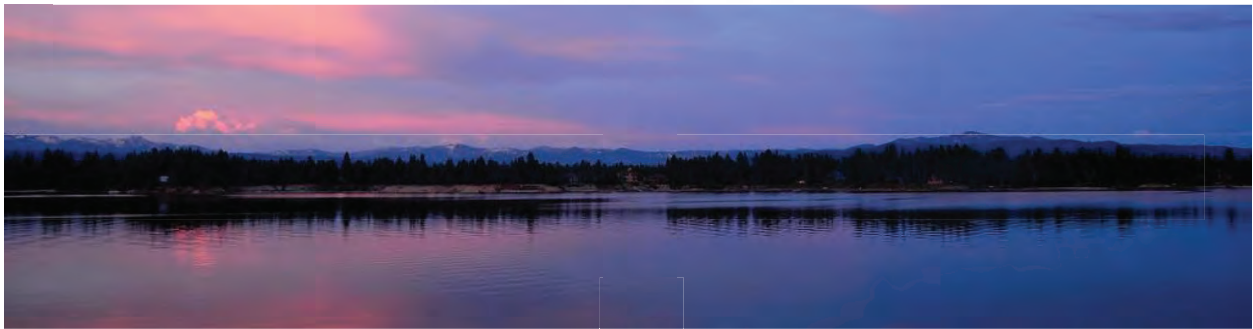


# *Valley Meadows*

A PLANNED UNIT DEVELOPMENT

VALLEY COUNTY, IDAHO



**CONDITIONAL USE PERMIT/PRELIMINARY PLAT APPLICATION**

**PREPARED FOR:**

VALLEY COUNTY PLANNING AND ZONING

CASCADE, IDAHO 83611

**PREPARED BY:**

APPLICANT:

Tanner Leighton

***Triple Dot Development LLL***

811 E MCKINLEY ST.

BOISE, ID 83712 – 6417

ENGINEER:

***KM ENGINEERING LLP***

5727 N DISCOVERY WAY

BOISE, IDAHO 83713

(208) 639-6939

**PREPARED: JUNE 2022**

**SECTION I  
GENERAL INFORMATION**

**1. GENERAL INFORMATION**

- A. Applicant: Triple Dot Development, LLC  
811 E McKinley St  
Boise, ID 83712
- B. Owner: Triple Dot Development, LLC  
811 E McKinley St  
Boise, ID 83712  
  
Tanner Leighton  
[REDACTED]
- C. Engineer: KM Engineering LLP  
5725 N. Discovery Way  
Boise, Idaho 83713  
[REDACTED]
- D. President: Mark V Reichman  
3826 Thousand Oaks Cir  
Salt Lake City, UT 84124

**2. OVERVIEW**

The applicant Triple Dot Development LLC is applying for conceptual approval of Valley Meadows, a Planned Unit Development (PUD) in Valley County. The applicant also seeks approval of a Conditional Use Permit/Preliminary Plat for Valley Meadows.

**3. PROCESS**

Under the terms of the *Valley County Land Use and Development Ordinance*, the PUD Application for Concept Approval is being requested for approval. Each subsequent Phase of the PUD will be submitted for review and approval pursuant to the *Valley County Land Use and Development Ordinance*, and the *Valley County Subdivision Regulations*.

**4. PURPOSE**

This report has been setup to incorporate several tasks. First, is to present the PUD and receive conceptual approval. Second, is to submit the Conditional Use Permit (CUP)/Preliminary Plat application for approval of Valley Meadows.

The submittal for conceptual approval will be shown in Sections II and III of this report. Section II covers Chapter 9, Sections 1-5, of the *Valley County Land Use and Development Ordinance*, entailing an overview of the PUD. Section III covers Chapter 9, Sections 6-12 of *the Valley County Land Use and Development Ordinance* describing submission requirements. Print in *italics* has been reprinted directly from the *Valley County Land Use and Development Ordinance*, while regular type is the applicant's response.

The CUP/Preliminary Plat Application for the subdivision is covered in Section IV. This section covers Chapter 5 of the Valley County Land Use and Development Ordinance.

Future proposed phases will be submitted with final plat applications.

**SECTION II  
THE VALLEY MEADOWS PUD  
SUBMISSION REQUIREMENTS FOR  
THE VALLEY COUNTY LAND USE AND DEVELOPMENT ORDINANCE  
CHAPTER 9, SECTIONS 1-5**

**A. DEFINITION**

*A “planned unit development” (hereinafter referred to as a PUD) is an area of land controlled by one or more landowners which is to be developed under a single and comprehensive plan of development. Any mix of residential building types, or any mix of residential commercial, industrial recreational, and agricultural uses may be permitted to provide greater flexibility in land usage. Additional flexibility in development is furnished because setbacks, height, lot size, density, and other site regulations may differ from those normally imposed for similar uses. Residential units and other buildings, if any, may be constructed by either the developer or individual buyers; however, the application must be accompanied by plans and other documents sufficient for the administrator, staff and commission to review the application for compliance with the requirements of this title.*

**1. Location and Surroundings**

Valley Meadows is located southwest of The Meadows at West Mountain Subdivision, which is located southwest of the intersection of Roseberry Road and Norwood Road. To the south are future phases of The Meadows at West Mountain Subdivision and to the west are the Highland Woods LLC and Gyllenskog Properties (See Figure 1 – Vicinity Map in Appendix A).

The surrounding properties consist of residential developments, agricultural lands, and timberlands.

**2. Project Overview**

Triple Dot Development LLC, desires to create on the property a planned unit development with certain Common Areas for the benefit of the development and the Owners of lots therein. The project consists of approximately 20.78 acres. The PUD will consist of three phases that will include residential, commercial, and multi-family lots. The maximum number of townhomes in all phases shall not exceed 74. Additionally, the development will require a sewer lift station and highway that will cross through the northwest corner of the project:

The phase breakdown for the PUD is shown below. Additionally, Figure 2 the Phasing Plan in Appendix A, shows the phase break down.

Phasing Plan

Phase I – Multi-Family Lots

Phase II – Townhomes

Phase III – Townhomes, Commercial Lots

There shall be a total 74 townhomes in the PUD. On the proposed 20.78-acre PUD, there will be approximately 3.24 acres of recreation/open space, 3 commercial lots comprising 1.53 acres, approximately 5.99 acres of townhomes, approximately 5.91 acres of multi-family units, and approximately 4.11 acres of private street area. The preliminarily designated use areas and open spaces are depicted on the Land Use Map (Figure 3 in Appendix A) and discussed in greater detail in Section III. The living unit combined density is 8.93 units per acre. The commercial lots are scheduled for the third and final phase of the PUD. The commercial lots were included within this PUD to provide amenities needed to enhance the residential needs. These needs include providing site storage units, which totals 45,000 SF. Office and retail sites (10,000 SF) will be utilized for small retail outlets, a convenience store, a bar-grill establishment, or office space for small business such as realty offices. The commercial amenities will also reduce traffic impacts on the local roadways. The storage units will provide a buffer between the office/retail sites and the residential development.

Below are conceptual elevations for the townhomes, multi-family buildings, and commercial buildings. It is the intent of the developer that these buildings be consistent with existing and future development in the area and complement adjacent developments and the natural landscape of Valley County. This has been accomplished through the use modern architectural elements, such as varied rooflines, fenestration patterns, mixes of materials, modulation, and a color palette that is complementary of the natural environment.

**Townhomes**



***Multi-family***



***Commercial***



***Utilities***

Utilities for the development will include a central water distribution system, connecting to the central sewer system, lift station, underground power, and telecommunications. The Developer intends to construct an on-site water supply, treatment, storage, and distribution facility in cooperation with the North Lake Recreational Water & Sewer District. Once completed, the system would be owned and operated by the North Lake Recreational Water & Sewer District. Alternatively, Valley Meadows reserves the right to construct wells, treatment facilities and storage tanks as may be required by DEQ to serve Valley Meadows development as a privately owned system. A property owners' association will ultimately govern the development, pursuant to Articles of Incorporation, Bylaws, and the Declaration of Covenants, Conditions and Restrictions for the PUD, a draft of which is included in Appendix B of this application. Development guidelines common to the entire project are contained in the draft Declaration of Covenants, Conditions and Restrictions. Additional design guidelines specific to each phase will be submitted for review as part of the final plat review for such phase.

**B. PURPOSE**

*The PUD concept allows the site planner to propose the best use and arrangement of development on*

*the parcel of land by reducing the more rigid regulations herein. A PUD is designed so that buildings are clustered together to create open space of common ownership, preserve natural features and landscape character, more efficiently use the site and to minimize development costs by sharing common walls, shortening and narrowing roads, and concentrating utilities. It is expected that a PUD will provide certain amenities like recreational facilities, landscaping, and natural open spaces for the enjoyment of all owners, employees, etc., and will demonstrate better than average quality of development.*

## **1. Comprehensive Plan Compliance**

Valley Meadows is consistent with and furthers the goals of the Valley County Comprehensive Plan, as follows:

- A. The PUD is consistent with residential developments occurring in the area.
- B. The PUD does not interfere with or detract from any ongoing productive or profitable agricultural enterprise.
- C. The PUD consists of selective, well-planned, “stand-alone” phases.
- D. The PUD is well adapted to the natural advantages and disadvantages of the site.

## **2. Compatibility/Impact**

By clustering residential and mixed-use development and preserving more than 3.24 acres of the project as designated recreation/open space, the rural, open characteristics of the property can be maintained. Valley Meadows blends together with the existing phases and subdivisions that border along the north, south, and east boundaries.

## **C. CONCEPT APPROVAL**

*In considering whether to approve a PUD, the commission shall determine:*

- 1. That the proposed use nets a positive score on the compatibility rating system herein. The compatibility rating shall be computed for the full application as presented to the Commission after revisions requested during any preliminary review or work sessions;*

*In the case of PUD's in which the Board determines that it is in the public's best interest that the Board deal exclusively with certain of the nine Compatibility Questions contained in Appendix A, then, subject to the Board's direction, the Commission shall not consider such Questions as part of its Compatibility rating of the proposed use.*

- 2. That the proposal works with the characteristics of the site by protecting or highlighting attractive features and by minimizing the impact of development where natural constraints exist;*

3. *That the proposal's layout promotes the clustering and separation of different kinds of land uses so that both internal compatibility and common open space can be maintained;*
4. *That the proposal's layout and design provides economics in the provision of roads and other site improvements; and*
5. *That it is more desirable to have a PUD than a subdivision or some other singular use and that the PUD is not be being proposed simply to bypass or vary the more restrictive standards required of a subdivision, business, industry, or other similar use.*

### **1. Rating System**

The development has not yet received a rating system score.

### **2. Site Characteristics**

The site is a relatively flat with little vegetation or trees and has been used as a grazing pasture and for farming. There are no natural constraints or attractive site features that will be compromised due to this development.

### **3. Clustering**

The townhomes are clustered within the development to increase the amount of open space that is available and to allow for commercial and multi-family land uses. The open spaces will promote recreational and community uses. The multi-family development would provide affordable housing within the area. The commercial-use area is intended to blend with and build upon the needs of the residential development. This includes the need for office/small retail and or a tavern/grill establishment. The commercial area's development will be driven by market forces dictated by the development and traffic produced by Tamarack Resort.

### **4. Site Improvements**

The proposed development's layout is designed around the County's new highway located in the northwest corner of the site.

### **5. PUD Submittal**

A PUD is being proposed due to the mixed uses of commercial, multi-family, and residential. Each use complies with the counties minimum lot sizes and minimum open space.

We have included the following Compatibility Questions and provided the evaluation given by the Valley County Planning and Zoning Commissioners.



Yes/No (X)	RESPONSE Value	
( +2/-2 ) X 4	+8	1. Is the proposed use compatible with the dominant adjacent land use? <ul style="list-style-type: none"> <li>• The PUD is surrounded by 4 subdivisions that border along the North, South, and East all within 300feet.</li> </ul>
( +2/-2 ) X 2	+4	2. Is the proposed use compatible with the other adjacent land use? <ul style="list-style-type: none"> <li>• The PUD is surrounded by 4 subdivisions that border along the North, South, and East.</li> </ul>
( +2/-2 ) X 1	+2	3. Is the proposed use generally compatible with the overall land use in the local vicinity? <ul style="list-style-type: none"> <li>• The land use within a 1 to 3 mile radius is generally agricultural</li> <li>• The land use in this area also includes a significant amount of single family residential, subdivisions, and recreational uses.</li> </ul>
( +2/-2 ) X 3	+6	4. Is the property large enough, does the existence of wooded areas, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses? <ul style="list-style-type: none"> <li>• The proposed density of the project is 8.93 units per acre, which is comparable to the adjacent property.</li> <li>• Valley County is currently planning on constructing a highway, which would border the PUD along the west.</li> </ul>
( +2/-2 ) X 1	-2	5. Is the size or scale of proposed structures similar to adjacent ones? <ul style="list-style-type: none"> <li>• The size and scale of proposed structures will be similar to adjacent structures in most cases excluding the multi-family units. Which will have a similar architectural design but on a larger scale.</li> </ul>
( +2/-2 ) X 2	+4	6. Is the traffic volume and character to be generated by the proposed use similar to the ones on properties that will be affected by proximity to parking lots, on-site roads, or access roads? <ul style="list-style-type: none"> <li>• The traffic volume will increase; however, the character of the traffic will not vary.</li> <li>• The new highway will mitigate any changes to the level of service experienced by local traffic.</li> <li>• The current traffic consists of passenger and recreational vehicles, agricultural vehicles and equipment, and traffic produced by the Tamarack Resort.</li> </ul>
( +2/-2 ) X 2	+4	7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses?

- The water quality in the area should be improved through BMP’s and removing cattle grazing land use.
- Higher levels of noise, light and dust will be evident in the short term but will be mitigated through the planning process.
- Domestic water use will be provided by deep onsite wells and should not affect the water supply of adjacent properties that utilize the shallow aquifer for single-family well systems, based upon the water studies that have been completed.

(+2/-2) X 2      +4

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas?
- The proposed project is anticipated to be largely secondary and recreational residents.
  - The proposed water system will provide fire flow to an area that currently has none.
  - The impact on the fire district, police protection, schools, and roads will be mitigated through an increased tax base.
  - There are existing utilities such as power and telephone already surround the property boundaries.
  - Improvements to the public sewer system have already taken place, by funding preliminary studies. Additional funding will be in the form of impact fees.

(+2/-2) X 2      +4

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?
- The proposed project will increase the County tax assessment roles.
  - Additional jobs will be created, possibly stemming from the following sources: resident service industry, accommodation management, and tavern/grill/convenient store.
  - The proposed project is anticipated to be largely secondary and recreational residents.

Subtotal (+)	+36
Subtotal (-)	- 2 .
Total Score	+34

**D. TIME FOR COMPLETION**

*The proposed development shall be completed within the time specified in the phasing plan. Extensions may be approved by the Commission if it can be shown as necessary, and in the public interest.*

**1. Phasing**

The whole development consists of three phases. The phases are designed as “stand alone” phases. In other words, in no case is the viability of a particular phase dependent on the construction of other phases. The Applicant has no intention of developing purely for the sake of development. The subsequent phases will be market driven. Final platting of such phases and construction within those phases will, for the most part, not occur until there is a demand therefor. The preliminary completion date is June 16, 2025.

Shown in Table A below is a list of the current and proposed land uses in each phase of the development.

**TABLE A**  
**Valley Meadows Phasing Breakdown**

<b>Dwelling or Commercial Unit Component</b>	<b>Phase 1</b>	<b>Phase 2</b>	<b>Phase 3</b>
Townhome Lots <sup>i</sup>	0	50	24
Commercial (Ac.) <sup>1</sup>	0	0	1.53
Multi-Family Units <sup>2</sup>	88	0	0

<sup>1</sup> Total commercial use shall be limited to 2 lots and 1 storage lot.

<sup>2</sup> Total Multi-family shall be limited to 88 units.

**E. CHANGES FROM APPROVED PLANS**

*Changes in building design and layout may be approved by the Commission if it can be shown as being necessary or more desirable.*

The Applicant will meet annually, or as otherwise desired by the County, with the Planning and Zoning Commission and the Board of Commissioners to review the progress of the development and to, as necessary, revise the phasing plan so that incremental impacts can be prudently identified and mitigated prior to the final platting of any subsequent phase.

**SECTION III  
SUBMISSION REQUIREMENTS FOR PUD  
VALLEY COUNTY LAND USE AND DEVELOPMENT ORDINANCE  
CHAPTER 9, SECTIONS 6-12**

**F. SUBMISSION REQUIREMENTS**

*In addition to the items required for a Conditional Use Permit, graphic and written material shall also be submitted regarding:*

**1. Lots and Buildings**

*Proposed front, side, and rear setbacks as different from those required under normal standards for like uses and any other changes in similar kinds of standards including, but not limited to, building height, minimum number of parking spaces per unit, street widths, and lot size.*

The proposed standards regarding lots and buildings shall be in accordance with the Declaration of Covenants, Conditions and Restrictions and Design Guidelines for Valley Meadows (see Appendix B). It is not anticipated that residential lots will vary from the setbacks, minimum lot sizes or other restrictions set forth in preliminary plat (see Drawings).

**2. Building Sites**

*Proposed building sites if these are to be indicated without or in addition to lots, complete with dimensions.*

Commercial buildings will be constructed during phase 3 on Lot 2, Block 4.

**3. Open Space**

*Common open space and facilities with conditions for their permanency.*

Approximately 3.24 of the 20.78 acres of proposed lots within the entire existing and proposed PUD will be platted as designated recreation/open space. These platted open lots have two primary functions; 1) the large open areas that are spread though the development will be utilized for community gathering areas for recreational use, 2) the small lots that are located at the road terminus and corner lots landscaping to provide natural visual buffers throughout the development. These areas will also be used for snow storage due to their strategic positioning. The proposed amenities within the large gathering lots will include playground equipment, large lawn areas, and community barbeque facilities. The preliminary designated use areas and open space are depicted on the Land Use Map (see Figure 3 in Appendix A). The total amount of open space is defined as:

*A portion of real property devoid of buildings and other physical improvements, except where*

*accessory to the provision of recreation or fish and wildlife habitat improvements, or any natural break which serves one of the following functions:*

- *Provides relief from monotonous building arrangements*
- *Conserve or preserve natural, historic and other amenities with social of cultural value*
- *Maintains the natural water table level or preserves wetlands*

#### **4. Phase Development**

*Phase of development, to be shown geographically and indicating stages in the construction program and time schedule for progressive completion.*

The Phasing Plan for Valley Meadows outlines the anticipated sequence of development implementation (see Phasing Plan - Figure 2 in Appendix A). Initial phases of construction are relatively easier to identify and predict than subsequent phases. In addition, because the Phases are “stand alone” Phases, it is possible that Phases will be platted and developed out of numerical order. Phasing will respond to general economic conditions, market forces and absorption rates. Annual meetings will be held with the Planning and Zoning Commission and the Board of Commissioners to update the phasing plan. The timing we are requesting to complete this development is based on completing a phase of the project every year. Therefore, we anticipate completing the final phase, Phase III in 2025.

PHASE 1 (Beginning 2023)

PHASE 2 (Market Driven; Beginning 2023)

PHASE 3 (Market Driven; Beginning 2024)

Phasing is planned such that, at the completion of each phase, all essential services needed to meet that and preceding phases will be in place. The integrity of the community will be maintained at the end of each phase. Through phasing, the natural setting of the Project will be preserved as much as possible, until the justification for additional phase implementation has been met. It is anticipated that each phase will be completed on a yearly basis.

#### **5. CC&R's and Design Guidelines**

*An outline of the restrictive covenants expressing key provisions.*

Refer to Appendix “B” regarding Declarations of Covenants, Conditions and Restrictions.

#### **6. Road Maintenance**

*Plans for maintaining roads, parking, and other areas of circulation, snow removal, and any other necessary upkeep.*

All roads within the PUD will initially be private and maintained by the Property Owner’s Association,

however jurisdictional transfer to the County may be considered in the future. Refer to Appendix "B" - Declarations of Covenants, Conditions and Restrictions.

