kimberly Meadows Subdivision No. 1 shall replace and supersede the Original Declaration in its entirety.

ARTICLE II DEFINITIONS

2. Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the following meaning:

2.1 Annexation. "Annexation" shall mean and refer to the act of the Declarant, or its successors, to place additional residential subdivisions of any portion of the Property described on Exhibit "A" hereto under and within the purview of this Corrected and Re-Recorded Declaration of Covenants, Conditions and Restrictions, in the manner herein provided for in Article IV.

2.2 Articles. "Articles" shall mean the Articles of Incorporation of the Kimberly Meadows Homeowners Association, Inc., an Idaho Non-Profit Membership Corporation.

2.3 Assessments. "Assessments" shall mean Assessments described in Article V.

2.4 Association. "Association" shall mean and refer to Kimberly Meadows Homeowners Association, Inc., an Idaho non-profit membership corporation organized under the laws of the State of Idaho, its successors and assigns.

2.5 Board of Directors. "Board of Directors" shall mean and refer to the Board of Directors of the Association, and the term may hereinafter be used interchangeably with the term "Board."

2.6 Common Area. "Common Area" shall mean and refer to all real property now or hereafter owned or leased by the Association or in which the Association has an easement including all property indicated as Common Area on the official plat of any other residential subdivision hereafter placed under

and within the purview of this Declaration in the manner herein provided for.

2.7 Lot. "Lot" shall mean and refer to any Lot shown on the official plat of the Kimberly Meadows Subdivision No. 1, or in the official plat of any other residential subdivision which may be placed under and within the purview of this Declaration, in the manner hereinafter provided for.

2.8 Member. "Member" shall mean and refer to a Member of the Association who shall be an Owner and shall qualify for membership in the Association in the manner hereinafter set forth.

2.9 Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot within the Kimberly Meadows Subdivision No. 1, or any other residential subdivision hereafter placed under and within the purview of this Declaration in the manner hereinafter provided for; provided, however, that the term "Owner" shall not include those having only a security interest in any Lot through a lien, encumbrance, deed of trust, mortgage, or similar security instrument.

ARTICLE III COMMON AREA

3.1 Common Area. In conjunction with any subdivision situated on the Property, the Declarant, or its successors may tender Common Area to the Association, which shall be accepted by the Association provided it is for the common benefit of the Property, or the common use and enjoyment of the Owners and their respective family members, guests and invitees. All such Common Area conveyed in fee simple to the Association shall be free and clear of all liens and encumbrances, except easements, restrictions and reservations which are by record and are approved.

ARTICLE IV ANNEXATION

4.1 Annexation. The Declarant or its successors may, at any time hereafter, by execution and recordation of an effective Declaration of Covenants, Conditions and Restrictions encumbering any residential subdivision owned by the Declarant or its successors, resulting from the subdivision, re-subdivision or re-platting of any parcel within the Property described in Exhibit "A" hereto, place said residential subdivision under and within the purview of this Declaration, and all of its covenants, restrictions and conditions. Upon the recordation of such a declaration, all Lots in said residential subdivision shall be deemed to be Lots hereunder, and all Owners thereof shall thereafter be Owners and Members of the Association for all purposes hereunder, in the same manner, and subject to the same benefits and obligations as though said Lots were included in the Kimberly Meadows Subdivision No. 1.

4.2 Common Area. Upon Annexation of any residential subdivision pursuant to this Article IV, Declarant shall deed and convey all Common Area within said subdivision to the Association in the manner provided for in Section 3.1 hereinabove.

4.3 Notice. In the event the Declarant shall intend to annex property as provided in this Article, written notice of such intent shall be given to the Association at least thirty (30) days prior to the recordation of the Declaration purporting to effectuate the annexation.

ARTICLE V ASSESSMENTS

5.1. Agreement to Pay Assessments. Declarant, for each Lot owned by the Declarant, hereby covenants, and each subsequent Owner of any Lot, by acceptance of a deed therefor, whether or not it be so expressed in said deed, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association the assessments provided for in this Declaration. In the case of joint or co-ownerships, this liability shall be joint and several. Such assessments shall be levied against Lots and collected from time to time in the manner provided in this Article V.

5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to defray the costs and expenses incurred by the Association and the performance of the duties and obligations imposed upon it by this Declaration.

5.3. Assessment Years. The first assessment year for the levying of the Association's annual assessments shall commence upon the 1st day of January, 2007.

5.4. Annual Assessments. Annual Assessments against all Lots are hereby authorized which, unless otherwise specifically provided herein, shall be based upon advanced estimates of the cash required by the Association for each assessment year to provide payment for all expenses to be incurred in said assessment year in the conduct of the Association's affairs. Such expenses may include, among other things, those incurred for taxes, insurance, professional services, and maintenance of the Common Area, and operation and maintenance of the pressure irrigation system.