## **7. Drainage Patterns and Water Quality**

*Plans for surface water management.*

The proposed development will not significantly alter the existing drainage patterns and flows. The development will use Best Management Practices (BMP's) as outlined in the "*Handbook of Valley County Stormwater Best Management Practices*" to capture, disperse and treat surface water in a series of grassy swales, retention areas and other accepted methods. BMP's will be used to naturally filter pollutants and provide nutrient uptake before stormwater enters the existing drainage patterns. Water quality for the development should significantly improve by the elimination of the present land use of cattle grazing and flood irrigation. In addition, surface water quality will be addressed during and after construction of the development. Improvements will focus on limiting the area of disturbance and treating the surface water as close to the source as possible.

The design criteria for storm water treatment and design will be as follows:

1. The design for large storm water runoff will comply with the 50-year storm using the ITD rain on snow nomo graphs.
2. The design for the local road storm water conveyance will comply with the 10-year storm using ITD rain on snow nomo graphs.
3. Storm water treatment will be for 1/3 of the 2-year event.

Specific plans will be submitted with each Phase Submittal.

## **8. Conditional Use Permits**

*Any other information deemed necessary by the Commission because of the proposed use.*

The developer is proposing to provide 20 RV temporary sites to accommodate a portion of the expected employee housing requirements. The 20 sites will be connected to the central water and sewer systems, along with metered power services. The temporary RV sites will be utilized only by employed personnel and will be removed from the site at the completion of the project.

## **G. STANDARDS**

### **1. PUD Acreage**

*The minimum number of acres that may comprise a PUD is two (2) acres.*

The proposed total acreage for the PUD is approximately 20.78.

### **2. Site Improvement Standards**

*Streets, utilities, and other site improvements shall be installed, or proper provision shall be made for their later installation, at the developer's expense prior to recording the plat. Streets shall be constructed in accordance with the minimum standards set forth in Chapter III and all references made therein if they are to be dedicated to the County.*

a. Roads:

1. All roads within the PUD will initially be private and maintained by the Property Owner's Association, however jurisdictional transfer to the County may be considered in the future.
2. All roads will adhere to Valley County standards.
3. Precise road alignments and widths will be identified in the Final Plat for each Phase.

b. Water System

1. Subject to approval by the Department of Water Resources, and the Department of Health and Welfare, Division of Environmental Quality, the North Lake Recreational Sewer and Water District (NLRSD) and the Owner will develop a community well system that most likely will ultimately be owned and operated by the NLRSD. A preliminary design report completed by Toothman-Orton Engineering Co showed that a centralized water system could be utilized by all new and some existing residents within this service area for domestic water and fire flow needs.

c. Sanitary Waste

1. The NLRSD has agreed to accept, transport, treat and dispose of the development's sewage.

d. Solid Waste

1. The development's solid waste collection will function on the same basis as other Valley County property owners. We have contacted Lake Shore Disposal, Inc. to provide sanitary solid waste disposal during construction and for future residential garbage pickup service. There will be a mandatory garbage pickup for each residential unit. Central dumpsters will be in designated areas within the parking lots for the Commercial and Multi-Family units.

e. Utilities

1. Power, telephone and cable television service will be an underground extension of existing utilities. Preliminary discussions with utility companies have taken place, and no utility companies have noted any exceptions to providing us service. A will serve letter from Idaho Power was obtained and annexation into the North Lakes Recreational Sewer and Water District has occurred.

### 3. Specification, Standards and Requirements

*It is recognized that the uniqueness of each proposal for a PUD requires that the specifications, standards, and requirements for various facilities, including but not limited to, roads, alleys, easements, utilities, signs, parking areas, storm drainage, water supply and distribution, and sewage collection and treatment, may be subject to modification from the specifications, standards, and requirements established for subdivisions and like uses in this Ordinance. The Commission may, therefore, at the time of general submission, as requested by the applicant, waive or modify these specifications, standards, and requirements which otherwise shall be applicable.*

The proposed PUD for Valley Meadows will require a variance for the following items:

We request the required width of 90 feet at the front setback line for residential units are reduced to 80 feet. Building envelopes are established for each of the residential lots to provide assurance that the reduced lot widths will not compromise the needed area for snow storage. The overall lot size follows County standards.

### 4. Distribution of Residential Units Within Phases

*Averaging and transferring of densities with the PUD shall be allowed:*

- a. Upon showing that it fits the concept of a PUD.*
- b. As long as the overall average residential density is no greater than six (6) dwelling units per gross acre.*
- c. Only if residential units are to be connected to central water and sewer systems. The overall average residential density shall be calculated by summing the number of residential dwelling units planned within the boundary of the PUD and dividing by the total gross area expressed in acres within the boundary of the PUD except public lands. It is recognized that the increased residential density of a PUD shall be in relationship to the site and structure location, application of technology, design, construction techniques, landscaping and topography.*

The Project Description identifies the currently estimated number of residential units that will be allowed for each phase of the PUD. In order to allow reasonable planning flexibility, as Phases are platted, the Applicant reserves the right to adjust the number of residential units among Phases, provided:

1. The maximum number of total residential units allowed in any phase shall not vary by more than 15%; and,
2. The maximum number of residential units allowed in the proposed PUD shall remain at 153, regardless of adjustments among Phases.

### 5. Setbacks

*Lot and Building setbacks may be decreased below or otherwise altered from the standards of like uses set forth elsewhere in this Ordinance.*



All building setbacks will be measured horizontally, on a perpendicular to the property line, to the nearest corner or face of the building including eaves, projections, or overhangs. *Table C – Valley Meadows PUD Standards for Lots and Buildings* below shows the criteria:

**TABLE C**  
**Valley Meadows PUD Standards for Lots and Buildings**

Dwelling or Commercial Unit Component	Ownership	Min. Lot Size (ac.)	Bldg. Height (ft.)	Setbacks (ft.)			
				Front	Side	Side Street	Rear
Single-family Homes	Leasing	0.18	35	30	10	30	30
Commercial Uses	Leasing	TBD	35	30	10	30	30
Multi-Family Uses	Leasing	0.44	35	30	10	30	30

Specific plans will be submitted with each Phase Submittal.

## 6. Building Height

*The maximum height of buildings may be increased above those for like uses mandated elsewhere in this Ordinance in consideration of the following characteristics:*

- a. Unreasonable adverse visual effect on adjacent sites of other areas in the immediate vicinity.*
- b. Potential problems for adjacent sites caused by shadows, loss of air circulation, or loss of view.*
- c. Influence on the general vicinity, with regard to extreme contrast, vistas, and open space.*

At this time, we see no variances required for the PUD; refer to the Declaration of Covenants, Conditions and Restrictions in appendix “B”. Specific plans will be submitted with each Phase Submittal.

## 7. Parking

*The design and construction standards for parking spaces shall conform to Section 3.03.04.c and the number of parking spaces required may be increased or decreased relative to the number mandated for like uses elsewhere in consideration of the following factors:*

- a. Estimated number of cars owned by occupants of dwelling units in the PUD.*
- b. Parking needs of each specific use.*
- c. Varying time period of use whenever joint use of common parking areas is proposed.*
- d. Surface parking areas shall not be considered open space for the purposes of paragraph 9 below.*

Two parking stalls per residential unit will be provided. Parking for commercial uses will conform to Valley County Code. Valley Meadows will require fewer parking spaces for commercial facilities and housing amenities than normally required for a traditional town or city setting. All visitors and on-site residential owners will be encouraged to use the pedestrian pathways to access the different facilities at the development.

## 8. Road Layout

*The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, and separation from living areas, convenience, and access. Private internal streets may be narrower than normally required provided that adequate access for police and fire protection and snow removal equipment is maintained.*

1. All roads within the PUD will initially be private and maintained by the Property Owner's Association, however jurisdictional transfer to the County may be considered in the future.
2. All public roads will adhere to Valley County standards.
3. Precise road alignments and widths will be identified in the Final Plat for each Phase.

Specific plans will be submitted with each Phase Submittal.

## 9. Open Space

*At least fifty percent (50%) of the total area within the boundary of any residential PUD and twenty percent (20%) of any commercial or industrial PUD shall be devoted to common open space; provided, however, that the Commission may reduce this requirement if they find that such a decrease is warranted by the design of, and the amenities and features incorporated into, the plan and that the needs of the occupants of the PUD for open space can be met in the proposed development. Each residential unit shall have ready access to common areas and facilities.*

Greater than 50% of the area within the residential portion of the development is common open space. The commercial and multi-family phases will maintain at least 15% and 30% open space, respectively. The total open space of the proposed 20.78 acres equates to approximately 16% open space. All units have right-of-way access to all common areas due to "clustering" of the residential units described previously.

## 10. Site, Design and Construction

*Harmonious variations in materials, textures, and colors shall complement and supplement the natural beauty and pleasant environment of the site and the individual buildings. The site, design, and construction of all residences shall be planned in such a manner that there is a substantial resemblance of uniformity.*

Refer to Appendix "B" regarding Declaration of CC&R's.

## 11. Surety

*It is recognized that the uniqueness of each proposal for a PUD requires that the applicant must make adequate assurances of performance on each phase of the proposal. The Commission may impose any*

*form of bond on those portions of the proposal, which will provide common services to the public, or users of the PUD as deemed appropriate by the commission under the circumstances.*

The applicant will use Bonds or Letter of Credit for assurances of performance for proposed phases; to the extent required improvements are not completed prior to Final Plat recordation.

**H. OTHER INFORMATION AND DISCLOSURE REQUIREMENTS: THE APPLICANT SHALL DISCLOSE AND PROVIDE THE FOLLOWING:**

**1. General Information**

*The name, address, telephone number of any owner, equitable interest holder, stockholder, partner, associate, or any other person having a financial interest of 10% or greater in the proposed planned unit development.*

Refer to Section I, Page 1 at the beginning of this application.

**2. Method of Financing**

*The method of financing and the cost of improvements that serve the common services of the public and users of the PUD.*

The proposed financing of the final phase developments is as follows:

- |          |  |
|----------|--|
| PHASE 1: | <ul style="list-style-type: none"><li>• Owner financed</li><li>• Leasing of Phase 1 lots</li></ul>                                   |
| PHASE 2: | <ul style="list-style-type: none"><li>• Owner financed</li><li>• Leasing of Phase 1 lots</li><li>• Leasing of Phase 2 lots</li></ul> |
| PHASE 3: | <ul style="list-style-type: none"><li>• Owner financed</li><li>• Leasing of Phase 2 lots</li><li>• Leasing of Phase 3 lots</li></ul> |

**3. Total Estimated Probable Cost**

*The cost of the proposed planned unit development.*

TOTAL ESTIMATED PROBABLE COST (Phases 4-6): \$1,948,037.16

\* Based on 2021 figures

**4. Phase Estimated Probable Cost**

*The cost of each phase of the planned unit development.*

The Project will be constructed in phases, with the associated infrastructure estimated costs distributed as follows:

	<b><u>2004 Estimate</u></b>	<b><u>2021 Estimate</u></b>
PHASE 1	-	\$ 819,874.90
PHASE 2	-	\$ 865,541.04
PHASE 3	-	\$ 262,621.22
TOTAL ESTIMATED PROBABLE COST (Phases 1-3):		\$1,948,037.16

## **5. Ratio of Loan to Property Value**

*The ratio of the amount of all loans to the value of the property throughout the development of the planned unit development.*

N/A – OWNER FINANCED

## **6. Accommodations**

*Plans for housing employees, construction workers, subcontractors, independent contractor or any other person related to or associated with the applicant's buildings, improvement, development or temporary use during and after the proposal.*

It is our intent to employ local contractors and residents as available, which would therefore already have housing. In the event local contractors are unavailable, outside contractors will be used and they will be responsible for providing their workers with housing. The developer is also proposing to provide 20 RV temporary sites to accommodate a portion of the expected employee housing requirements. The 20 sites will be connected to the central water and sewer systems, along with metered power services. The temporary RV sites will be utilized only by employed personnel and will be removed from the site at the completion of the project.

No on-site groundskeepers or caretakers housing units are planned for the subdivision. Local businesses will be contracted for the upkeep of the subdivision open spaces and general maintenance.

## **7. Fire Protection**

*Plans for providing any additional fire protection and emergency medical services which may be*

*necessary during and after construction.*

The proposed water system by the development shall be designed to meet pressure and flow requirements per the applicable fire codes and standards. Planning measures will provide for natural open space fire breaks, necessary road access and utilize best design standards for fire protection. Additional elements may include use of non-combustible building materials, and fire-resistant vegetation. The applicant will work with the Rural Fire Protection Districts to assure that the development utilizes best practices for fire prevention and suppression, including the solicitations of input on infrastructure design. Final agreements will be reached with the Districts prior to Final Plat submittal for each Phase. We have also coordinated with the Donnelly Rural Fire Department to provide design guidelines for fire protection with regard to the Asset Protection Plan. Their recommendation for excluding shake roofs and mandating homeowners install metal or composite roofs will also be adopted.

## **8. Guarantees**

*Proposals for guarantees that the applicant will complete all those improvements that serve the common services of the public and users of the PUD or that the land will be reclaimed to its condition prior to construction.*

The Owner/Developer will use Bonds or a Letter of Credit to guarantee completion of approved phases.

## **9. Impact Fees**

*Plans for any impact fees to be paid by the applicant for the proposal.*

Refer to Appendix "C" for Preliminary Development Agreement.

## **10. BMP's**

*Plans for minimizing any water run-off created by the buildings, improvement, development or other temporary use of the proposal.*

The proposed development will not significantly alter the existing drainage patterns and flows. The development will use Best Management Practices (BMP's) as outlined in the "*Handbook of Valley County Stormwater Best Management Practices*" to capture, disperse and treat surface water in a series of grassy swales, retention areas and other accepted methods. BMP's will be used to naturally filter pollutants and provide nutrient uptake before stormwater enters the existing drainage patterns. Water quality for the development should significantly improve by the elimination of the present land use of cattle grazing and flood irrigation. In addition, surface water quality will be addressed during and after construction of the development. Improvements will focus on limiting the area of disturbance and treating the surface water as close to the source as possible.

Specific plans will be submitted with each Phase Submittal.

## **11. Solid Waste**

*Plans for minimizing the impact on solid waste disposal during and after the proposal.*

The development's solid waste collection will function on the same basis as other Valley County property owners. Participation in recycling programs will help minimize the development's overall waste production. We have contacted Lake Shore Disposal, Inc, to provide sanitary solid waste disposal during construction and for future residential garbage pickup service. There will be a mandatory garbage pickup for each residential unit. Central dumpsters will be in designated areas within the parking lots for the Commercial and Multi-Family units. No construction debris will be burned.

## **12. Fish and Wildlife**

*Plans for minimizing the impact on fish, wildlife or biotic resources in the general area of the proposal before, during and after the completion of the proposal*

The development should have limited adverse impact on existing fish and wildlife populations and habitat.

Specific plans will be submitted with each Phase Submittal.

## **13. Security**

*Plans for providing for enforcement of security on the site of the proposal.*

The Applicant will work with local Law Enforcement to assure that the development utilizes best practices for security and safety.

## **14. Transportation**

*Plans for transporting workers to and from job sites and special traffic control measures for public safety during and after construction.*

It is the intent to utilize local contractors and local facilities.

## **15. Disclosures**

*Certain disclosures required by this section will not apply to certain PUD's because of the uniqueness and small size of the proposal. When disclosures 2,6,7,8,12,13, and 14 are either not applicable or not of sufficient importance because the impact of the PUD would be minimal, the applicant shall include a statement showing why the disclosure does not apply. Staff shall make a recommendation to the Commission as to each application, and the Commission shall decide applicable procedure. All PUD applicants shall adequately respond to disclosures 1, 3, 4, 5, 9, 10, and 11.*

All information has been provided with the exception of Section 3.H.14. It is our assumption that this section is not applicable because local contractors will provide their own transportation.

## **I. DEVELOPMENT AGREEMENT**

*Because of the uniqueness of each proposal a PUD may impact county services and /or property which may be mitigated through a Development Agreement. Compensation for these impacts shall be negotiated in work sessions with appropriate county entities and a Development Agreement shall be entered into between the applicant and the county through the Board as additional conditions considered for approval of a PUD.*

Refer to Appendix "C" for Preliminary Development Agreement.

## **J. IMPACT FEES**

*The Commission may recommend to the Board impact fees as authorized by Idaho Code Section 31-870 for any PUD proposal. The Board may implement the impact fees as recommended by the Commission or as it deems necessary for the proposal.*

The impact fees for the various improvements to Valley Meadows is as follows:

- Road Improvements – TBD
- Sewer Service Connections – TBD
- Water Service Connections - TBD

## **K. REIMBURSEMENT FEES**

*The applicant shall be required, in addition to the filing fee otherwise imposed to pay a reimbursement fee. The reimbursement fee shall be negotiated by the staff with approval of the Board.*

N/A

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**SECTION IV  
C.U.P./PRELIMINARY PLAT APPLICATION**

**1. APPLICATION**

**2. CHAPTER THREE; CONDITIONAL USES**

**9-5-1: GENERAL PROVISIONS:**

*This chapter contains standards and procedures for those uses which may be incompatible with permitted uses in the multiple use district of the county and, therefore, are subject to review and evaluation by the commission and the public. Conditional uses may be allowed only after proper application, review, approval, and mitigation of impacts through conformance with the conditions of approval.*

**9-5-2: POLICY:**

*The comprehensive plan states in part that the rural atmosphere of the valleys be protected, that recreation should be encouraged, and that the economic value of privately owned land be increased. This section is intended to fulfill those goals and objectives by:*

*Defining those uses which are not inherently compatible with the "permitted uses" defined in chapter 4 herein.*

*Limiting the impact of conditional uses through standards and procedures.*

*Allowing conditional uses in areas and to standards that will increase the value of privately owned property without undue adverse impact on the environment, adjoining properties, or governmental services and where consistent with the county comprehensive plan. In order to achieve these goals, the maintenance of agricultural uses and low density development will be more acceptable located on the valley floor; higher density development will be more acceptable adjacent to the valley perimeter; commercial and industrial development will be more acceptable in commercial hubs, villages, or near existing established incorporated communities with similar characteristics and infrastructure to serve the more intense land use needs.*

**9.5.3 STANDARDS**

*The provisions of this section shall apply to the various buildings and uses designated herein as Conditional Uses.*

**A. LOT AREAS - GENERAL**

The minimum Lot Size And Configuration: The minimum lot size and configuration for any use shall be at least sufficient to accommodate water supply facilities, sewage disposal facilities, replacement sewage disposal facilities, buildings, parking areas, streets or driveways, stormwater containment, snow storage,



open areas, accessory structures, and setbacks in accordance with provisions herein and Valley Meadows Declaration of CC&R's in Appendix B.

- A.     Number of Townhome lots = 74  
        Number of Common lots = 10  
        Number of Multi-Family lots = 11  
        Number of Commercial lots = 3
  
- B.     Maximum Townhome lot size = 8,276 square feet  
        Maximum Multi-Family lot size = 20,473 square feet  
        Maximum Commercial lot size = 56,628 square feet
  
- C.     Minimum Townhome lot size = 3,341 square feet  
        Minimum Multi-Family lot size = 13,939 square feet  
        Minimum Commercial lot size = 40,511 square feet
  
- D.     Average Townhome lot size = +/- 4,011 square feet  
        Average Multi-Family lot size = +/- 15,246 square feet  
        Average Commercial lot size = +/- 48,787 square feet

## B. SETBACKS-GENERAL

All residential buildings will be setback at least thirty feet from high water lines and all other buildings will be setback at least one hundred feet from high water lines. All building setbacks will be measured horizontally, on a perpendicular to the property line, to the nearest corner or face of the building including eaves, projections, or overhangs. See *Subdivision Regulations for Valley County, Idaho* and Valley Meadows Declaration of CC&R's in Appendix B, for further information.

Commercial /Multi-Family

Front = 30'

Rear = 30'

Side = 10'

Street Side = 30'

## C. BUILDINGS-GENERAL

1. Permanent Foundation; Minimum Roof Area; Building Regulations: All buildings or structures to be set on a permanent foundation and exceeding one hundred twenty (120) square feet in roof area are subject to the provisions of See *Subdivision Regulations for Valley County, Idaho* and Valley Meadows Declaration of CC&R's in Appendix B, for further information.

## D. Impact Report: (See Appendix E)

## ARTICLE A. SITE IMPROVEMENTS

### 9.5A-1 Grading:

Preliminary grading is shown on the preliminary plat. Final grading plans will be submitted with design plans, and will demonstrate compliance with best management practices for surface water management and the methods that will be used during construction to control or prevent the erosion, mass movement, siltation, sedimentation, and blowing dirt and debris caused by grading, excavation, open cuts, side-slopes, and other site preparation and development. All land surfaces not used for roads, buildings, and parking shall be covered either by natural vegetation, other natural and undisturbed open space, or landscaping.

1. Grading within flood prone areas – None
2. Disturbance of wetlands – None

### 9.5A-2 Roads & Driveways

1. All roads will be designed and constructed in accordance with “Construction Specifications and Standards for Roads and Streets in Valley County, Idaho”. They will be private and maintained by the Property Owner’s Association.
2. All approaches will be in accordance with “Standard Approach Policies” adopted by the State of Idaho, Division of Highways.
3. All private roads will meet the provisions of “County Ordinance” 3-74.

### 9.5A-3 Parking and Off-Street Loading Facilities.

A minimum of two off-street parking spaces shall be provided for each housing unit. No owner parking of vehicles shall be allowed on private or public streets. Commercial units will provide at least the minimum parking stalls required for the commercial use. Additional parking for residents and visitors will be provided throughout the development.

### 9.5A-4 Landscaping

Information pertaining to design guidelines of landscaping is covered in the Declaration of CC&R’s in Appendix B.

### 9.5A-5 Fencing

Refer to Declaration of CC&R’s in Appendix B.

### 9.5A-6 Utilities

1. All lots will be provided with or have direct access to utility services

2. A central water supply and sewage system will be provided and will meet all requirements in the “Subdivision Ordinance”.
3. All easements and right of ways for utilities are shown on the preliminary and final plat.
4. Refer to Appendix E Impact Report.

#### ARTICLE B – Performance Standards

Refer to Appendix E Impact Report.

##### 9.5B-1 Noise

Refer to Appendix E Impact Report and Declaration of CC&R’s, Appendix B.

##### 9.5B-2 Lighting

Refer to Declaration of CC&R’s, Appendix B.

##### 9.5B-3 Electrical Interference

Refer to Declaration of CC&R’s, Appendix B.

##### 9.5B-4 Emissions

Refer to Declaration of CC&R’s, Appendix B.

##### 9.5B-5 Dust

Refer to Declaration of CC&R’s, Appendix B.

##### 9.5B-6 Open Storage

Refer to Declaration of CC&R’s, Appendix B.

#### ARTICLE C. RESIDENTIONAL USES

##### 9.5C-1 Compliance Required

The Planned Unit Multi-Family Residential Development: shall be platted in accordance with the regulations of this chapter, title 10 of this code, or as may be approved in accordance with chapter 9 of this title as a planned unit development prior to the sale or transfer of title to any lot, parcel, or unit.

9.5C-2 Minimum Lot Areas

1. Refer to Section IV, 3.03.01.
2. Refer to Section IV, 3.03.01.
3. Refer to Sheet 1 – Preliminary Plat of the drawings.

9.5C-3 Minimum Setbacks

1. Refer to Section IV, 3.03.02.

9.5C-4 Maximum Building Height and Floor Area.

1. Refer to Declaration of CC&R's, Appendix "C", Article XII.

9.5C-5 Site Improvements

1. Refer to Section IV, 3.03.04, Parts C and F.

9.5C-6 Density

1. The area for this development is 20.78 acres. The total number of units consists of 74 residential, 1 commercial, and 11 multi-family units. The overall density of the development is 8.93 dwelling units per acre.

ARTICLE D. CIVIC OR COMMUNITY SERVICES USED

Not applicable.

ARTICLE E. PRIVATE RECREATION USES

Not applicable.

ARTICLE F. COMMERCIAL AND INDUSTRIAL USES

Not applicable.

ARTICLE G. ALTERNATIVE ENERGY USES

Not applicable.

ARTICLE H. ADMINISTRATIVE PROCEDURES

9.5H-1: PRE-APPLICATION CONFERENCE

9.5H-2: APPLICATION FORM

- A. Refer to Part 1 of Section IV.
- B. Application completed by KM Engineering LLP for the applicant.
- C. Refer to General Information at the beginning of this application.
- D. Notes
  - 1. Refer to Appendix D Impact Report.
  - 2. Refer to Appendix D Impact Report.
  - 3. Refer to Appendix D Impact Report.
  - 4. Refer to Appendix D.
  - 5. Refer to Appendix E.
- E. Refer to Appendix "Drawings" for Preliminary Plat Plans.
- F. Application and Procedures for all C.U.P./Preliminary Plat plans were created in accordance with the "Subdivision Regulations for Valley County, Idaho" adopted April 29, 1970
- G. Refer to Appendix C Preliminary Development Agreement.
- H. We concur

9.5H-3: APPLICATION REVIEW

9.5H-4: NOTICE TO AGENCIES

9.5H-5: COMPATIBILITY RATING AND ADMINISTRATOR OR STAFF  
REPORT

**EXHIBIT A**

**Capital Contribution Agreement**

**Working Draft**  
**CAPITAL CONTRIBUTION AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Buckskin Properties, Inc., an Idaho corporation (herein after generally referred to as “Developer”), the Developer of that certain Project in Valley County, Idaho, known as Valley Meadows, and Valley County, a political subdivision of the State of Idaho, (hereinafter generally referred to as “Valley County”).

**RECITALS**

Developer has submitted a land subdivision application for Valley County approval.

Through the development review of this application, Valley County identified certain unmitigated impacts on public services and infrastructure reasonably attributable to the Project.

Developer has agreed to participate in the cost of mitigating these impacts by contributing its proportionate fair share of the cost of the needed improvements identified in the Agreement, and listed on the attached Exhibit A.

Valley County and the Developer desire to memorialize the terms of their agreement regarding the Developer’s participation in the funding of certain of the aforesaid improvements.

**AGREEMENT**

Therefore, it is agreed as follows:

1. **Improvement Program:** A program summary and cost estimate of the road improvement program is attached as Exhibit A.
2. **Capital Contributions:** Developer agrees to a proportionate share of the road improvements attributable to the site-generated traffic as established by Valley County. Currently this amount has been calculated by the Valley County Engineer to be **\$461.00** per average daily vehicle trip generated by the Project. Road impact mitigation may be provided by Developer contribution of money or other capital offsets such as right-of-way or in-kind construction. Such offsets to the road improvements will be the subject of an amendment to this Agreement.
3. **Proportionate Share:** Developer agrees to pay a sum equal to 1/9000 of the total costs of the road improvement projects identified on the attached Schedule A for each new vehicle trip generated by the Project. Refer to the attached Exhibit B for details of the calculation.
4. **Method and Timing of Payments for Road Improvements:** Developer shall contribute capital to road impact mitigation as established by Valley County at the time the final plat of each phase of the Project is recorded. Said payment may be adjusted for offsets described herein above. The Developer’s aforesaid contributions shall be paid as follows:

- A. Method/Timing of Payments: The Developer's aforesaid contribution shall be paid as follows:
- 1) Upon the final approval of the preliminary plat for the first phase of the PUD to be platted, payment of Seventy nine Thousand two hundred and ninety two and No/100 Dollars (\$79,292.00) or contribution of the right-of-way described on the attached Exhibit B.
  - 2) Modification of Developer's Payment Schedule: It is acknowledged by Valley County and the Developer that the construction of the road improvements and the acquisition of public right-of-way mutually beneficial to Valley County and the Developer to complete at the earliest possible date. In the event that Valley County demonstrates that a modification or acceleration of the timing of Developer's aforesaid contributions would facilitate an earlier completion of this project, the Developer shall negotiate in good faith regarding the possible modification of and/or acceleration of the aforesaid payment schedule.
- B. Upon the recording of the final plat of any future phase, Developer shall pay a sum equal to \$ 461.00 per average daily vehicle trip, which is roughly proportional to 1/9000 of the cost of those of the aforesaid road improvement projects which have been completed by Valley County prior to the date of contribution, or are budgeted for completion within the next ten fiscal years following the date of contribution.
- C. The contributions made by Developer to Valley County pursuant to the terms of this Agreement shall be segregated by Valley County and earmarked and applied only to the project costs of the road improvement projects which are specified in Exhibit A attached, or to such other projects as are mutually agreeable to the parties.
- D. The sale by Developer of part or all of the Project prior to the platting thereof shall not trigger any payment or contribution responsibility. However, in such case, the purchaser of such property, and the successors and assigns thereof, shall be bound by the terms of this Agreement in the same respect as Developer, regarding the property purchased.

5. **Recordation:**

- A. It is intended that Valley County will record this Agreement. The intent of the recordation will be to document the official aspect of the contractual obligation set forth in this Agreement. This Agreement will not in any way establish a lien or other interest in favor of Valley County as to any real property owned by the Developer at the time of recording, or any real property, which may be acquired by the Developer on any date after the recording of this Agreement.



VALLEY COUNTY BOARD  
OF COMMISSIONERS:

By \_\_\_\_\_ Date: \_\_\_\_\_  
Commissioner / Chairman: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commissioner: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commissioner: \_\_\_\_\_

ATTEST:

VALLEY COUNTY CLERK:

\_\_\_\_\_ Date: \_\_\_\_\_  
LELAND HEINRICH

DEVELOPER

By: \_\_\_\_\_ Date: \_\_\_\_\_

## **APPENDIX B**

### **Proposed Development Agreement**

There is currently no written development agreement for the Valley Meadows PUD. The proposed development agreement will detail the rights and responsibilities of the developer, the rights and responsibilities of the county, offsite road improvements, the processes for Considering Development Applications, and the Processes for Considering Modification Applications.

**DEVELOPMENT AGREEMENT  
VALLEY MEADOWS**

This Development Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2004 by and between Valley County, Idaho, a political subdivision of the State of Idaho and Buckskin Properties, Inc., an Idaho Corporation, P.O. Box 145, Donnelly, Idaho 83615

**ARTICLE I  
Definitions**

**1.1. Act** means the Idaho Local Land Use Planning Act of 1975, as amended (I.C. Section 67-6501 et seq.).

**1.2. Administrative Action** means and includes:

**1.2.1.** Any amendment to this Development Agreement, the Site Compatibility Map, Land Use Map or the Development Guide.

**1.2.2.** An Administrative Permit Use as designated in the Land Use Table.

**1.3. Administrator** means the person designated by the BCC as the Administrator of the Ordinance.

**1.4. Applicant** means a person or entity submitting a Development Application.

**1.5. BCC** means the elected Board of County Commissioners of the County.

**1.6. Build out** means the completion of all of the development of all of the Property.

**1.7. CC&R's** means the Conditions, Covenants and Restrictions regarding certain aspects of design and construction on the Property to be recorded in the chain of title on the Property.

**1.8. Capital Contribution Agreement** means an agreement dated \_\_\_\_\_, 2004 between the County and Developer providing for payment from Developer to the County of certain sums to be disbursed to providers of public services.

**1.9. Commission** means the Valley County Planning and Zoning Commission established by the Ordinance.

**1.10. Comprehensive Plan** means the Comprehensive Plan adopted by the County by Ordinance by Resolution of the BCC on May 31, 1978.

**1.11. Concept Plan** means plan approved by the County at the same time as this Development Agreement specifying the general layout of the main roads and storm water detention systems and other similar information for the Project

**1.12. County** means Valley County, a political subdivision of the State of Idaho.

**1.13. County Consultants** means those outside consultants in various disciplines employed by the County for reviewing certain aspects of the development of the Property.

**1.14. Developer** means Buckskin Properties, Inc., an Idaho Corporation as well as its assignees or transferees.

**1.15. Development Agreement** means this Development Agreement.

**1.16. Development Application** means an application to the County for development of a portion of the Property or the Project including a Subdivision application, a building permit or any other permit, certificate or other authorization from the County required for development of the Property or the Project.

**1.17. Development Guide** means a document prepared in cooperation with the County specifying the types of Intended Uses to be allowed on various portions of the Project, including: standards for such Intended Uses including setbacks, building sizes, open space, height limitations, parking and signage; processes for making appropriate modifications to such standards; processes for subdividing the Project into individually buildable lots; and, the design and construction standards for roadways and infrastructure.

**1.18. Intended Uses** means the use of all or portions of the Project for single-family and multi-family residential units, condominiums, time-share units, public facilities, businesses, commercial areas, professional and other offices, services, and other appropriate uses as more fully specified in the Development Guide and as shown for each Parcel on the Site Compatibility Map, Land Use Map and the Phasing Plan.

**1.19. Density** is a measure of land use for the project such as: Residential Units, square footage of commercial space, or other development features within the Property.

**1.20. Density Schedule** means a table showing the density allowed by the PUD and the density previously permitted for construction.

**1.21. Non-County Agency** means a governmental or quasi-governmental entity or authority, other than those of the County having jurisdiction over the approval of any aspect of the Project.

**1.22. Notice** means any notice to or from any party to this Development Agreement that is either required or permitted to be given to another party.

**1.23. Off-site Infrastructure** means those items of public or private infrastructure specified in the Concept Plan necessary for development of the Property such as roads and utilities that are not on the site of any portion of the Property that is the subject of a Development Application.

**1.24. On-site Infrastructure** means those items of public or private infrastructure specified in the Concept Plan necessary for development of the Property such as roads or utilities that are on any portion of the Property subject to a Development Application.

**1.25. Open Space** means those areas designated on the Land Use Map as community Open Space

**1.26. Ordinance** means the Valley County Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of submission of the Concept Plan.

**1.27. Parcel** means an area of land in the Property which can be further subdivided.

**1.28. Land Use Map** means a map designating the general area for each proposed land use.

**1.29. Phase** means the development of a portion of the Project at a point in a logical sequence as specified in the Phasing Plan.

**1.30. Phasing Plan** means the plan showing the sequencing for developing the Project over time as contemplated by Developer as of the date of this Development Agreement.

**1.31. Planned Unit Development** means the style and type of development authorized by Appendix C of the Ordinance that facilitates the master planned, comprehensive development of large areas of Property, and Parcels within such large areas, involving a mix of uses, Densities, lot sizes and configurations and private infrastructure built to standards different than those applicable to public infrastructure under general standards of the County.

**1.32. Project** means the development to be constructed on the Property pursuant to this Development Agreement with public and private facilities described in the PUD Application dated March 29, 2004.

**1.33. Property** means that certain real property located in Valley County, Idaho, consisting of approximately 122 acres that is legally described in Exhibit "A" which is attached and incorporated by reference.

**1.34. Property Owners Association** means Valley Meadows Property Owners Association, Inc., an Idaho non-profit corporation.

**1.35. Residential Unit** means a unit intended to be occupied for residential living purposes:

**1.35.1.** One single-family residential dwelling and each separate unit in a multi-family dwelling, condominium or time-share equals one Residential Density Unit.

**1.36. Service Plan** means a plan complying with applicable Federal, Idaho and County laws, rules and regulations to provide certain services possibly including, but not necessarily limited to, road maintenance, water, wastewater, energy distribution, communications and other utilities to the Project. This Service Plan may be implemented by a Recreation District.

## ARTICLE II

### **Recitals, Reliances and Basic Facts**

**2.1.** These Recitals, Reliances and Basic Facts are an integral part of this Development Agreement and are a part of the consideration for each party's entry into this Development Agreement.

**2.2.** Developer owns a portion of the Property, and has options on the remainder of the Property.

**2.3.** Development of the Property is subject to the provisions of the Act and the Ordinance

**2.4.** The BCC is the "governing board" of the County as defined in the Act.

**2.5.** Pursuant to the Act the County has compiled and enacted the Comprehensive Plan and the Ordinance.

**2.6.** Developer desires to develop the Property as a Planned Unit Development community.

**2.7.** Development of the Property will include the Intended Uses.

**2.8.** Development of the Property as a Planned Unit Development as specified in the PUD Application filed March 29, 2004 and pursuant to this Development Agreement is acknowledged by the parties to be consistent with the Act and the Comprehensive Plan and to operate to the benefit of the County, Developer, and the general public.

**2.9.** The BCC has reviewed the PUD Application, this Development Agreement, the Development Guide, the Concept Plan, the Phasing Plan and the Site Compatibility Map, and Land Use Map, and BBC has determined that the Concept Plan, this Development Agreement, the Development Guide, the Phasing Plan and the Site Compatibility Map and the Land Use Map are consistent with the Act and the Comprehensive Plan.

**2.10.** As a condition of designating the Property as a Planned Unit Development and approving its development the County has required the Developer to execute this recordable Development Agreement.

**2.11.** Also as a condition of designating the Property as a Planned Unit Development and approving its development consistent with this Development Agreement the County has required Developer to execute a separate Capital Contribution Agreement specifying the funding mechanism and processes to provide the payment of monies to certain providers of public services as deemed appropriate by the BCC, attached as *Exhibit A* of this Development Agreement.

**2.12.** Idaho Code Section 50-1301(15), I.C., allows counties to define "subdivision" differently than defined or addressed in Section 50-1301(15) and Section 67-6513 provides that counties may establish the procedures for processing subdivision permits.

**2.13.** The County has determined it appropriate to allow Parcels to be sold to Sub-Developers without first engaging in a detailed platting process and subject only to recordation of a final plat as specified in Article III, below.

**2.14.** The parties acknowledge that the ultimate development of the Project on the Property is an undertaking of such magnitude that the Developer requires assurances from the County in the form of a development agreement of the Developer's right to complete the development of the project and the Property pursuant to the Concept Plan before it will expend substantial effort and costs developing the Project and the Property.

**2.15.** The County acknowledges that Developer is relying upon the execution and continuing validity of this Development Agreement and the County's faithful performance of the County's obligations under this Development Agreement in Developer's existing and continued expenditure of substantial funds into developing the Property and the Project, in executing the Capital Contribution Agreement and in incurring other expenses on behalf of itself and the County.

**2.16.** The County requires assurances from the Developer that development of the Property will be in accordance with the Concept Plan, this Development Agreement, the Development Guide, the Phasing Plan and the Site Compatibility Map, and the Land Use Map, and therefore be consistent with the Act and the Comprehensive Plan.

**2.17.** The parties acknowledge that development of the Property pursuant to the Concept Plan, the Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map and the Land Use Map will result in significant planning and economic benefits to the County and its residents, at least by requiring orderly development of the Property as a Planned Unit Development and increasing sales tax and other revenues to the County based on improvements to be constructed on the Property.

**2.18.** Development of the Property pursuant to this Development Agreement will also result in significant benefits to Developer by providing assurances to Developer that it will have the ability to develop the Property in accordance with the Concept Plan, the Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map and Land Use Map.

**2.19.** Developer and the County have cooperated in the preparation of this Development Agreement, the Development Guide, the Concept Plan, the Phasing Plan, the Site Compatibility Map and Land Use Map.

**2.20.** The parties desire to enter into this Development Agreement to specify (1) the rights and responsibilities of the Developer to develop the Property as expressed in the Concept Plan, this Development Agreement, the Development Guide, the Phasing Plan and the Site Compatibility Map, and the Land Use Map and (2) the rights and responsibilities of the County to allow such development pursuant to the provisions of this Development Agreement, the Development Guide, the Concept Plan, the Phasing Plan, the Site Compatibility Map and the Land Use Map.

**2.21.** The parties understand and intend that this Development Agreement is a "Development Agreement" within the meaning of, and entered into pursuant to, the terms of Section 67-6511A of the Idaho Code in order to facilitate among other things: (i) allowing the Intended Uses for the Property and the Density of such Intended Uses, as more particularly described in the Concept Plan, this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map and Land Use Map; (ii) the phasing over time and area of the construction and development on the Property; (iii) the conditions, terms and requirements for the construction and installation of infrastructure; and, (iv) other matters related to the development of the Property.

**2.22.** The parties acknowledge that, since it is impossible to predict how future economic and other trends will affect the development of the Property, it is important and imperative for the Developer to have flexibility to determine final location and exact types of the Intended Uses, Densities, Phases, lot placement and sizes within the Property, and that subject to compliance

with the Concept Plan and the processes and standards specified below in this Development Agreement such flexibility is consistent with the Act and the Comprehensive Plan.

**2.23.** Provision of services to the Property is vital.

**2.24.** Developer shall prepare the Service Plan for approval by the BCC prior to the County's issuance of any building permit for the Project.