5.5. Special Assessments. In addition to the annual assessments authorized hereinabove the Association may levy in any assessment year a special assessment payable over such time as the Association may determine for the purpose of defraying, in whole or in part, the unanticipated cost of any construction, reconstruction, repair or replacement of Common Area improvements. This Section shall not be construed as an independent authority for the Association to incur expenses, but shall be construed to prescribe an alternative manner of assessing for expenses authorized in other sections hereof.

5.6. Apportionment of Assessments. Annual and special assessments shall be payable monthly, or at such other intervals as the Board of Directors of the Association may establish. The total of any such installment of annual or special assessment shall be apportioned equally among, and be payable by, the Owners of respective Lots.

5.7. Due Dates for Assessment Payments. Unless otherwise determined by the Board, the monthly assessments and any special assessments which are to be paid in monthly installments shall be paid monthly, in advance, and shall be due and payable to the Association at its office, without notice, on the first day of each month. If any such assessment shall not be paid within fifteen (15) days after it shall have become due and payable, then the Board may assess a "late charge" thereon in an amount not exceeding Ten Dollars (\$10.00) which amount may be adjusted by the Board from time to time to cover the extra expenses involved in handling delinquent assessment payments.

5.8. Liens for Assessments. The annual and special assessments provided for in this Article V,

and any and all default assessments arising hereunder (together with any and all interest, costs, late charges, expenses, and reasonable attorney's fees which may arise under this Article), shall be burdens running with, and a perpetual lien in favor of the Association upon, the specific Lot to which such assessments apply. To evidence and perfect such lien upon a specific Lot, the Board shall prepare a written lien notice setting forth the description of the Lot, the amount of assessments thereon which are unpaid as of the date of such lien notice, the name of the Owner thereof, and any and all other information that the Board may deem proper. The lien notice shall be signed by the President or a Vice-President of the Association, or such other person as may be so authorized by the Board whose signature shall be attested by the Secretary or an Assistant Secretary of the Association, and shall be recorded in the office of the Clerk and Recorder of Twin Falls County, Idaho. Such liens may be foreclosed in the same manner as mortgages in the State of Idaho.

5.9 Successors' Liability for Assessments. Notwithstanding the personal obligation of each Owner of a Lot to pay all assessments thereon and notwithstanding the Association's perpetual lien upon a Lot for such assessments, all successors in interest to the fee simple title of a Lot shall be jointly and severally liable with the prior Owner thereof for any and all unpaid assessments, interest, late charges, costs, expenses and attorney's fees against such Lot, without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor; provided, however, that a successor in interest to the fee simple title of a specific Lot shall be entitled to rely upon the existence and status, or absence thereof, of unpaid assessments, interest, late charges, costs, expenses, and attorney's fees as shown upon any certificate issued by the Association to such named successor in interest.

ARTICLE VI INSURANCE

6.1 Public Liability and Additional Insurance Coverage. To the extent it deems appropriate, the Association may obtain a broad form public liability insurance policy covering the Common Area and the acts of the Association and its agents, and the Association may maintain any and all-other insurance coverage as the Board may deem advisable.

6.2 Damage or Losses from Association's Insured Hazards. In the event of loss, damage, or destruction by fire or other casualty to any Common Area covered by insurance written in the name of the Association or for which the Association is named as co-insured, whether in its own name or as trustee, the Board shall, upon receipt of the insurance proceeds, contract to repair, reconstruct, or rebuild any damaged or destroyed portions of the Common Area to as good condition as formerly existed.

ARTICLE VII ARCHITECTURAL CONTROL

7.1 Architectural Controls. In order to maintain the architectural aesthetics of any portions of the Property within the purview of this Declaration no improvements, buildings, fences or other structures, shall be commenced, constructed, erected, altered, remodeled, or maintained upon a Lot, until the plans and specifications accurately showing the dimensions, windows, exterior materials, color and location of the same shall have been submitted to, and approved in writing as to harmony of external design and location in relation to surrounding structures by an Architectural Review Committee ("ARC")

composed of one or more representatives appointed by the Board. The initial Architectural Review Committee shall consist of one member; namely, **Gerald Martens**, of Twin Falls, Idaho. In the event the Board, or the Architectural Review Committee, if one then exists, fails to approve or disapprove such plans and specifications within sixty (60) days after the same have been submitted, then such plans and specifications shall be deemed to have been approved as submitted.

7.2 Submittal. To obtain consideration of any proposed construction, the Owner proposing the same shall submit complete plans therefor to the ARC, together with a design review fee to be established by the Board.

7.3 Non-Liability for Actions. Neither Declarant, the Board, nor the ARC nor their respective successors or assigns, shall be liable in damages to anyone submitting plans to the ARC for approval, or to any Owner affected by this Declaration, by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every Owner or other person who submits plans to the ARC for approval agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Board or the ARC or the Declarant to recover any such damages. Approval by the ARC shall not be deemed to constitute compliance with the requirements of any local building codes, which shall be the sole responsibility of the Owner.

ARTICLE VIII MAINTENANCE BY THE ASSOCIATION

8.1 Common Area. The Association shall, as authorized and directed by the Board, have full responsibility for and control over: all maintenance, repairing, replacing of the Common Area, specifically including without limiting the generality of the foregoing, the installation, maintenance and irrigation of grass, trees, shrubbery, flowers, fencing and similar landscape items, and the installation and maintenance of a sprinkling or other irrigation system.