**2.25.** Developer shall secure the other services necessary for development of the Property.

### **ARTICLE III**

#### **Rights and Responsibilities of Developer**

**3.1. Compliance with the Concept Plan, Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map, and Land Use Map.** Development of the Property and the Project includes, but not limited to, implementing the Concept Plan, Development Agreement, Development Guide, Phasing Plan, the Site Compatibility Map and Land Use Map. Project Maximum Densities shall be in accordance with the Concept Plan, any approved Development Applications, this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map, the Land Use Map, and any approved amendments thereto.

**3.2. Rights Granted by Approval of the Concept Plan, this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map and the Land Use Map.**

To the maximum extent permissible under the laws of Idaho and the United States, and in equity, the County and Developer intend that this Development Agreement grants Developer all rights to develop the Property in fulfillment of the Concept Plan, this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map, and the Land Use Map without modification or interference by the County except as specifically provided herein. The Parties intend that the rights granted to Developer under this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map, and the Land Use Map are contractual as well as rights that exist under statute, common law and in equity.

**3.3. Development Standards Governing the Property.** Development of the Property and the Project are subject to the processes, rules, regulations and official policies of the County existing and in force for the County as of the date of the Developer's application for approved Concept Plan, except as amended by this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map, and the Land Use Map. The County shall not impose or enact any additional development conditions, exactions, dedications, development fees, impact fees, open space requirements, extended processing or waiting periods or other rules or regulations applicable to or governing development of the Project or the Project beyond those in the Ordinance in effect as of the date of the Concept Plan application. Any future land use rules, regulations or official policies of the County that (1) are inconsistent with the letter or intent of this Development Agreement, the Development Guide, the Phasing Plan, the Site Compatibility Map, or the Land Use Map and (2) that materially and adversely impact the development of the Project by decreasing the allowable Land Uses or increasing the burdens or times or the costs of development, shall not apply to the development of the Property or the Project.

**3.4. Exceptions.** The restrictions on the applicability of future laws, rules or regulations to the Project of the preceding Section are subject to only the following exceptions:

**3.4.1.** Specific laws, rules or regulations that the Developer agrees in writing shall apply to the application thereof to the Project;

**3.4.2.** Land use rules, regulations, or official policies of the County which generally apply to all properties in the County and required to comply with State and Federal laws and regulations affecting the Project that are adopted in the future;

**3.4.3.** Rules, regulations, and official policies of the County which apply to all properties in the County, such as updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the Uniform Building Code, that are generated by a nationally recognized construction/safety organization, or by the State or Federal governments and are required to alleviate legitimate and bona fide harmful and noxious uses; or,

**3.4.4.** Taxes or filing or review fees, or modifications thereto, so long as such taxes or fees are lawfully imposed and charged uniformly by the County to all properties, applications, persons and entities similarly situated.

**3.5. Application under Future County Ordinances.** Without waiving any rights granted by this Development Agreement, the Development Guide, the Concept Plan, the Phasing Plan, the Site Compatibility Map or Land Use Map, Developer may at any time, choose to submit a Development Application for some or all of the Project under some future version of the Ordinance existing at the time of the Development Application.

**3.6. Project Maximum Density.** The developer shall be allowed to construct all facilities as described in section 3.0 of the PUD application. These facilities shall include at least 221 single family housing units, 160 multi-family housing units, 55,000 square feet of commercial space and a variety of recreation facilities such as pathways, playground equipment, open space amenities, and operation/maintenance facilities not otherwise described as buildings. Developer shall be allowed to increase the commercial space and amenities by 15% if deemed necessary to accommodate the needs of Project residents and neighboring areas. Developer shall be allowed to increase housing units by 15% if the Developer can reasonably demonstrate that such an increase can be justify by future market demands as provided in the application dated March 29, 2004.

**3.7. Land Uses.** The project has three land uses: 1) Single Family Residential 2) Multi-family Residential 3) Community Open Space. The developer shall be allowed to adjust the boundaries of these various uses as shown in the Land Use Map so long as the overall project density remains constant.

**3.8. Accounting for Densities for Parcels Developed.** At the recordation of a final plat for any Parcel(s) developed by Developer, Developer shall provide the County a Sub-Development Report showing the Densities used with the Parcel(s) and the Densities remaining with Developer and for the remaining Property and Project. This report reconciliation will balance and be consistent with to the Project Maximum Density. Developer shall also provide the County a modified Site Compatibility Map and a Land Use Map, in both electronic and print formats, showing both the new ownership and the allocation by any such sale on the Project Maximum Densities throughout the Project.

**3.9. CC&R's.** Valley Meadows Property Owners Association will be responsible for the implementation and enforcement of the CC&R's. The CC&R's may be amended by the processes specified in the CC&R's without any requirement of approval of such amendments by the County.

**3.10. Intent to Allow Phases.** The County acknowledges that Developer, Assignees, Transferees, who have purchased Parcels of the Property may submit multiple applications from time-to-time to develop and/or construct portions of the Concept Plan for the Property in Phases as contemplated in the Phasing Plan or any amendments thereto.



**3.11. Designation of Land Uses.** Each development application (CUP or equivalent mechanism under the development Ordinance) shall specify the boundaries between the various land uses for the land subject to the application.

**3.12. Maintenance of Open Space.** The Development Application approval for each separate Parcel(s) shall provide appropriate assurances for ongoing maintenance and/or operation of the Open Space in the manner specified in the Development Guide.

**3.13. Parcel Sales.** The County acknowledges that certain parcels may be sold unimproved as described in the Development Guide.

**3.14. Wastewater.** The developer has a preliminary agreement with the North Lake Recreation Water & Sewer District to provide sewer treatment for the project. Developer will install pump station and collection system necessary to satisfy the requirements of the said Sewer District. The agreement stipulates that the connection fee has been set at \$2,500.00 per connection, payable at the time building permits are issued. The first phase of the development will sewer to the existing sanitary lift station located within the adjacent subdivision to the east, West Mountain Estates. A formal contract and agreement will follow, which will be included as an exhibit to this document.

**3.15. General County Services.** Except for the services to be provided by the Homeowners association, the County shall provide all County services to the Property that it provides from time-to-time to other residents of the County including without limitation roadways, drainage, solid waste removal, police and other emergency services.

#### **ARTICLE IV**

#### **Rights and Responsibilities of the County**

**4.1. Authorization of Concept Plan, Development Agreement, Development Guide, Phasing Plan, Land Use Map and Project Maximum Densities.** Subject only to Developer's continuing performance of its obligations under this Development Agreement, County hereby authorizes Developer to implement the Intended Uses, the Project Maximum Densities and all other provisions of the Development Agreement. The County knows of no compelling, countervailing public interest, and can foresee no facts, under which a subsequent desire by the County to modify Developer's rights or responsibilities under this Development Agreement or to impose any delays to consider such modifications would be justified.

**4.2. Waiver of Conflicting Provisions/Amendment.** This Development Agreement constitutes express waivers by the County for any provisions of any in conflict with the County's ordinances. To the extent necessary to implement this provision this Development Agreement shall be considered as and construed as amendments of any such conflicting provision.

**4.3. No Recommendation of Adverse Law.** The County shall not initiate or favorably recommend to the Idaho State Legislature or any administrative department of the State of Idaho any legislation, rule or action which would diminish or restrict the Densities, Intended Uses or transferability of Parcels or Densities allowed under this Development Agreement, or which would increase the amounts of Developer concessions required by this Development Agreement.

#### **ARTICLE V**

#### **Processes for Considering Development Applications**

**5.1. Applicability of this Development Agreement to Pending Applications.** Any applications for development on the Property or related to the Project that are pending before any body or

agency of the County at the date of the adoption of this Development Agreement shall thereafter be processed and considered under the substantive and procedural provisions of this Development Agreement, the Concept Plan, the Development Guide, the Phasing Plan, the Site Compatibility Map, and the Land Use Map.

**5.2. Basic Approval Processes for Development Applications.** Development Applications for Subdivisions shall be subject to the additional processes specified in the Subdivision Requirements. The provisions of Sections 5.4 – 5.15 shall be applicable to applications for Subdivisions. Development Applications for building permits shall be subject to the generally applicable processes for the County at the time of the Development Application. All other Development Applications shall be subject only to this Article.

**5.3. Submittal of Development Application.** Development Applications (except for building permits) shall be submitted by Applicant on the forms of the County in effect under the Ordinance at the time of the adoption of this Development Agreement and shall be accompanied by the fee specified in the Ordinance. Development Applications for building permits shall be submitted on the forms of the County in effect at the time of the Development Application and accompanied by the then-current fee. Development Applications for building permits shall also include a statement by Developer of all reviews required for the building permit from Non-County Agencies.

**5.4. Application Requirements.** A Development Application shall specify in the manner required by Chapter 3 of the Ordinance the details of the development of each Parcel as provided in the Concept Plan, the Phasing Plan, the Site Compatibility Map, and the Land Use Map and the Development Guide such as the general locations of public improvements and dedications, general infrastructure design, proposed uses and other such information.

**5.5. Non-County Agency Reviews.** For any aspect of a Development Application subject to this Article is required to be approved by a Non-County Agencies an impact report for these aspects need not be submitted by Applicant for review by any body or agency of the County. The County shall process Development Applications requiring Non-County Agency reviews subject to the time periods and processes specified below. The BCC may only grant final approval for any Development Application subject to compliance by Applicant with any conditions required for such Non-County Agency's approval.

**5.6. County Cooperation in Processing Development Applications.** The County shall cooperate reasonably in promptly and fairly processing Development Applications for the Project.

**5.7. County Acceptance of Completeness of Development Application.** The Administrator shall have fifteen (15) calendar days after submittal of a Development Application to inform the Applicant in writing if the Administrator considers the Development Application to be complete or incomplete. The Administrator may extend this initial review period upon written Notice to the Applicant specifying the extraordinary reasons therefore for an additional fifteen (15) days. If the Administrator does not notify the Applicant in writing of any additional information required to complete the Development Application, the Development Application shall thereafter be deemed complete. If the Administrator determines the Development Application is deficient as submitted the Administrator shall notify Developer and Applicant in writing within the time specified above, stating in detail which portions thereof are deficient, what required information is not contained therein, or in what other specific details the Development Application is alleged to be deficient. If after the Applicant's submittal of the required additional information necessary to complete the Development Application the Administrator does not thereafter further notify Applicant in writing within ten (10) calendar days of any alleged deficiencies, the Development Application shall be deemed complete. If the Administrator determines and states in writing that the Development Application is still deficient, the Developer can either continue to provide additional information requested by the Administrator or elect to have the Development Application presented to the appropriate body irrespective of any alleged deficiency or incompleteness.

**5.8. Commission Review of Development Applications.** Unless Applicant consents to a different schedule all aspects of a Development Application subject to review by the Commission shall be considered by the Commission at only one public hearing. Unless Applicant consents to a different schedule, the public hearing shall be scheduled no later than the next regularly scheduled public hearing for which any legally required notice may be given after the Development Application is deemed complete or submitted over any objection to alleged deficiency or incompleteness. The Commission may not refuse to consider the Development Application on the basis of any alleged incompleteness and may not table or otherwise extend its consideration of the Development Application beyond the single allowed hearing without the consent of the Applicant. At the conclusion of that one meeting the Commission shall recommend by majority vote whether the Development Application complies with the applicable provisions of the Ordinance, the Concept Plan, the Phasing Plan, the Site Compatibility Map and/or Land Uses Map. If the Commission fails to make a recommendation it shall be presumed to have recommended approval. The Commission's decision shall be only a recommendation and shall not have any binding or evidentiary effect on the consideration of the Development Application by the BCC.

**5.9. BCC Review of Development Applications.** After the Commission has made or been deemed to have made its recommendation of the Development Application the BCC shall consider the Development Application. Unless otherwise agreed to by Applicant, the BCC shall do so at the next regularly scheduled hearing for which any required notice may be lawfully given. Unless otherwise agreed to by Applicant, any subsequent consideration of the same Development Application shall also be at the next regularly scheduled meeting of the body for which any required notice may be lawfully given. Developer shall respond in good faith to any requests for additional information by the BCC during its consideration of any Development Application. At the conclusion of the BCC's second meeting considering any Development Application, or at any time during any subsequent meeting, Developer may require the BCC to make a final determination on the granting or denial of the Development Application.

**5.9.1. Acceptance of Certifications required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Idaho in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the County. The Development Application shall be deemed to meet the specific standards, which are the subject of the opinion or certification without further objection or required review by the BCC or any other agency of the County.

**5.9.2. Independent Technical Analyses for Development Applications.** If, under extraordinary circumstances specified in writing by the BCC, the County needs technical expertise to determine impacts of a Development Application such as traffic, hydrology, drainage and other matters which are not required to be certified to by such experts as part of a Development Application, the County may reasonably engage such experts under the processes above with the actual and reasonable costs thereof being the responsibility of Applicant.

**5.10. BCC Objections to Development Applications.** If the BCC objects to the Development Application, the BCC shall state in writing in reasonable detail the specific reasons the BCC believes that the Development Application (1) is not consistent with the Act and/or the rights intended to be given to Developer and related parties by this Development Agreement, the Concept Plan, the Development Guide, the Phasing Plan, the Site Compatibility Map and Land Use Map; or (2) does not meet the overarching goals of the Concept Plan the County's Comprehensive Plan or other policies, plans and ordinances of general applicability not prohibited by this Development Agreement.

**5.11. Meet and Confer regarding Development Application Objections.** The BCC and Applicant shall meet within fourteen (14) calendar days of any BCC objection to resolve the findings and issues specified in the BCC's written rejection of the Development Application.

**5.12. BCC Denials of Development Applications Based on Denials from Non-County Agencies.** If the BCC's denial of a Development Application is based on the denial of the Development Application by a Non-County Agency, Developer shall appeal any such denial through the appropriate appeal procedures for such a decision and Non-County Agency process rather than through appeal processes specified below.

**5.13. Mediation of Development Application Objections.**

**5.13.1. Issues Mediatable.** Issues regarding the BCC's objections to a Development Application that are not subject to arbitration provided in Section 5.15 shall be mediated.

**5.13.2. Mediation Process.** If the BCC and Applicant are unable to resolve a mediatable issue, the parties shall attempt within seven (7) days attempt to appoint a mutually acceptable expert in the professional discipline(s) of the mediation issue. If the parties are unable to agree on a single acceptable mediator they shall each, within seven (7) days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single mediator. Applicant shall pay the fees of the chosen mediator. The chosen mediator shall within fourteen (14) days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

**5.14. Arbitration of Development Application Objections.**

**5.14.1. Issues Arbitrable.** Issues regarding the BCC's objections to a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

**5.14.2. Arbitration Process.** If the BCC and Applicant are unable to resolve an arbitrable issue, the parties shall attempt within seven (7) days attempt to appoint a mutually acceptable expert in the professional discipline(s) of the arbitrable issue. If the parties are unable to agree on a single acceptable arbitrator they shall each, within seven (7) days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant shall pay the initial fees of the chosen arbitrator. The chosen arbitrator shall within fourteen (14) days, review the positions of the parties regarding the arbitrable issue and render a decision. The arbitrator shall direct the prevailing party to forthwith draft a proposed order for consideration and objection by the other side. After consideration of any such objections, the Arbitrator shall issue a written decision, which shall be final and binding upon both parties and not appealable. As part of the arbitrator's decision, the arbitrator shall determine the payment of the arbitrator's costs based on to the success or failure of each party's position in the arbitration.

## **ARTICLE VI**

### **Processes for Considering Modification Applications**

**6.1. Submittal of Modification Application.** Modification Applications shall be submitted by Applicant on a Modification Application Form accompanied by a fee of \$250.00. **NOTE:** **Modification Application should be defined, or state what it can seek to modify.**

**6.2. County Cooperation in Processing Modification Applications.** The County shall cooperate reasonably in promptly and fairly processing Modification Applications. The Administrator shall have fifteen (15) calendar days after submittal of the Modification Application Form to inform Developer in writing if the Administrator considers the Modification Application Form to be complete or incomplete. The Administrator may extend this initial review period an additional fifteen (15) days upon written Notice to the Developer specifying the extraordinary reasons therefore for an additional fifteen (15) days. If the Administrator does not notify the Developer in writing of any additional information required to complete the Modification Application Form the Modification Application shall thereafter be deemed complete. If the Administrator determines the Modification Application Form is deficient as submitted the Administrator shall notify Developer in writing within the time specified above, stating in detail which portions thereof are deficient, what required information is not contained therein, or in what other specific details the Modification Application Form is alleged not to be deficient. If after the Developer's submittal of the required additional information necessary to complete the Modification Application for the Administrator does not notify Developer in writing within fifteen (15) days of any deficiency, the Modification Application Form the Modification Application shall be deemed complete. If the Administrator determines and states the required additional information for the Modification Application is still deficient the Developer can either continue to provide additional information as requested or elect to have the Modification Application presented to the appropriate body irrespective of any alleged deficiencies or incompleteness.

**6.3. Commission Review of Modification Applications.** All aspects of a Modification Application subject to review by the Commission shall be considered, without the written consent of Applicant, by the Commission at only one public hearing. The public hearing shall be scheduled, without the written consent of Applicant, no later than the next regularly scheduled public hearing for which any legally required notice may be given after the Modification Application is deemed complete or submitted over any objection to alleged incompleteness. The

Commission may not refuse to consider the Modification Application on the basis of any alleged incompleteness and may not table or otherwise extend its consideration of the Modification Application beyond the single allowed hearing without the consent of the Applicant. At the conclusion of that one meeting the Commission shall recommend by majority vote whether the Modification Application is compatible with the Act, the Comprehensive Plan and the intent of this Development Agreement, the Concept Plan, the Development Guide, the Phasing Plan, the Site Compatibility Map, and the Land Use Map. If the Commission fails to make a recommendation it shall be presumed to have recommended approval. The Commission's decision shall be only a recommendation and shall not have any binding or evidentiary effect on the consideration of the Modification Application by the BCC.

**6.4. BCC Review of Modification Application.** After the Commission has made or been deemed to have made its recommendation of the Modification Application the BCC shall consider the Modification Application. Unless otherwise agreed to by Applicant, the BCC shall do so at the next regularly scheduled meeting for which any required notice may be lawfully given. Unless otherwise agreed to by Applicant, any subsequent consideration of the Modification Application shall also be at the next regularly scheduled meeting of the body for which any required notice, if required, may be lawfully given. Developer shall respond in good faith to any requests for additional information by the BCC during its consideration of any Modification Application. At the conclusion of the BCC's second meeting considering any Modification Application, or at any time during any subsequent meeting on such Modification Application, Developer may require the BCC to make a final determination on the granting or denial of the Modification Application.

**6.5. BCC Objections to Modification Applications.** If the BCC objects to the Modification Application, the BCC shall state in writing in reasonable detail the specific reasons the BCC finds that the Modification Application is (1) not consistent with the Act and/or the rights intended to be given to Developer and related parties by this Development Agreement, the Concept Plan, the Development Guide, the Phasing Plan, the Site Compatibility Map, and the Land Use Map; or (2) does not meet the overarching goals of the Concept Plan the County's Comprehensive Plan or other policies, plans and ordinances of general applicability not prohibited by this Development Agreement.

**6.6. Meet and Confer regarding Modification Applications.** The BCC and Developer shall meet within fourteen (14) calendar days of any objection to resolve the issues presented by the Modification Application and any of the BCC's objections.

**6.7. Mediation of BCC Objections to Modification Applications.** If the BCC and Applicant are unable to resolve a dispute regarding a Modification Application, the parties shall attempt within seven (7) days to appoint a mutually acceptable expert in land planning or such other discipline as may be appropriate. If the parties are unable to agree on a single acceptable mediator they shall each, within seven (7) days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single mediator. Developer shall pay the fees of the chosen mediator. The chosen mediator shall within fourteen (14) days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

## **ARTICLE VII** **Infrastructure**

**7.1. Developer's Construction of On-Site Infrastructure.** Developer shall have the right and the obligation to construct or cause to be constructed and installed all portions of the On-Site

Infrastructure related to the portion of the Property being developed pursuant to the approval of a Development Application. The construction of all On-Site Infrastructure shall be performed in a good and workmanlike manner in accordance with the standards specified in the Development Guide and/or Service Plan. Subject to compliance with all generally applicable processes and requirements the County shall issue all encroachment permits necessary for the infrastructure and its construction to enter and remain upon and cross over any County property, easements or rights-of-way to the extent reasonably necessary from the County to facilitate such construction, or to perform necessary maintenance or repairs of such infrastructure.

**7.2. Security for On-Site Infrastructure.** If required by law, and irrespective of the instrument or mechanism used by Developer to guarantee the completion of any improvements required pursuant to a Development Application, Developer shall only be required to post or bond one hundred ten percent (110%) of the value of the On-Site Infrastructure. Any such security shall be in a form reasonably acceptable to the BCC and may include the posting of cash, a bond with adequate sureties, an irrevocable letter of credit or any other such instrument. Any such security shall be, at Developer's request and demonstration of work performed, partially released pro rata as work proceeds, to a maximum of seventy-five percent (75%). Upon the completion of the On-Site Infrastructure, as certified by Developer's engineers, the remainder of such security, except twenty percent (20%) thereof retained as security for a two (2) year warranty on workmanship and materials, shall be released.

**7.3. No Additional Off-Site Infrastructure Requirements.** The County shall not, directly or indirectly, charge the Developer, its affiliates or successors, Sub-Developers or the Property any development fees, impact fees, sewer capacity or hookup fees, or any similar fees, charges, assessments or exactions for development of the Property in accord with the Concept Plan and this Development Agreement and its attached Exhibits.

**7.4. Sales Prior to Completion of Infrastructure.** Anything in the Ordinance notwithstanding, Developer may sell any or all of the Property or Parcels thereof and/or obtain building permits prior to the installation of all On-Site Infrastructure or Off-Site Infrastructure required to be eventually completed. However, no certificate of occupancy shall be issued by the County unless all required On-Site Infrastructure and Off-Site Infrastructure required pursuant to a Development Application are installed and preliminarily accepted by the County or the installation costs are adequately secured as required in the Development Guide.

**7.5. Applicability of Development Agreement and Other Ordinance Amendments to pending Conditional Use Permit Applications.** The parties acknowledge that Developer has filed certain applications for Conditional Use Permits for the Project under the then-applicable provisions of the Ordinance. From and after the date of the execution and adoption of this Development Agreement any such pending applications shall thereafter be considered under the provisions of this Development Agreement and the other adopted amendments to the Ordinance.

## **ARTICLE VIII** **Miscellaneous**

**8.1. Authority.** The parties to this Development Agreement each warrant that they have all of the necessary authority to execute this Development Agreement. Specifically, on behalf of the County, the signature of the Chairman of the BCC is affixed to this Development Agreement lawfully binding the County. This Development Agreement is approved as to form and is further certified as to being lawful and binding on the County by the signature of the Valley County Prosecuting Attorney.

**8.2. Assignability.** The rights and responsibilities of Developer under this Development Agreement may be assigned in whole or in part by Developer with the consent of the County. The

County may only withhold its consent if the County is not reasonably satisfied of the assignees financial ability to perform the obligations of Developer. Developer shall first give written Notice to the County of any proposed assignment and provide such information regarding the proposed assignee that the County may reasonably request in making the assignment evaluation provided under this Section. Unless the County objects in writing within sixty (60) days of the Developer's written notice, the County shall be deemed to have approved of and consented to the assignment. Developer's selling or conveying individual Parcels to builders, users, or Sub-Developers, shall not be deemed to be an "assignment" subject to the above referred approval by the County unless specifically designated as an assignment by the Developer.

**8.3. Rights and Responsibilities of this Development Agreement Binding on Successors.**

When Developer sells or conveys Parcels of lands to Sub-Developers or related parties, the lands so sold and conveyed shall (1) bear the same rights, privileges, uses, configurations, and Densities as applicable to such parcel and (2) be subject to the same limitations and rights of the County when owned by the Developer and as set forth in this Development Agreement without any required approval, review, or consent by the County except as otherwise provided herein.

**8.4. Time is of the Essence.** Time is of the essence to this Development Agreement and every right or responsibility shall be performed within the times specified.

**8.5. Notices.** All notices required or permitted under this Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**8.5.1. To the County:** Chairman, Valley County Board of County Commissioners  
219 North Main Street  
P.O. Box 737  
Cascade, ID 83611



**8.5.2. With Copies to:** Valley County Prosecuting Attorney  
219 North Main Street  
P.O. Box 532  
Cascade, ID 83611



**8.5.3. With Copies to:** Valley County Clerk/Auditor  
219 North Main Street  
P.O. Box 532  
Cascade, ID 83611



**8.5.4. Developer:** Jack A Charters  
Buckskin Properties Inc.  
P.O. Box 145  
Donnelly, Idaho 83615

With Copies to:  
Charles D Coulter  
1002 N 8th Street



**8.6. Effectiveness of Notice.** Except as otherwise provided in this Development Agreement, each Notice shall be effective and shall be deemed delivered on the earlier of (1) its actual receipt, if delivered personally, by courier service, or by telex, fax or telecopy (provided that a copy of the telex, fax or telecopy Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice) or, (2) on the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this Development Agreement by giving written Notice to the other party in accordance with the provisions of this Section.

**8.7. Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this Development Agreement, the County and Developer each shall designate and appoint a representative to act as a liaison between the County and its various departments and the Developer. The initial representative for the County shall be the County Planning and Zoning Administrator and the initial representative for Developer shall be Jack Charters. The parties may change their designated representatives by written Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Development Agreement and the development of the Property.

**8.8. Remedies Upon Default.** In the event of the default by any party to this Development Agreement, the non-defaulting party shall be entitled to collect from the defaulting party its provable damages, including, but not limited to, its reasonable attorneys' fees and expenses. In addition, the parties acknowledge that the remedies of damages may be difficult to determine or prove or may not always be sufficient and the parties hereby consent to the Court's imposition of specific performance and/or injunctive relief. All rights and remedies under this Development Agreement, and/or statute or common law shall be deemed cumulative and the selection of one of the rights or remedies shall not be deemed a waiver of any other right or remedy.

**8.9. Non-Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

**8.10. Term of Agreement.** This Development Agreement shall commence on the date of its execution and shall extend for a period of twenty (20) years or until Build out, whichever comes first.

**8.11. Severability.** If any provision of this Development Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Development Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Development Agreement shall remain in full force and affect.

**8.12. No Joint Venture/No Third Party Beneficiaries.** This Development Agreement does not create a joint venture relationship, partnership or agency relationship between the County and Developer. Further, the parties do not intend this Development Agreement to create any third-party beneficiary rights. The parties acknowledge that this Development Agreement refers to a private development and that the County has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the County has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the County's.

**8.13. Recordation and Running With The Land.** This Development Agreement shall be recorded in the chain of title for the Property. This Development Agreement shall be deemed to run with the land.

**8.14. Captions.** The Article and Section captions used in this Development Agreement are for convenience only and are not intended to be substantive provisions or evidences of intent.

**8.15. Mutual Drafting.** Each party has participated in negotiating and drafting this Development Agreement and therefore no provision of this Development Agreement shall be construed for or against either party based on which party drafted any particular portion of this Development Agreement.

**8.16. Entire Agreement.** This Development Agreement, together with other specific documents referred to herein, constitute the entire agreement between the Parties and this Development Agreement may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

**8.17. Applicable Law.** This Development Agreement is entered into in Valley County in the State of Idaho and shall be construed in accordance with the laws of the State of Idaho irrespective of Idaho's choice of law rules.

**8.18. Venue.** Any action to enforce this Development Agreement shall be brought only in the Fourth District Court for the State of Idaho.

**8.19. Specific Performance.** In addition to any other rights available to either party at law or in equity the parties each consent to the entry, where deemed appropriate by a court, of an order of specific performance requiring the party to perform its rights and responsibilities required by this Development Agreement.

**8.20. Prevailing Party Rights.** In addition to any other relief, the prevailing party in any action, whether at law, in equity or by arbitration, to enforce any provision of this Development Agreement shall be entitled to its costs of action including a reasonable attorneys' fee.

Made and entered into as of the date and year first written above.  
Buckskin Properties Inc.: Valley County:

\_\_\_\_\_  
By: Jack A. Charters  
President, Buckskin Properties Inc.,

\_\_\_\_\_  
By: Ronald V. Zarbnisky, Chairman  
Board of County Commissioners

Approved as to form and legality:

Attest:

\_\_\_\_\_  
Richard T. Roats  
Valley County Prosecuting Attorney

\_\_\_\_\_  
Leland G. Heinrich  
County Clerk

## APPENDIX D IMPACT REPORT

The project, as planned, will meet the goals of the *Comprehensive Plan*, planning policy and the requirements of the *Valley County Land Use and Development Ordinance* with minimal impacts that will be adequately mitigated as required by the County.

### A. TRAFFIC VOLUME

The existing new road infrastructure has been adequate to accommodate the increased traffic the development has generated from the initial phases. To mitigate the LOS experienced by drivers, the development participated in upgrading a length of county road from Donnelly to the Tamarack Resort to the preferred County standard, (40-foot-wide roadway, 8-foot shoulders, two 12 foot lanes, with a total 100 foot wide R-O-W section, 50 MPH design speed criteria). This cooperation has proven to be adequate and has retained more than appropriate LOS around the development even through peak traffic hours.

The development's road system will meet or exceed safety, capacity, and infrastructure requirements. The development will consist of private roads, with controlled access that will be maintained by the Owner's Association.

Pathway facilities and amenities will encourage residents to stay within the community and use non-motorized transportation.

The Development will also minimize impacts to the traveling public during the construction phases by developing and enforcing construction safety and workmanship standards such as detouring plans, traffic control plans, dust abatement, and construction runoff control.

### B. NOISE AND VIBRATION

In the short term there will be an increase in the noise level due to construction of the development. The Development will comply with all state and county noise control regulations and standards. The Development will identify opportunities to use landscaping and vegetative buffers to minimize the impact on adjacent properties. The long term increases due to activities and events resulting from the development should be minimal. The noise and vibration levels will be consistent with the standards set forth in the *Valley County Land Use and Development Ordinance*.

### C. HEAT AND GLARE

In the short term there will be a slight increased glare due to construction and related activities associated with this type of development. The heat and glare should be minimized to the greatest extent possible by site planning, building orientation, and natural and planted vegetative screening.

**D. AIR QUALITY**

Any construction of new homes in Valley County presents the prospect of additional air quality issues, if wood burning devices are utilized. However, unlike the rest of Valley County, Valley Meadows will have enforceable “no-burn” policies. Through the Declaration of Covenants, Conditions and Restrictions, the governing Board for the development will have the ability and responsibility to order cessation of wood burning within the development during periods of degraded air quality. The Board will work with the Division of Environmental Quality to establish guidelines and access to monitoring data, to implement this program.

**E. SOLID WASTE**

The development should not adversely affect the existing transfer station or the private collection operation. The development’s solid waste collection will function on the same basis as other Valley County property owners. Participation in recycling programs will help minimize the development’s overall waste production.

**F. WATER DEMAND/SYSTEM**

The Developer intends to construction an on-site water supply, treatment, storage and distribution facility in cooperation with the North Lake Recreational Water & Sewer District. The Developer has negotiated North Lake Recreation Water & Sewer District. If this proposal is successful, the Developer will negotiate an appropriate connection fee and cost reimbursement agreement that reflects the Developer’s total cost for all in-kind construction, right-of-way and site contribution to the North Lake Recreational Water & Sewer District. Once completed, the system would be owned and operated by the North Lake Recreational Water & Sewer District. A Preliminary Engineering Report prepared by Toothman-Orton Engineering Co demonstrated that a central water system could be utilized by the surrounding areas for domestic and fire flow requirements.

Alternatively, The Meadows reserves the right to construct wells, treatment facilities and storage tanks as may be required by DEQ to serve The Meadows development as a privately owned system.

The Groundwater Resource Evaluations that have been conducted near the site and immediate areas indicates there is adequate groundwater to meet and exceed the needs of the proposed development without adversely impacting the adjoining properties. The proposed water system will supply high quality domestic water and provide fire protection flow requirements that meet the fire codes and standards.

**G. SANITARY SEWER SYSTEM**

Developer agrees to pay sewer hookup fees as established through negotiation with the North Lake Recreational Water and Sewer District (NLRWSD). Said hookup fees are currently

reported to be \$2,500.00 per equivalent residential user. NLRWSD will accept, transmit, treat and dispose of the Developments sewage.

**H. FIRE PROTECTION**

The development is currently protected by the Donnelly Rural Fire Protection Association. The proposed water system for the development shall be designed to meet pressure and flow requirements per the applicable fire codes and standards. Planning measures will provide for natural open space fire breaks, necessary road access and utilize best design standards for fire protection. Additional elements may include use of non-combustible building materials, and fire resistant vegetation. The Applicant will work with the Rural Fire Protection Districts to assure that the development utilizes best practices for fire prevention and suppression, including the solicitation of input on infrastructure design, Design Guidelines and CC&R's.

**I. FLOOD POTENTIAL**

The proposed development planning process will locate all building structures out of the floodplain. The encroachment into floodplain areas, such as earthen road structures and fills will be designed to accommodate the 100-year storm event.

**J. DRAINAGE PATTERNS/WATER QUALITY**

The proposed development will not significantly alter the existing drainage patterns and flows. The development will use Best Management Practices (BMP's) as outlined in the *"Handbook of Valley County Stormwater Best Management Practices"* to capture, disperse and treat storm water in a series of grassy swales, retention areas and other accepted methods. BMP'S will be used to naturally filter pollutants, and provide nutrient uptake before storm water enters the existing drainage patterns. Water quality for the development should significantly improve by the elimination of the present land use of cattle grazing and flood irrigation. In addition, surface water quality will be addressed during and after construction of the development. Improvements will focus on limiting the area of disturbance and treating the surface water as close to the source as possible.

**K. WETLAND AREAS**

There may be a limited amount of Inland Herbaceous Wetlands per the National Wetlands Inventory online search conducted on March 9, 2004. The area indicates is located along the southern property boundary where the irrigation overflow accumulates. If there are existing wetlands located on the development site, careful site planning the proposed improvements to avoid wetlands wherever possible and incorporate them into open space or recreational features. All such plans shall be submitted to and approved by the U.S. Army Corps of Engineers for compliance with Section 404 of the Clean Water Act.

**L. SOIL CHARACTERISTICS**

The soil characteristics of the development are, in general, suitable for the proposed improvements. Detailed geotechnical analysis will be conducted on specific building sites on a case-by-case basis to provide specific site information to the Architect, Engineer and/or County Engineer for design purposes. Soil and erosion control measures will be implemented to avoid potential erosion and soil stability problems.

**M. SITE GRADING**

Grading will be accomplished with maximum preservation of the site's natural character and amenities. Building pads and lots will be graded individually in a site sensitive manner to reduce impacts. Cut and fill slopes along roadways will be carefully designed to minimize visual impacts. Careful planning and analysis of existing soil and naturally occurring drainage patterns should minimize grading and its impact to the overall development. In addition, the CC&R's and Design Guidelines will require review by the Architectural Review Committee of any site grading plans. Infrastructure related grading plans will be submitted with the Final Plat for each Phase. Since the development lies within a wildlife corridor, there will be a no fence policy to try retaining historical wildlife movement and behaviors.

**N. VEGETATION**

The development intends to maintain and protect the existing agricultural and forested landscape, however, some vegetation and trees will be removed. The number of trees removed for construction of the development should not have a significant visual impact to the overall site. Renegotiation and landscaping will more than replace the number of removed trees.

The goal of development is to create an environment that is harmonious with the current landscape character. This goal will be achieved through careful selection of plant materials that mirror or enhance the existing aesthetic vegetation qualities.

Riparian areas will be rehabilitated and enhanced by naturalistic placement of trees, shrubs, and grasses. The enhanced riparian areas should replicate the stream environment before cattle grazing and irrigation practices were introduced to the landscape.

**O. FISH AND WILDLIFE**

The development should have limited adverse impact on existing fish and wildlife populations and habitat. Through appropriate planning, the development should enhance the fish and wildlife features by providing the following approach: a) improve irrigation riparian corridors, b) provide significant areas of open space to support wildlife, c) use of the open space as a buffer between areas of development and areas of greater intensities of wildlife.

**P. VISIBILITY TO DEVELOPMENT**

The natural landscape of the site ranges from timbered areas to grassy pasture fields. These natural features with the additional of additional vegetative buffers will provide a reasonable screen of the development from adjacent public roads and property owners. The planning measures should screen the majority of the structures by using the existing timber and supplementing with new plantings.

**Q. SITE SELECTION**

The development site offers diversity in natural features, access to nearby public lands and close proximity to a substantial community. These combined factors provide for a quality setting. The differences in terrain covering the area provide for a range of developmental opportunities and options that provide for a unique and quality community environment.

**R. MARKET NEED**

In response to growth in Boise and other western cities, consumer desires and market trends have shown the need for high quality land development with a recreation-based atmosphere. The location of the development provides good access to the major city markets found in the west. In addition, the planned development will be a quality product offering many high quality living amenities and recreational options that have broad appeal to the consumer. The development will offer a variety of lot sizes and housing accommodations to provide for an attractive cross section of middle to higher end priced product.

**S. ANTICIPATED RANGE OF SALES**

Through the combination of high quality on-site amenities, outstanding natural features, access to nearby public lands, close proximity to existing communities, central systems and strict controls it is believed the proposed development should enter into the middle and upper end of the current market. The proposed development in its entirety will offer a varied range of product and price to the consumer.

**T. PROPOSED PHASING**

The Phasing Plan for Valley Meadows (The Meadows) outlines the anticipated sequence of development implementation (See Figure 2, Phasing Plan in Appendix A). Phasing will undoubtedly be adjusted in response to general economic conditions, market forces and absorption rates. The community is currently projected to take between ten and fifteen years to build-out.

Currently the Phasing Plan anticipates six phases consisting of residential, commercial, multi-family and designated open space. The following Phase outline is an infrastructure inventory for The Meadows:



**PHASE I**

- 88 residential units
- 3 lots for recreation/open space
- Open lots for landscape buffers and snow storage
- Water system with associated wells, distribution and appurtenances
- Sanitary sewer system infrastructure and public waste disposal system
- Extensions of associated underground utilities
- Associated paved roadways

**PHASE II**

- 50 townhomes
- 2 lots for recreation/open space
- Additional open lots for landscape buffers and snow storage
- Water system distribution and appurtenances
- Sanitary sewer system infrastructure and proposed public waste disposal system
- Extensions of associated underground utilities
- Associated paved roadways

**PHASE III**

- 3 commercial lots
- 24 townhomes
- 4 lots for recreation/open space
- Additional open lots for landscape buffers and snow storage
- Water system with associated wells, distribution and appurtenances
- Sanitary sewer system infrastructure and proposed public waste disposal system
- Sanitary Sewer Lift Station
- Extensions of associated underground utilities
- Associated paved roadways

Phasing is planned in such a manner that at the completion of each phase all essential public services needed to meet that and preceding phases are in place and financing necessary for maintenance and operation of those services is assured. The Meadows will be developed in such a way that integrity of the community will be maintained at the end of each phase. The project will be phased so as to allow for amenities to be completed and utilized in an orderly manner. Through phasing, the natural setting will be preserved as much as possible, until the justification for additional phase implementation has been met.

**U. PROPOSED FINANCING**

The Project will be constructed in phases, with the associated infrastructure estimated costs distributed as follows:

\* Completed Phase

	<u>2004 Estimate</u>	<u>2021 Estimate</u>
PHASE 1	-	\$ 819,874.90
PHASE 2	-	\$ 865,541.04
PHASE 3	-	\$ 262,621.22

TOTAL COST (Phases 1-3): \$1,948,037.16

The proposed financing of the development is as follows:

- PHASE I:
- Owner financed
  - Sale of Phase I lots
- PHASE II:
- Owner financed
  - Sale of Phase I lots
  - Sale of Phase II lots
- PHASE III:
- Owner financed
  - Sale of Phase II lots
  - Sale of Phase III lots

**V. PROPOSED CONSTRUCTION SCHEDULE**

The Meadows is planned in phases. The following proposed construction schedule will be coordinated with the proposed phasing guidelines as outlined above.

The original and proposed construction timetable:

PHASE I (2022-2023)

- Begin construction upon acceptance of required agencies and groups, sufficient economic interest and completion of design plans and specifications
- It is anticipated that construction of Phase I will take one-construction seasons

PHASE II (2022-2024)

- Begin construction upon acceptance of required agencies and groups, sufficient economic interest and completion of design plans and specifications
- It is anticipated that construction of Phase II will take about one-construction seasons

PHASE III (2023-2024)

- Begin construction upon acceptance of required agencies and groups, sufficient economic interest and completion of design plans and specifications.
- It is anticipated that construction of Phase III will take one-construction seasons

The proposed phases and construction schedule is an outline of anticipated events and is subject to modification based on market demand and economic decisions. The owner will notify the County if the phasing schedule is revised.