ARTICLE IX USE RESTRICTIONS

9.1 Land Use and Building Type. No Lot shall be used except for single-family residential purposes, and no prefabricated, modular, manufactured or pre-existing homes may be moved upon any Lot.

9.2 Size of Residential Structure. The ground floor foot print of any single family residential structure, exclusive of porches and garages, shall not contain less than 1,300 square feet for a building with one story above ground level, and not less than 1,000 square feet for a multi-level structure above ground level.

9.3 Minimum Exterior Requirements. All Residential Structures shall have a roof pitch which is not less than a 5/12 pitch, and at least twenty percent (20%) of the front elevation shall be of rock, brick, synthetic stucco or other masonry product approved by the ARC. The exterior finish of any outbuildings must be compatible with that on the main residential structure, and bright, bold or very dark

the purview of this Declaration shall be a Member of the Association. If title to a Lot is held by more than one person, the membership related to that Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. There shall be only one membership appurtenant to each Lot, and every Owner shall be entitled to one membership for each Lot owned.

10.3 Voting Rights. Each membership shall be entitled to cast one vote in all elections or other actions in which the members are required or permitted to vote pursuant to the Articles of Incorporation and By-Laws of the Association.

ARTICLE XI GENERAL PROVISIONS

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

11.2 Severability. Invalidation of any one of the covenants, conditions or restrictions herein contained by court order or judgment shall in no way effect the validity or effectiveness of any other provisions.

11.3 Amendment. The covenants, conditions and restrictions of this Declarations shall encumber, and run with the title to, all real property now or hereafter made subject hereto, from and after the date this Declaration is recorded in the official records of Twin Falls County, Idaho. This Declaration, or any provision hereof, may be amended at any time by an instrument signed by the Owners of not less than 66 2/3% of the total number of Lots within the purview of this Declaration. Any such amendment must be recorded in the official records of Twin Falls County, Idaho, to be effective.

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

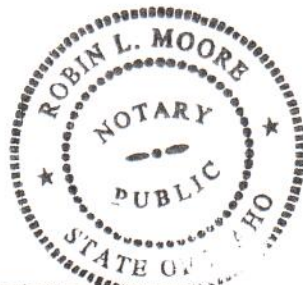
DECLARANT
KIMBERLY MEADOWS, L.L.C.

By: 
Its: Managing Member

STATE OF IDAHO)
)ss.
County of Twin Falls)

On this 1st day of August, 2005, before me, a Notary Public, in and for said County and State, personally appeared J. EVAN ROBERTSON, known or identified to me to be the Managing Member of Kimberly Meadows, L.L.C, the limited liability company that executed the foregoing instrument, and acknowledged to me that such entity executed the same.

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



Robin L. Moore
NOTARY PUBLIC FOR IDAHO
Residing at: Jerome
My commission expires: 12-28-06

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Exhibit A

A parcel of land located in a portion of the Southwest quarter, Section 20, Township 10 South, Range 18 East, Boise Meridian, Twin Falls County, Idaho; said property being more specifically described as follows:

COMMENCING at the Southwest corner of said Section 20 and being the TRUE POINT OF BEGINNING;

Thence, North $00^{\circ}07'59''$ East, 1878.38 feet, along the West boundary of Section 20 to a point on the Southerly right-of-way line of the Eastern Idaho Railroad.

Thence, South $80^{\circ}47'22''$ East, 1333.92 feet, along said Southerly right-of-way line to a point on the Easterly boundary of the West half of the Southwest quarter of Section 20.

Thence, South $00^{\circ}04'41''$ West, 358.03 feet, along said Easterly boundary to the Northeast corner of the Southwest quarter of the Southwest quarter of Section 20.

Thence, South $89^{\circ}23'36''$ East, 263.05 feet, along the Northerly boundary of the Southeast quarter of the Southwest quarter of Section 20.

Thence South $00^{\circ}03'02''$ West, 889.61 feet.

Thence, North $86^{\circ}49'49''$ West, 232.80 feet.

Thence, South $00^{\circ}29'26''$ West, 123.61 feet.

Thence, North $88^{\circ}13'44''$ West, 314.02 feet.

Thence, South $47^{\circ}23'08''$ West, 53.18 feet.

Thence, South $00^{\circ}58'18''$ East, 288.46 feet, to a point on the South boundary of Section 20;

Thence, North $89^{\circ}22'12''$ West, 1001.29 feet, along the South boundary of Section 20 to the Southwest corner of Section 20 and the TRUE POINT OF BEGINNING

The above described parcel contains approximately 56.89 acres.

Together With:

A parcel of land being described as all that portion of the Northeast quarter of the Southwest quarter, Section 20, Township 10 South, Range 18 East, Boise Meridian, Twin Falls County, Idaho, lying South of the Railroad right of way.

Containing approximately 7.8 acres.