**W. PUBLIC SERVICES**

The development is a private venture to be financed through private funds. Therefore, no public funds will be required for the site improvements.

Other impacts on public services are identified in the Applicant's Fiscal Impact Analysis, which is included in Appendix B.

**X. BENEFITS VS. COSTS (of the project)**

The proposed project will offer a unique surrounding and living environment in Valley County. The residents of the area will be able to use and enjoy the recreational facilities and benefit from the improvements.

The proposed development will be privately funded, and as such, no public monies will be required. Private roads, central water and sewer systems and other appurtenances will be maintained by the Property Owners' Association.

The project is planned on property which is currently being used for cattle grazing and pasture land. After implementation of the project, the land use will change and the following benefits will be created:

- a) Improvement to the general health of the land and wildlife as a result of elimination of the prior land use practices.
- b) As a PUD, the project provides a transition from cattle grazing and pastureland use and meets the goals of the *Comprehensive Plan*, and the *Valley County Land Use and Development Ordinance*. The Ordinance indicates to the greatest degree possible the agricultural/open space character of Valley County should be maintained. This plan has accomplished this goal by providing portions of the project in open settings, utilizing the natural topography and preserving areas of open space in its traditional character.
- c) Design standards, development restrictions, storm water, soil and erosion control and best management practices will provide direct benefits to surrounding water and air quality.

d) County private business and local government will benefit from the increased market opportunities generated from the needs of the development. Increased market demand will benefit the community with increased revenue for the private citizen and benefit local government through increased revenues from additional taxes and service fees. Multi-family housing accommodations will allow some much needed opportunity for economic housing alternatives within a upper scale environment in the Valley County area.

The cost to the surrounding community from change of the existing land use is mitigated by the development's planning process that is consistent with the *Comprehensive Plan* and the *Valley County Land Use and Development Ordinance*.

# Valley County Planning and Zoning Department


219 N. Main  
PO Box 1350  
Cascade, ID 83611  
www.co.valley.id.us  
cherrick@co.valley.id.us  
208-382-7115



## C.U.P. & Preliminary Plat Application

TO BE COMPLETED BY THE PLANNING AND ZONING DEPARTMENT		<input type="checkbox"/> Check # _____ or <input type="checkbox"/> Cash
FILE # _____		FEE \$ _____
ACCEPTED BY _____		DEPOSIT _____
CROSS REFERENCE FILE(S): _____		DATE _____
<input type="checkbox"/> ADMINISTRATIVE PLAT	COMMENTS: _____	
<input type="checkbox"/> SHORT PLAT	_____	
<input type="checkbox"/> FULL PLAT	_____	

When an application has been submitted, it will be reviewed in order to determine compliance with application requirements. A hearing date will be scheduled only after an application has been accepted as complete.

Applicant's Signature:  Date: 06/18/22

**The following must be completed and submitted with the conditional use permit application:**

- A **preliminary plat** containing all of the necessary requirements according to the Valley County Subdivision Regulations.
- A **phasing plan and construction timeline**.
- One **8½ x 11" – 300 scale drawing** of the proposed subdivision showing only the street names and lots.
- A **plot plan**, drawn to scale, showing existing utilities, streets, easements, ditches, and buildings.
- A **landscaping plan**, drawn to scale, showing elements such as trees, shrubs, ground covers, and vines. Include a plant list, indicating the size, quantity, location, and name (both botanical and common) of all plant material to be used.
- A **site grading plan** clearly showing the existing site topography and detailing the best management practices for surface water management, siltation, sedimentation, and blowing of dirt and debris caused by grading, excavation, open cuts, side slopes, and other site preparation and development.
- A **lighting plan**.
- A **Wildfire Mitigation Plan**.
- Names and mailing addresses of property owners within 300 feet of the property boundary.** Information can be obtained through the Valley County GIS maps. Only one list is required.
- Ten (10) copies of the application and additional materials are required.**

We recommend you review Title 9 and Title 10 of the Valley County Code online at [www.co.valley.id.us/planning-zoning](http://www.co.valley.id.us/planning-zoning) or at the Planning and Zoning Office, 219 North Main, Cascade, Idaho. Subject to Idaho Statute 55-22 Underground Facilities Damage Prevention.

**CONTACT INFORMATION**

**PROPOSED SUBDIVISION NAME:** Valley Meadows

**APPLICANT** Triple Dot Development, LLC PHONE \_\_\_\_\_  
Owner  Option Holder  Contract Holder

MAILING ADDRESS 811 E McKinley St. ZIP 83712

EMAIL \_\_\_\_\_

**PROPERTY OWNER** Triple Dot Development, LLC  
(if not the applicant)  
MAILING ADDRESS 811 E McKinley St. ZIP 83712

EMAIL \_\_\_\_\_

To develop a PUD in three phases with residential, commercial, and  
Nature of Owner's Interest in this Development? multi-family

**AGENT / REPRESENTATIVE** Joe Pachner, PE PHONE [REDACTED]

MAILING ADDRESS 5725 N Discovery Way, Boise, ID ZIP 83713

EMAIL [REDACTED]

**ENGINEER** KM Engineering, LLP

MAILING ADDRESS 5725 N Discovery Way, Boise, ID ZIP 83713

EMAIL [REDACTED] PHONE [REDACTED]

**SURVEYOR** KM Engineering, LLP

MAILING ADDRESS 5725 N Discovery Way, Boise, ID ZIP 83713

EMAIL [REDACTED] PHONE [REDACTED]

**PROPERTY INFORMATION**

1. SIZE OF PROPERTY 20.78 Acres

2. AMOUNT OF ACREAGE OF ADJACENT LAND HELD BY THIS OWNER 0.0 Acres

3. ANY RESTRICTIONS ON THIS PROPERTY? Must show all easements on plat.

Easements not at this time

Deed Restrictions not at this time

Liens or encumbrances not at this time

4. LEGAL DESCRIPTION situated in a portion of the NE 1/4 of Section 17, Township 16 North, Range 3 East, Boise Meridian, Valley County, Idaho

5. TAX PARCEL NUMBER(S) RP16N03E170895; RP16N03E170945; RP16N03E170965; RP16N03E170700

Quarter NE Section 17 Township 16N Range 3E

6. EXISTING LAND USES AND STRUCTURES ON THE PROPERTY:

The property is currently undeveloped, and was previously used for agriculture. There are not existing structures on the property at this time.

7. ARE THERE ANY KNOWN HAZARDS ON OR NEAR THE PROPERTY (such as canals, hazardous material spills, soil or water contamination)? If so, describe and give location:

There are no hazards on the property that we are aware of at this time.

8. ADJACENT PROPERTIES HAVE THE FOLLOWING BUILDING TYPES AND/OR USES:

North Residential
South Agricultural
East Residential
West Timberland

9a. TYPE OF TERRAIN: Mountainous [ ] Rolling [ ] Flat [x] Timbered [ ]

9b. DOES ANY PORTION OF THIS PARCEL HAVE SLOPES IN EXCESS OF 15%? Yes [ ] No [x]

9c. DESCRIBE ANY SIGNIFICANT NATURAL RESOURCES SUCH AS ROCK OUTCROPPING, MARSHES, WOODED AREAS: There are no significant natural resources on the property that we are aware of at this time.

10a. WATER COURSE: There are no water courses on the property at this time.

10b. IS ANY PORTION OF THE PROPERTY LOCATED IN A FLOODWAY OR 100-YR FLOODPLAIN? (Information can be obtained from the Planning & Zoning Office) Yes [ ] No [x]

10c. ARE THERE WETLANDS LOCATED ON ANY PORTION OF THE PROPERTY? Yes [x] No [ ]

10d. WILL ANY PART OF THE PROPERTY BE SUBJECT TO INUNDATION FROM STORMWATER OVERFLOW OR SPRING MELTING RUN-OFF? No

11a. NUMBER OF EXISTING ROADS: 2 Width 100.16'; 80.00' Public [x] Private [x]
Are the existing road surfaces paved or graveled? Gravel [ ] Paved [x]

11b. NUMBER OF PROPOSED ROADS: na Proposed width: na
Will the proposed roads be Public [ ] Private [ ]
Proposed road construction: Gravel [ ] Paved [ ]

12a. EXISTING UTILITIES ON THE PROPERTY ARE AS FOLLOWS: gas, power, irrigation, telephone

12b. PROPOSED UTILITIES: We are proposing centralized sewer and water.

Proposed utility easement width to be determined Locations to be determined during final design of utilities

13. SOLID WASTE DISPOSAL METHOD: Individual Septic  Central Sewage Treatment Facility

14. POTABLE WATER SOURCE: Public  Water Association  Individual

If individual, has a test well been drilled? na Depth na Flow na Purity Verified? na  
 Nearest adjacent well na Depth na Flow na

15. ARE THERE ANY EXISTING IRRIGATION SYSTEMS? Yes  No

Are you proposing any alterations, improvements, extensions or new construction? Yes  No

If yes, explain: \_\_\_\_\_

16. DRAINAGE (Proposed method of on-site retention): Development will use best management practices

Any special drains? No (Please attach map)

Soil type(s): Roseberry coarse sandy loam

(Information can be obtained from the Natural Resource Conservation Service: [websoilsurvey.nrcs.usda.gov](http://websoilsurvey.nrcs.usda.gov))

17. WILL STREETS AND OTHER REQUIRED IMPROVEMENTS BE CONSTRUCTED PRIOR TO THE RECORDING OF THE FINAL PLAT? Yes

If not, indicate the type of surety that will be put up to ensure the construction of the improvements within one (1) year from the date of filing the plat: \_\_\_\_\_

16. OUTLINE OF PROPOSED RESTRICTIVE COVENANTS:

Setbacks: Front 30 feet Sides 10 feet Rear 30 feet

Mobile homes allowed? Yes  No

Minimum construction value to be determined; market driven Minimum square footage 3,341 SF

Completion of construction required within 3 Days  Months  Years

Resubdivision permitted? Yes  No

Other \_\_\_\_\_

17. LAND PROGRAM:

Open Areas and/or Common Areas Yes  No

Acreage in subdivision 20.78 Number of lots in subdivision 96

Typical width and depth of lots \_\_\_\_\_

Typical lot area 4,011 SF Minimum lot area 3,341 SF Maximum lot area 1.59 AC

Lineal footage of streets see narrative Average street length per lot see narrative

Percentage of area in streets 20%

Dedicating road right-of-way to Valley County? Yes  No

Percentage of area of development to be public (including easements) 16%

Maximum street gradient see narrative

Is subdivision to be completely developed at one time? Yes  No  - Attach phasing plan and timeline.

18. COMPLETE ATTACHED PLAN FOR IRRIGATION if you have water rights &/or are in an irrigation district. Submit letter from Irrigation District, if applicable.

19. COMPLETE ATTACHED WEED CONTROL AGREEMENT.

20. COMPLETE ATTACHED IMPACT REPORT. It must address potential environmental, economic, and social impacts and how these impacts are to be minimized.



# Irrigation Plan

(Idaho Code 31-3805)

This land:  Has water rights available to it  
 Is dry and has no water rights available to it.

**Idaho Code 31-3805** states that when all or part of a subdivision is "located within the boundaries of an existing irrigation district or canal company, ditch association, or like irrigation water deliver entity ... **no subdivision plat or amendment to a subdivision plat or any other plat or map recognized by the city or county for the division of land will be accepted, approved, and recorded unless:**"

- A. The appropriate water rights and assessment of those water rights have been transferred from said lands or excluded from an irrigation entity by the owner; or
- B. The owner filing the subdivision plat or amendment to a subdivision plat or map has provided for the division of land of underground tile or conduit for lots of one acre or less or a suitable system for lots of more than one acre which will deliver water to those landowners within the subdivision who are also within the irrigation entity with the appropriate approvals:
  - 1. For proposed subdivisions located within an area of city impact, both city and county zoning authorities must approve such irrigation system.
  - 2. For proposed subdivisions outside of negotiated areas of city impact, the delivery system must be approved by the Planning and Zoning Commission and the Board of County Commissioners with the advice of the irrigation entity charged with the delivery of water to said lands (e.g., irrigation district).

To better understand your irrigation request, we need to ask you a few questions. Additional pages can be added. A list of the map requirements follows the short questionnaire. **Any missing information may result in the delay of your request before the Planning and Zoning Commission and ultimately the approval of your irrigation plan by the Board of County Commissioners as part of final plat approval.**

- 1. Are you within an area of negotiated City Impact?  Yes  No
- 2. What is the name of the irrigation district/company and drainage entities servicing the property?  
Irrigation: \_\_\_\_\_  
Drainage: \_\_\_\_\_
- 3. How many acres is the property being subdivided? \_\_\_\_\_
- 4. What percentage of this property has water? \_\_\_\_\_
- 5. How many inches of water are available to the property? \_\_\_\_\_
- 6. How is the land currently irrigated?  surface  sprinkler  irrigation well  
 above ground pipe  underground pipe
- 7. How is the land to be irrigated after it is subdivided?  surface  sprinkler  irrigation well  
 above ground pipe  underground pipe
- 8. Describe how the head gate/pump connects to the canal and irrigated land and where ditches &/or pipes go.  
\_\_\_\_\_  
\_\_\_\_\_
- 9. Is there an irrigation easement(s) on the property?  Yes  No

10. How do you plan to retain storm and excess water on each lot? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. How do you plan to process this storm water and/or excess irrigation water prior to it entering the established drainage system? (i.e. oil, grease, contaminated aggregates)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Irrigation Plan Map Requirements**

The irrigation plan **must be on a scalable map** and show all of the irrigation system including all supply and drainage structures and easements. Please include the following information on your map:

- All canals, ditches, and laterals with their respective names.
- Head gate location and/or point of delivery of water to the property by the irrigation entity.
- Pipe location and sizes, if any
- Rise locations and types, if any.
- Easements of all private ditches that supply adjacent properties (i.e. supply ditches and drainage ways).
- Slope of the property in various locations.
- Direction of water flow (use short arrows on your map to indicate water flow direction → ).
- Direction of wastewater flow (use long arrows on your map to indicate wastewater direction → ).
- Location of drainage ponds or swales, if any where wastewater will be retained on property
- Other information: \_\_\_\_\_

**Also, provide the following documentation:**

- Legal description of the property.
- Proof of ownership.
- A written response from the irrigation entity and/or proof of agency notification.
- Copy of any water users' association agreement which shows water schedules and maintenance responsibilities.
- Copy of all new easements ready for recording (irrigation supply and drainage).
- If you are in a city area of impact, please include a copy of the approvals by the city planning and zoning commission and city council of your irrigation plan.

===== **Applicant Acknowledgement** =====

I, the undersigned, agree that prior to the Planning and Zoning Department accepting this application, I am responsible to have all the required information and site plans.

**I further acknowledge that the irrigation system, as approved by the Planning and Zoning Commission and ultimately the Board of County Commissioners, must be bonded and/or installed prior to the recording of the plat or building permit.**

Signed: \_\_\_\_\_  
*Applicant*

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_



# VALLEY COUNTY WEED CONTROL AGREEMENT

The purpose of this agreement is to establish a cooperative relationship between Valley County and the undersigned Cooperator to protect the natural and economic values in the Upper Payette River watershed from damages related to the invasion and expansion of infestations of noxious weeds and invasive plants. This is a cooperative effort to prevent, eradicate, contain and control noxious weeds and invasive plants on public and private lands in this area. Factors related to the spread of weeds are not related to ownership nor controllable at agency boundaries. This agreement formalizes the cooperative strategy for management of these weeds addressed in Valley County's Integrated Weed Management Plan.

In this continuing effort to control Noxious Weeds, Valley County Weed Control will consult with the undersigned Cooperator and outline weed identification techniques, present optional control methods and recommend proper land management practices.

The undersigned Cooperator acknowledges that he/she is aware of any potential or real noxious weed problems on his/her private property and agrees to control said weeds in a timely manner using proper land management principles.

Valley County Weed Department can be contacted at 208-382-7199.

By:  *Tanner Leighton*  
Applicant

By: \_\_\_\_\_  
Valley County Weed Control

Date: 06/20/22

Date: \_\_\_\_\_

# IMPACT REPORT (from Valley County Code 9-5-3-D)

**You may add information to the blanks below or attach additional sheets.**

- ❖ An impact report shall be required for all proposed Conditional Uses.
- ❖ Answer all questions. Mark N/A if the question is not applicable to your application.
- ❖ The impact report shall address potential environmental, economic, and social impacts and how these impacts are to be minimized as follows:

1. Traffic volume, character, and patterns including adequacy of existing or proposed street width, surfacing, alignment, gradient, and traffic control features or devices, and maintenance. Contrast existing with the changes the proposal will bring during construction and after completion, build-out, or full occupancy of the proposed development. Include pedestrian, bicycle, auto, and truck traffic.

see Appendix D

2. Provision for the mitigation of impacts on housing affordability.

see Appendix D

3. Noise and vibration levels that exist and compare to those that will be added during construction, normal activities, and special activities. Include indoor and outdoor, day and night variations.

see Appendix D

4. Heat and glare that exist and that might be introduced from all possible sources such as autos in parking areas, outdoor lights, water or glass surfaces, buildings or outdoor activities.

see Appendix D

5. Particulate emissions to the air including smoke, dust, chemicals, gasses, or fumes, etc., both existing and what may be added by the proposed uses.

see Appendix D

6. Water demand, discharge, supply source, and disposal method for potable uses, domestic uses, and fire protection. Identify existing surface water drainage, wetlands, flood prone areas and potential changes. Identify existing ground water and surface water quality and potential changes due to this proposal.

see Appendix D

7. Fire, explosion, and other hazards existing and proposed. Identify how activities on neighboring property may affect the proposed use.  
see Appendix D
  
8. Removal of existing vegetation or effects thereon including disturbance of wetlands, general stability of soils, slopes, and embankments and the potential for sedimentation of disturbed soils.  
see Appendix D
  
9. Include practices that will be used to stabilize soils and restore or replace vegetation.  
see Appendix D
  
10. Soil characteristics and potential problems in regard to slope stability, embankments, building foundation, utility and road construction. Include suitability for supporting proposed landscaping.  
see Appendix D
  
11. Site grading or improvements including cuts and fills, drainage courses and impoundments, sound and sight buffers, landscaping, fencing, utilities, and open areas.  
see Appendix D
  
12. Visibility from public roads, adjoining property, and buildings. Include what will be done to reduce visibility of all parts of the proposal but especially cuts and fills and buildings. Include the impacts of shadows from new features on neighboring property.  
see Appendix D
  
13. Reasons for selecting the particular location including topographic, geographic and similar features, historic, adjoining land ownership or use, access to public lands, recreation, utilities, streets, etc., in order to illustrate compatibility with and opportunities presented by existing land uses or character.  
see Appendix D

14. Approximation of increased revenue from change in property tax assessment, new jobs available to local residents, and increased local expenditures.

see Appendix D

15. Approximation of costs for additional public services, facilities, and other economic impacts.

see Appendix D

16. State how the proposed development will impact existing developments providing the same or similar products or services.

see Appendix D

17. State what natural resources or materials are available at or near the site that will be used in a process to produce a product and the impacts resulting from the depletion of the resource. Describe the process in detail and describe the impacts of each part.

see Appendix D

18. What will be the impacts of a project abandoned at partial completion?

see Appendix D

19. Number of residential dwelling units, other buildings and building sites, and square footage or gross non-residential floor space to be available.

see Appendix D

20. Stages of development in geographic terms and proposed construction time schedule.

see Appendix D

21. Anticipated range of sale, lease or rental prices for dwelling units, building or other site, or non-residential floor space in order to insure compatibility with adjacent land use and development.

see Appendix D

## **Property Tax Exemption**

New and expanding business ***may*** qualify for a property tax exemption for up to 5 years by meeting the qualifications in accordance with Idaho Code§ 63-602NN

Application must be filed with the Valley County Assessor's office before construction begins.

### **Protocols for qualifying property exemption in Valley County, Idaho:**

- Application must be received prior to the start of construction (ex. Building Permits, excavation)
- Term of exemption, not to exceed 5 years, will be up to the discretion of the Valley County Board of Commissioners
- Retail sales business do not qualify
- Multi use may qualify excluding retail sale area
- Housing
  - Multi-family housing must have 5 units or more per structure.
  - Multi-Family housing units may qualify if more than one structure is built totaling 5 or more units
  - For local housing only (workforce)
  - Short term rentals not allowed
  - Units cannot be individually sold (e.g., no condominiums)
- Remodel and/or additions to existing businesses
  - Only the area of remodel/addition may qualify for exemption
  - Retail sales additions/remodel will not qualify

For further information regarding the 63-602NN application process and instructions, please contact the Valley County Assessor's office at 208-382-7126.

BEFORE THE BOARD OF DIRECTORS OF THE  
NORTH LAKE RECREATIONAL SEWER AND WATER DISTRICT  
VALLEY COUNTY, IDAHO

IN THE MATTER OF THE INCLUSION	)	
OF CERTAIN REAL PROPERTY IN THE	)	
NORTH LAKE RECREATIONAL SEWER	)	PETITION FOR THE
AND WATER DISTRICT BY <u>Buckskin Properties, Inc.,</u>	)	INCLUSION OF CERTAIN
<u>Jack A. Charters, President; Larry A. Eld;</u>	)	REAL PROPERTY IN THE
<u>Arlene B. Eld</u>	)	NORTH LAKE RECREATIONAL
	)	SEWER AND WATER DISTRICT

COMES NOW your Petitioner, Buckskin Properties, Inc., Jack A. Charters, President; Larry A. Eld; Arlene B. Eld, and petitions the Board of Directors of the North Lake Recreational Sewer and Water District as follows:

I.

Your Petitioners are the owners of the real property situated within the County of Valley, State of Idaho, particularly described in Exhibit "A", attached hereto, and incorporated herein by reference.

II.

Your Petitioners are desirous that the above-described property be included in, made or part of, and be served with any sewage collection and/or drain facilities constructed by the North Lake Recreational Sewer and Water District, Valley County, Idaho.

III.

Your Petitioners request that, in accordance with the provisions of Section 42-3218, Idaho Code, notice of the filing of this petition be given and published in Valley County, Idaho, said notice to give all persons interested an opportunity to appear and show cause in writing, if any they have, why this petition should not be granted at the hearing, time and place to be set by this Board; that further, assuming that no valid objections are made to the inclusion of the above-described property within the boundaries of the North Lake Recreational Sewer and Water District, the Board enter its order that the above-described property be included within the boundaries of the said North Lake Recreational Sewer and Water District, and that such order be filed with the Clerk of the District Court, Valley County, Idaho.



IV.

That your Petitioners are aware that, as a condition of annexation, the District may require that the land described in this petition be subjected to the following requirements:

1. The Petitioners shall pay for the actual costs incurred by the District for engineering and legal review and or preparation of the necessary documents, plans and specifications as required by the District for annexation of the property. Such documents shall include, but are not limited to subdivision plat applications, plan reviews, and any sewer system designs, and/or design consultations.
2. The Petitioner shall be responsible for all sanitary sewer facilities that will be necessary to serve the Petitioner's annexed property. These sewer facilities will include those required within the annexed property as well as all necessary sewer facilities needed to extend sewer service from the District's existing facilities to those proposed to serve the annexed property. The District shall have the right to dictate where and how the Petitioner's sewer facilities that serve his annexed area may be connected to the District's sewer facilities. Upon completion of installation and approval by the District of all sewer facilities the Petitioner shall dedicate such facilities to the District.
3. The District shall not be obligated to serve any property annexed within the District where the District has determined there is not sufficient system capacity to adequately serve such property. There shall arise no right to service or obligation by the District for service upon annexation and as among other properties annexed to the District, and there shall be no priority for service until each sewer connection permit has been obtained. If construction is not completed within two (2) years from the date the sewer connection permit was issued, any priority for service shall become null and void. The District may extend the time for completion upon a request by the property owner and a showing of good cause why such extension should be granted.

4. At the time each sewer connection permit is issued and prior to connection of the sewer system to each private facility, a service availability fee of no less than Two Thousand Dollars (\$2,500.00) per lot or equivalent dwelling unit shall be paid to repay the District for the cost of developing the District's core sewer collector lines, and treatment facilities including the debt retirement of such facilities committed to prior to inclusion of the annexed property into the District. Such service availability fees may increase at such time as the District determines such fees are not adequate to reimburse the District for the cost incurred in developing the sewer system. The service availability fee shall be in addition to actual costs required for connecting to the actual main sewer line.
5. And such other conditions as the District may prescribe.

WHEREFORE, your Petitioners pray that this petition be set for hearing at the earliest practicable time, and that the Board grant the petition including the conditions as set forth in Paragraph IV above.

DATED this 3rd day of January, 2004

Jack A. Charters Pres.

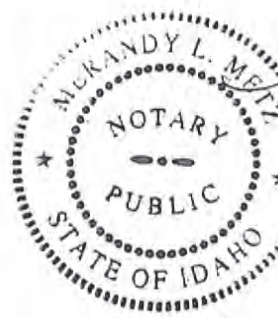
Jack A. Charters, President  
Buckskin Properties, Inc.

STATE OF IDAHO )  
County of Valley ) ss.

On this 3rd day of Jan 2004, before me, a Notary Public in and for the State of Idaho, personally appeared Jack A. Charters, President Buckskin Properties, Inc. known to be to be the person or persons whose names are subscribed to the foregoing instrument, and acknowledged to be that they executed the same.

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

Mekandy L. Metz  
Notary Public for Idaho  
Residing in: Cascade, ID 83601  
My Commission Expires: 12-13-08



WHEREFORE, your Petitioners pray that this petition be set for hearing at the earliest practicable time, and that the Board grant the petition including the conditions as set forth in Paragraph IV above.

DATED this 5 day of February, 2004

Larry A. Eld  
Larry A. Eld

STATE OF IDAHO )  
County of Ada ) ss.

On this 5 day of February 2004, before me, a Notary Public in and for the State of Idaho, personally appeared Larry A. Eld known to be to be the person or persons whose names are subscribed to the foregoing instrument, and acknowledged to be that they executed the same.

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



Michael Jared Burges  
Notary Public for Idaho  
Residing in: Boise  
My Commission Expires: 6/12/09

WHEREFORE, your Petitioners pray that this petition be set for hearing at the earliest practicable time, and that the Board grant the petition including the conditions as set forth in Paragraph IV above.

DATED this 5 day of February 2004

Arlene B. Eld

Arlene B. Eld

STATE OF IDAHO )  
County of Ada ) ss.

On this 5 day of February 2004, before me, a Notary Public in and for the State of Idaho, personally appeared Arlene B. Eld known to be to be the person or persons whose names are subscribed to the foregoing instrument, and acknowledged to be that they executed the same.

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



Michael Jared Burgess  
Notary Public for Idaho  
Residing in: BOISE  
My Commission Expires: 10/12/09

**EXHIBIT "A"**

**Description of Property to be annexed into the North Lake Recreational Sewer and Water District, Valley County, Idaho**

A parcel of land as described in Exhibit A of Commitment For Title Insurance, Order Number AMT2318-03, prepared by Stewart Title Guaranty Company, being that part of the Northeast Quarter of Section 17, Township 16 North, Range 3 East, Boise Meridian, Valley County, Idaho, more particularly described as follows:

Commencing at the east quarter corner of said Section 17, which is the **REAL POINT OF BEGINNING**; thence South  $89^{\circ}58'33''$  West 2646.62 feet along the mid-section line to the center quarter corner of said Section 17; thence North  $0^{\circ}18'36''$  West 2636.64 feet along the mid-section line to the North quarter corner of said Section 17; thence South  $89^{\circ}38'14''$  East 1744.15 feet along the Northerly boundary of said Section 17; thence South  $8^{\circ}33'40''$  East 1873.75 feet along the westerly boundary of West Mountain Estates Subdivision; thence South  $8^{\circ}33'40''$  East 356.46 feet; thence North  $89^{\circ}58'33''$  East 584.64 feet to a point on the Easterly boundary of said Section 17; thence South  $0^{\circ}04'58''$  East 420.00 feet along the Easterly boundary of said Section 17 and the **REAL POINT OF BEGINNING**.

BUCKSKIN PROPERTIES, INC.

RESOLUTION

BE IT RESOLVED, that the corporation seek annexation with North Lake Sewer and Water District of Valley County, Idaho, for development of the corporation's Valley County real property.

DATED This 5<sup>th</sup> day of February, 2004.

*Jack A. Charters Pres.*  
\_\_\_\_\_  
JACK A. CHARTERS

**DREAMWORKS CONSTRUCTION  
2703 N. MAPLE GROVE  
BOISE, ID 83704**

March 10, 2004

Bill Eddy, District Administrator  
North Lake Recreation Sewer and Water District  
P. O. Box 729  
Donnelly, ID 83615

**RE: THE MEADOWS AT WEST MOUNTAIN SUBDIVISION  
WATER AND SEWER SERVICE**

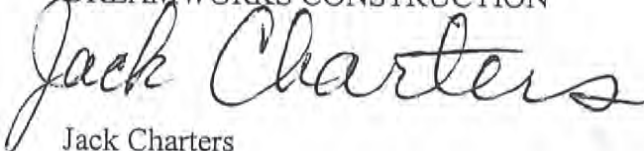
Dear Mr. Eddy:

I would like to confirm my previous verbal request made at our meeting on February 27, 2004 for the following items:

1. Will Serve letter, as requested from DEQ, from North Lake that commits them to sewer service for The Meadows.
2. A new Declining Balance Report from North Lake to DEQ showing current status of sewer hookups and the commitment to The Meadows.
3. A meeting commitment to consider the annexation request.
4. A written accounting for the "study fees" paid (\$32,940.00) and adjustment of fees based on report findings and prorated based on equivalent connections.
5. A copy of current (the most recent document) Facility Plan for North Lake.
6. A copy of current Technical, Financial and Managerial Report for North Lake.
7. A copy of the current Declining Balance Report for North Lake.
8. A copy of the new Sewer and Water Planning Study.
9. A copy of any agreement completed with Tamarack for either sewer or water service.

I am prepared to pick these documents up in the next 5 (March 17) working days. Please call me at ( ) when the documents are ready.

DREAMWORKS CONSTRUCTION



Jack Charters

HP Fax Series 900  
Plain Paper Fax/Copier

Fax History Report for  
Toothman Orton Engr. Co.  
[REDACTED]

Mar 10 2004 1:13pm

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Last Fax

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 10	1:12pm	Sent	12083255017--00099	0:26	1	OK

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Result:

OK - black and white fax



**TIMBERLINE  
2703 N. MAPLE GROVE  
BOISE, ID 83704**

March 10, 2004

Ronald V. Zarbnisky, Chairman  
Chairman of the Board  
North Lake Recreational Sewer and Water District  
P. O. Box 729  
Donnelly, ID 83615

**RE: LETTER OF INTENT FOR SEWER AND WATER FACILITIES  
THE MEADOWS AT WEST MOUNTAIN**

Dear Mr. Zarbnisky:

I would like to obtain the Board's approval of the following intended sewer collection, sewer treatment, water supply and water distribution facilities that will serve my proposed subdivision, The Meadows at West Mountain (The Meadows). Additionally, at your earliest convenience, I would also like to enter into a sewer and water contract between the North Lake Recreational Sewer and Water District (District) and myself.

The District and The Meadows jointly agree to cooperate in an effort for providing community wastewater collection, wastewater treatment, water supply and water distribution to serve The Meadows development under the following understanding:

1. The Meadows made application for annexation to the District on February 6, 2004. The fee of \$800.00 was confirmed as paid on February 13, 2004. The District agrees to process the application, hold hearings and complete the annexation ordinance at the earliest possible convenience, the initial hearing regarding this annexation request has been set for April 20, 2004. The District agrees to set remaining hearing dates and schedule all remaining milestones up through and including adoption of the final annexation ordinance.
2. The Meadows has agreed and has funded its share of participation in a new sewer and water planning study in the amount of \$32,940, confirmed payment on February 13, 2004. The District agrees that The Meadows final cost for participation in that study will be based on a pro rata share of the total EDU (Equivalent Development Units as indexed on a typical family resident units) covered in the planning study. The Meadows agrees that adjustment to their participation in that planning study may be taken in the form of credits to sewer connection fees. The District agrees to this arrangement for shared

participation in the mentioned study and in the method for adjusted participation. Furthermore, the District agrees that the mentioned planning study will be available in final form rather than March 20, 2004. The District also agrees to provide a copy of the final planning study, along with a copy of the current Districts' user ordinance policies and complete copies of any existing development agreements for sewer or water use within the District.

3. The Meadows has the following projected phase schedule that shows phase and units developed in each phase.

PHASE	SFR UNITS	MFS ACRE	COMM. ACRE
I	64	0	0
II	59	0	0
III	8	7.3	5.5
IV	49	0	0
V	43	5.6	0
VI	21	7.4	5.6
<b>TOTAL</b>	<b>244</b>		

The District agrees to provide sewer collection and treatment service to The Meadows in conformance with the above phase schedule. The District agrees to undertake the capital improvements necessary to accommodate wastewater flows from the District. In return, The Meadows promises to pay \$2,500.00 per EDU at the time the building permits are issued throughout the course of The Meadows development. Additionally, The Meadows agrees to install, at their own cost, the collection and pumping facilities necessary to transport wastewater from The Meadows development into the District's interceptor line located adjacent to the southeast corner of The Meadows development. The District has authorized The Meadows to utilize the existing lift station currently serving Mountain View development on the east boundary of the The Meadows proposed development for all first phase sewer connections.

4. The District agrees to develop a neighborhood water system in the general vicinity of The Meadows development. The Meadows agrees to construct the distribution facility needed to connect The Meadows development to the neighborhood water system constructed by the District. The Meadows agrees to pay the District \$2,500.00 per EDU for connection to that central water system. Said connection fee shall be paid at the time building permits are drawn for construction in The Meadows development.

Alternatively, The Meadows reserves the right to construct wells, treatment facilities and storage tanks as may be required by DEQ to serve The Meadows development, if the District is unable to act in a timely manner to provide said central water system facility. The District agrees to purchase all central water system facilities from The Meadows as may be desired and used by the District. Reimbursement from the District to The Meadows for water system components shall be based on consideration of actual construction costs and market value for said components.

5. The District agrees to cooperate to the fullest extent possible in seeking a grant and loan funding assistance for the sewer and water facilities required to serve The Meadows development.

**NORTH LAKE RECREATIONAL SEWER AND WATER DISTRICT**

By: \_\_\_\_\_  
Ronald V. Zarbnisky, Chairman

Date: \_\_\_\_\_

**TIMBERLINE**

By: Jack Charters  
Jack Charters, President

Date: \_\_\_\_\_



**NORTH LAKE RECREATIONAL SEWER & WATER DISTRICT**

P.O. Box 729 • Donnelly, Idaho 83615

October 24, 2005

Timberline Development, LLC  
Buckskin Properties, Inc.  
P.O. Box 645  
Donnelly, ID 83615

**Re: The Meadows at West Mountain Subdivision Phases 4, 5, & 6  
Sewer Service "Will Serve" Letter**

Dear Mr. Jack A. Charters:

The North Lake Recreational Sewer and Water District (District) hereby issues a sewer service "will serve" letter and subject to the terms and conditions of service generally described below agrees to provide sewer service for an additional one hundred and seventy four (174) equivalent dwelling units for The Meadows at West Mountain Subdivision Phases 4, 5, and 6 (the "174 EDUs"). This sewer service "will serve" is conditioned upon the District completing the Phase 2 parallel mechanical wastewater treatment plant construction or such other treatment expansion project as may be alternatively constructed (hereinafter referred to as the "Phase 2 parallel mechanical wastewater treatment plant"). The District is now in the design phase of this Phase 2 parallel wastewater treatment plant. It is anticipated that this Phase 2 parallel mechanical wastewater treatment plant will be completed sometime in the summer of 2007. Therefore, although the District is reserving or otherwise allocating at this time sewer system capacity for the 174 EDUs, the issuance of actual sewer connection permits will be delayed until the Phase 2 parallel wastewater treatment plant expansion project has been completed. Timberline Development, LLC, therefore, may proceed at its own risk to complete design and construction of its Phases 4, 5, and 6 developments, with the understanding that final sewer service line connections and sewer usage will not be available until the Phase 2 parallel wastewater treatment plant expansion has been completed and is operational.

As additional consideration for this reservation of sewer system capacity and promise of service, Timberline Development, LLC and Buckskin Properties, Inc. have agreed to written conditions including, but not limited to, the following conditions related to this subdivision Phases 4, 5, and 6 sewer service "will serve" approval:

1. Plans and specifications documenting the design on the Phases 4, 5, and 6 sewage collection facilities will be approved in writing by the District Engineer prior to commencing construction.
2. Timberline Development, LLC agrees that all sewer facilities will be constructed and approved in accordance with the District sewer facility standards.

EXHIBIT C

Page 2

Timberline Development, LLC

Buckskin Properties, Inc.

October 24, 2005

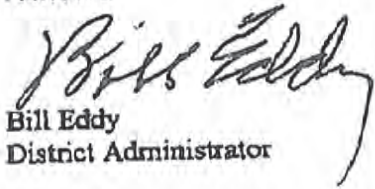
- 3. A 20 foot sewer utility easement centered over all sewer lines shall be provided, unless the sewer lines are located in deeded road right-of-ways.

The District will operate the sewer facilities upon completion and final acceptance of construction of Phases 4, 5, and 6 sewer facilities and upon final payment by Timberline Development, LLC and Buckskin Properties, Inc. of all agreed upon incurred expenses and fees.

Very truly yours,

NLRSD

KELLER ASSOCIATES, INC.

  
 Bill Eddy  
 District Administrator

  
 James L. Keller, P.E.  
 District Engineer

cc: File



**MATERIALS  
TESTING &  
INSPECTION**

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- Environmental Services
- Geotechnical Engineering
- Construction Materials Testing
- Special Inspections

**Mr. Joe Pachner**  
**Toothman-Orton Engineering**  
**9777 Chinden Boulevard**  
**Boise, Idaho 83714**  
**(208) 323-2288**

**Re: Limited Soils and Groundwater Investigation**  
**Proposed Subdivision**  
**Meadows at West Mountain**  
**Donnelly, Idaho**

Mr. Pachner:

In compliance with your instructions, we have conducted a preliminary limited subsurface soils and groundwater investigation for the above-mentioned development. The purpose of this investigation is to provide preliminary groundwater information needed in site development and design of the proposed project and to install piezometers to allow for continued monitoring of groundwater levels. On 9 March 2004, Materials Testing and Inspection, Inc. (MTI) advanced five hand auger test borings and pipe has been placed in predetermined locations across the site.

Soils across the site generally consisted of silts and sands to approximately 9.0 feet. Surficial sandy silts were noted to depths of 1 to 1.5 feet and were field classified as dark brown, slightly moist to moist, soft to medium stiff, with excessive organics in the upper approximate 0.3 foot. Below surficial silts are silt-sand mixtures, ranging from borderline sandy silt/silty sand in borings 2 and 3 (the northeastern portion of the site) to poorly graded sands in the eastern portion and southeastern most corner of the site.

Groundwater measurements were conducted immediately after installation of piezometers. It is our understanding that continued monitoring will be conducted by you, with occasional measurements taken by MTI at your request. Groundwater data, at the time of the investigation, and generalized soil logs are included as an attachment.

We appreciate this opportunity to be of service to you and we look forward to working with you in the future. If you have any questions please call us at [REDACTED]

Respectfully Submitted,  
**Materials Testing & Inspection, Inc.**

*Jennifer Miller*  
 Jennifer Miller  
 Staff Geologist

*Kevin L. Schroeder*  
 Reviewed by: Kevin L. Schroeder, P.C.  
 Geotechnical Services Manager



**MATERIALS  
TESTING &  
INSPECTION**

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Environmental Services     Geotechnical Engineering     Construction Materials Testing     Special Inspections

## GEOTECHNICAL INVESTIGATION BORING LOG

Test Pit #: BH-1                      Date Logged: 3/9/04                      Logged By: Jennifer Miller

Hand Augured: By Jennifer Miller                      Location: See Attached Site Plan

Depth to Water Table: 7.0 Feet                      Depth to Bottom Of Hole: 7.0 Feet

Depth (Feet)	Field Description	Sample Type	Sample Depth (From-To)	Qp	Lab Test ID
0.0-1.0	<b>Sandy Silt (ML):</b> <i>Dark brown, slightly moist to moist, soft to medium stiff, with excessive organics in upper 0.3 foot.</i>				
1.0-7.0	<b>Poorly Graded Sand (SP):</b> <i>Gray brown, slightly moist to saturated, medium dense, with fine to coarse-grained sand.</i>				



Environmental Services     Geotechnical Engineering     Construction Materials Testing     Special Inspections

## GEOTECHNICAL INVESTIGATION BORING LOG

Test Pit #: BH-2                      Date Logged: 3/9/04                      Logged By: Jennifer Miller

Hand Augured: By Jennifer Miller                      Location: See Attached Site Plan

Depth to Water Table: 8.5 Feet                      Depth to Bottom Of Hole: 9.0 Feet

Depth (Feet)	Field Description	Sample Type	Sample Depth (From-To)	Qp	Lab Test ID
0.0-1.0	<i>Sandy Silt (ML): Dark brown, slightly moist to moist, soft to medium stiff, with excessive organics in upper 0.3 foot.</i>				
1.0-9.0	<i>Sandy Silt (ML)/Silty Sand (SM): Light brown to yellow brown, slightly moist to saturated, medium stiff/dense, with fine-grained sand.</i>				





**MATERIALS  
TESTING &  
INSPECTION**

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Environmental Services     Geotechnical Engineering     Construction Materials Testing     Special Inspections

**GEOTECHNICAL  
INVESTIGATION  
BORING LOG**

Test Pit #: BH-3                      Date Logged: 3/9/04                      Logged By: Jennifer Miller

Hand Augered: By Jennifer Miller                      Location: See Attached Site Plan

Depth to Water Table: Not encountered                      Depth to Bottom Of Hole: 6.0 Feet

Depth (Feet)	Field Description	Sample Type	Sample Depth (From-To)	Qp	Lab Test ID
0.0-1.5	<i>Sandy Silt (ML): Dark brown, slightly moist to moist, soft to medium stiff, with excessive organics in upper 0.3 foot.</i>				
1.5-6.0	<i>Sandy Silt (ML)/Silty Sand (SM): Light brown to yellow brown, slightly moist to saturated, medium stiff/dense, with fine-grained sand.</i>				



**MATERIALS  
TESTING &  
INSPECTION**

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Environmental Services     Geotechnical Engineering     Construction Materials Testing     Special Inspections

## GEOTECHNICAL INVESTIGATION BORING LOG

Test Pit #: BH-4                      Date Logged: 3/9/04                      Logged By: Jennifer Miller

Hand Augered: By Jennifer Miller                      Location: See Attached Site Plan

Depth to Water Table: 6.5 Feet                      Depth to Bottom Of Hole: 7.0 Feet

Depth (Feet)	Field Description	Sample Type	Sample Depth (From-To)	Qp	Lab Test ID
0.0-1.5	<i>Sandy Silt (ML): Dark brown, slightly moist to moist, soft to medium stiff, with excessive organics in upper 0.3 foot.</i>				
1.5-7.0	<i>Poorly Graded Sand (SP): Yellow-brown, slightly moist to saturated, medium dense, with small cobbles in lower 12 inches.</i>				



**MATERIALS  
TESTING &  
INSPECTION**

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Environmental Services     Geotechnical Engineering     Construction Materials Testing     Special Inspections

## GEOTECHNICAL INVESTIGATION BORING LOG

Test Pit #: BH-5                      Date Logged: 3/9/04                      Logged By: Jennifer Miller

Hand Augered: By Jennifer Miller                      Location: See Attached Site Plan

Depth to Water Table: 1 Foot                      Depth to Bottom Of Hole: 3.0 Feet

Depth (Feet)	Field Description	Sample Type	Sample Depth (From-To)	Qp	Lab Test ID
0.0-0.8	<i>Sandy Silt (ML): Dark brown, slightly moist to moist, soft to medium stiff, with excessive organics in upper 0.4 foot.</i>				
0.8-1.5	<i>Silty Sand (SM): Dark brown, slightly moist to saturated, medium dense.</i>				
1.5-3.0	<i>Poorly Graded Sand (SP): Gray-brown, saturated, loose to medium dense.</i>				

# TRIPLE DOT

<b>PROJECT</b>	<b>THE MEADOWS</b>
<b>CLOSING DATE</b>	03/24/22
<b>APPROVED CONSTRUCTION PERMIT</b>	09/01/22
<b>MOBILIZATION / SURVEY</b>	
DEMO, TRAFFIC CONTROL, STORM WATER POLLUTION PREVENT PLAN, QUALITY CONTROL, ETC.	10/13/22
<b>WET UTILITIES</b>	
SANITARY SEWER, DOMESTIC WATER, STORM DRAIN, IRRIGATION, ETC.	11/24/22
<b>JOINT TRENCH</b>	
IDAHO POWER, CABLE, PHONE, FIBER OPTIC, GAS, ETC.	04/06/23
<b>GRADING / PAVING / CONCRETE</b>	
CLEARING & GRUBBING, EXCAVATION, EMBANKMENT, FINAL SUBGRADE, SUBBASE PREP, ROAD MIX, HMA PAVING, SURFACE RESTORATION, CONCRETE COLLARS, LOT GRADING, SIDEWALKS, CURBS, GETTER, ETC.	05/25/23
<b>LANDSCAPING</b>	
SPRINKLER SYSTEM, VEGETATION, SOD/HYDRO SEED, ETC.	07/13/23
<b>AMENITIES</b>	
STREET LIGHTS, MAILBOXES, SIGNAGE, MARKETING, DOG PARK, POOL, HOT TUB, ETC.	08/31/23

# TRIPLE DOT

<b>PROJECT</b>	<b>THE MEADOWS</b>
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<b>APPROVED CONSTRUCTION PERMIT</b>	09/01/22
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<b>PHASE 1 [(15) 8-PLEX APARTMENTS]</b>	
BEGIN	03/01/23
FINISH	10/09/24

<b>PHASE 1</b>	
BEGIN	08/23/23
FINISH	03/05/25

NOTE: COMPLETE FIRST BUILDING END OF MAY, THEN COMPLETE NEW BUILDING EVERY 2-3 WEEKS UNTIL COMPLETE

<b>PHASE 3 [TOWNHOMES]</b>	
BEGIN	04/01/24
FINISH	05/05/25

<b>PHASE 3 [COMMERCIAL]</b>	
BEGIN	04/01/24
FINISH	11/04/24

<b>PHASE 3 [STORAGE]</b>	
BEGIN	04/01/24
FINISH	05/13/24

<b>ANTICIPATED PROJECT COMPLETION</b>	<b>06/16/25</b>
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*Above this line for Recorder's use only.*

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**DECLARATION  
OF  
COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
VALLEY MEADOWS  
SUBDIVISION**

**Valley County, Idaho**

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
AND EASEMENTS FOR MOUNTAIN MEADOWS SUBDIVISION

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## RECITALS

A. Declarant, \_\_\_\_\_ [*insert Declarant's name*], a/n \_\_\_\_\_ [*insert entity's state of formation*] \_\_\_\_\_ [*insert type of entity*] (“Declarant”), is the record owner of that certain real property (the “Property”), described in the attached **EXHIBIT A**. Declarant desires to develop the Property with certain Common Areas, single-family residences, multi-family residences, and commercial uses, all for the benefit of the development and the Owners of lots therein.

B. Declarant desires to provide for the preservation and enhancement of property values and for maintenance of the Common Areas. To this end, and for the benefit of the Property and of the Owners of lots therein, the Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, each and all of which are for the benefit of the Property and each Owner of a lot therein.

C. Declarant deems it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity that possesses the power to own, maintain, and administer the Common Areas, to collect and disburse assessments and charges hereinafter provided for, and otherwise to administer, interpret, and enforce the provisions of this Declaration. For such purpose, Declarant has, in conjunction with recordation of this Declaration, caused to be incorporated as a nonprofit corporation under the laws of the state of Idaho, Valley Meadows Owners Association, Inc. (the “Association”).

NOW, THEREFORE, for the foregoing purposes, Declarant declares that the Property is and shall be held, improved, transferred, possessed, owned, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, and as set forth in the Plat recorded concurrently herewith.

### I. DEFINITIONS

When used in this Declaration (including that portion hereof under “**RECITALS**”), each of the following terms shall have the meaning indicated.

1. Articles and Bylaws, respectively, shall mean and refer to the Articles of Incorporation of the Association and the Bylaws of the Association.
2. Association shall mean and refer to Valley Meadows Owners Association, Inc., a non-profit corporation formed and existing pursuant to the laws of the state of Idaho.
3. Board shall mean and refer to the Board of Directors of the Association.



4. Building Envelope shall refer to that portion of each Lot on which a Living Unit may be constructed, as indicated on the Plat.

5. Common Areas shall mean and refer to that portion of the Property not included within a Lot, including all improvements, other than utility lines, now or hereafter constructed or located thereon.

6. Declarant shall mean and refer to \_\_\_\_\_ [insert Declarant's name], a/n \_\_\_\_\_ [insert entity's state of formation] \_\_\_\_\_ [insert type of entity], its successors and assigns, and/or any successor or assign to whom all or substantially all of its interest in the development of the Property is conveyed. Declarant also shall be the initial grantor of each Lot and properties of the Development.

7. Declaration shall mean and refer to this instrument, the Declaration of Covenants, Conditions, and Restrictions for Valley Meadows Subdivision, as the same may hereafter be modified, amended, supplemented, or expanded in accordance with the provisions hereof (and in particular in accordance with the provisions of Article XI).

8. Development shall mean and refer to the Valley Meadows Subdivision, located in Valley County, Idaho, as created by this Declaration and the Plat, as it exists at any given time.

9. Governing Documents shall mean and refer to the governing documents of the Association, including (without limitation) the Articles of Incorporation, the Bylaws, and the Declaration.

10. Lot shall mean and refer to each and all of the separately numbered and individually described plots of land shown on the Plat.

11. Living Unit shall mean and refer to a structure that is designed and intended for use and occupancy as one or more family residences, together with all improvements located on the Lot concerned that are used, or intended to be used, in conjunction with such family residence.

12. Member shall mean and refer to every Person who qualifies to hold, and does hold, membership in the Association.

13. Mortgagee shall mean any Person named as a first mortgagee or beneficiary under or holder of a first deed of trust.

14. Owner shall mean and refer to the Person who is the owner of record (in the office of the Valley County Recorder) of a fee interest in a Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include

a Mortgagee or a beneficiary or a trustee under a deed of trust, unless and until such Mortgagee or a beneficiary or a trustee has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

15. Person shall mean and refer to a natural person; a corporation, whether foreign and domestic; a trust; a partnership, whether limited or general; an incorporated or unincorporated association; a company; a trust; a business entity, regardless of type; any other legal entity; and/or any other group associated in fact although not a legal entity; and/or any agent, assignee, heir, employee, representative, or servant of any of those listed herein.

16. Plat shall mean and refer to the Final Plat of "Valley Meadows Subdivision" executed and acknowledged by Declarant, prepared and certified by \_\_\_\_\_ [insert surveyor's name], a registered Idaho Land Surveyor, and recorded in the office of the Valley County Recorder concurrently herewith, also as the same may hereafter be modified, amended, supplemented, or expanded in accordance with the provisions hereof.

17. Property shall mean and refer to all of the real property located in Valley County, Idaho, that is included in and covered by the Final Plat, a description of which is included in **EXHIBIT A**.

18. Supplemental Declaration shall mean and refer to any supplemental declaration of covenants, conditions, and restrictions, or similar instrument, that extends the provisions of this Declaration to all or any portion of described lands and may contain such complementary or amended provisions for such additional lands as are therein described by such Supplemental Declaration.

19. Water System, as also defined below, shall mean the wells, pumps, storage facilities, motors, measuring devices, electrical and control equipment, valves, distribution lines, service lines between the distribution line and the meter box, fire hydrants, services and customer meter setters, meter boxes, lids and meters, the well lot(s), easements for access to the well lots and improvements, any well house(s), groundwater and groundwater rights, any and all easements necessary for the maintenance and operation of the Water System, and water rights including, without limitation, that certain water right identified under that certain Permit to Appropriate Water No. 65-22888, dated September 16, 2004, and as further described in that certain engineering report entitled "New Public Water Supply Project The Meadows at West Mountain", dated September, 2004, on file with the Idaho Department of Environmental Quality. The Water System is a public drinking water system and is regulated by the Idaho Department of Environmental Quality and the U.S. Environmental Protection Agency.

## II. DESCRIPTION OF PROPERTY

The Property that is initially associated with the Development and that is and shall be held, improved, transferred, possessed, owned, sold, conveyed, and occupied subject to the provisions of this Declaration, consists of that certain real property situated in Valley County, state of Idaho, as more particularly described in **EXHIBIT A**, attached hereto and incorporated herein by this reference.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusion; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above described land or any portion thereof, including without limitation: any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies otherwise existing; and easement for each and every pipe, line, cable, wire, utility line, or similar facility that traverses or partially occupies the above-described land at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, line, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights in ingress and egress over, across, through, and under the above-described land and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant, or for any assignee or successor of Declarant (in a manner that is reasonable and not inconsistent with the provisions of this Declaration):

- (i) To construct and complete such improvements as Declarant, in its sole discretion, deems to be appropriate, and to do all things reasonably necessary or proper in connection therewith;
- (ii) To construct and complete on the Property, or any portion thereof, such improvements as Declarant or assignee shall determine, in its sole discretion, to build;
- (iii) To improve portions of the Property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of Owners or Declarant or as Declarant or assignee may reasonably determine to be appropriate; and

(iv) To carry out the provisions of, and exercise all rights and obligations in, this Declaration.

### III. DOMESTIC WATER

1. Water System. Each building Lot shall have access to the Water System owned and operated by Declarant. An Owner of a Lot within the Property shall have the right, at such Owner's cost, to hook a three-quarter inch (3/4") water line onto the Water System, upon such terms and conditions, and for such consideration, as Declarant requires. Such Water System may consist of a source(s) of water supply (located on Lots), pumps, regulators, pipes, and other delivery system equipment, and shall provide water for culinary and other ordinary domestic household use. Declarant has established charges for Water System use (a "water usage fee") to reasonably cover operation and maintenance expenses of the Water System, which charges may be adjusted from time to time and shall be assessed upon each Lot, which assessment shall be paid to Declarant or to Declarant's then-current successor-in-interest. Any use of the Water System shall constitute an agreement to pay the water usage fee then in effect.

At the initial transfer of Lots from Declarant, Declarant shall also have the right to collect a charge from such new Owners of Lots, which charge shall cover the costs associated with the connection of lateral, meters, or other plant exclusively for such Lot Owner's use. As of the date hereof, Declarant has established a water usage fee at \$50.00, which amount may be changed from time to time by Declarant or its successors in interest. Each Lot or Living Unit is entitled to 240 gallons of water per day, which allotment may be changed by Declarant or its successors in interest from time to time, and the Owner of each Lot shall be liable to pay a surcharge set by Declarant or its successors in interest for each billing period in which water usage exceeds the average daily water usage allotment. No Owner shall have any right, title, and/or interest in any water rights, including groundwater rights, ditch and ditch rights, and storage and storage rights owned by Declarant.

Assessments for water usage and surcharges shall be promptly paid; after thirty (30) days of the due date for payment, such assessments shall constitute a lien upon the Lot and may be enforced as other liens; such delinquency in payment shall be grounds to suspend service of water to that Lot.

Except in an emergency, to be determined in the sole discretion of Declarant, an owner shall be provided with a minimum of ten (10) days' notice of any changes in an Owner's access to or allotment of water and will be provided with a reasonable opportunity to be heard upon any such issue.

Declarant will manage the Water System initially. If and when such Water System may be transferred to the Association, other successors in interest, or other entity, they may establish a

management organization. Transfer includes transfer of fixed assets and management responsibility. Declarant is fully responsible for all corrosion testing and treatment costs until the Water System is completely transferred.

2. Easement for Maintenance. As specifically set forth in Article VIII, Section 13, Declarant and its successors in interest hereby reserves and shall have a perpetual easement for ingress and egress and to go upon the Lots, Living Units, and Common Area in the Development to operate and perform maintenance, repair, testing, and other related activities in connection with the Water System, which operation and maintenance is further described in that certain Operations Manual for The Meadows at West Mountain Water System by Chuck Lamothe, Utility Service, as modified or amended to include Valley Meadows, which is on file with Declarant, the Association, and the Idaho Department of Environmental Quality. The easement reserved by Declarant includes, among other activities, access to turn water on and off, and to enter a Living Unit upon reasonable notice, if such notice is possible, for any appropriate purpose, including conducting water testing from time to time, as Declarant or its then-current successor-in-interest reasonably deems necessary or prudent.

3. No Separate Water Supply. No separate or individual water supply system, regardless of the proposed use of the water to be delivered by such system, shall be permitted on any Lot unless such system is first approved in writing by Declarant, the Association, and by all government authorities having jurisdiction including, without limitation, the Idaho Department of Environmental Quality, and designed, located, constructed, and equipped in accordance with the requirements, standards, and recommendations of Declarant, so long as Declarant is the Owner of the Water System, and thereafter by its then-current successor-in-interest. Additionally, even if an Owner receives permission to disconnect from the Water System, such Owner shall remain responsible for any and all charges, fees, and assessments for the Water System as if there had been no disconnection.

4. Change of Ownership - Water System. The Idaho Department of Water Resources has issued Water Right License for Water Right No. 65-22888 to Timberline Development LLC, the Declarant herein. The Declarant may transfer the domestic water system to the Association or to another public or private entity, and address the relevant issues and procedures in connection with such transfer.

Specifically, the Declarant states as follows with respect to transfer of the Water System: The Water System shall be owned by Declarant, and Declarant may convey fee simple title to the Water System to the Association or its then-current successor-in-interest, another public or private entity, or to any other Person, following Declarant's receipt of written authorization for such transfer from the Idaho Department of Environmental Quality. If Declarant transfers, or has transferred, the Water System to the Association, then:

(a) such transfer shall be free and clear of all encumbrances and liens, except concurrent real property taxes, which shall be pro-rated to the date of such transfer, and reservations, covenants, conditions, and restrictions then of record, including those set forth in this Declaration;

(b) the Association shall contact the Idaho Department of Water Resources, Western Regional Office, to arrange for any and all water rights in connection with the Water System to be assigned to the Association;

(c) the Association shall have the right to transfer, sell, or convey the Water System to a public or private entity, conditioned only upon reasonable assurances that the Water System shall be owned, operated, and maintained in a manner that shall provide service from the Water System to Owners on a continuing basis with quality of service at a level at least equal to the Community-Wide Standard, and service that meets all applicable governmental laws, ordinances, and regulations.

For purposes of this Article, Declarant is hereby appointed and made attorney-in-fact for the Association for any such transfer, with full power of attorney to consummate any such transfer of the Water System on terms to be determined in the sole discretion of Declarant. If Declarant does not convey the Water System to the Association, Declarant shall have the right to transfer, sell, or convey the Water System to a public or private entity conditioned only upon reasonable assurances that the Water System shall be owned, operated and maintained in a manner that shall provide service equal to the Community-Wide Standard, and service that meets all applicable governmental laws, ordinances and regulations.

When and if the ownership of the Domestic Water System is completely transferred, including management responsibility, the transferee is hereby advised to contact the Idaho Department of Water Resources, Western Regional Office to apply for an Assignment of Permit. Following such complete transfer, Declarant warrants the system for one (1) year.

5. Additional Provisions of Water System.

(a) An Owner's access to Common Areas as recited in these Covenants shall not include access to the Water System; access to the Water System is limited to Declarant and its agents or successors in interest.

(b) Pursuant to Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08.543, the Water System shall include a cross connection control program to prevent entrance of toxic or hazardous substances to the Water System and such control devices shall be subject to annual certification.

(c) Only Members of the Association in good standing are eligible for water service.

(d) In the event an Owner repeatedly uses more water than allowed hereby or violates any term of this Declaration or rules or regulations of the Association concerning the Water System or water use, Declarant shall have the right to terminate water service to said Owner's Lot and Living Unit.

(e) Each Owner shall, at the time of connecting to the Water System, install a shutoff valve in a location which is easily accessible by Declarant.

(f) Each Owner and water user waives and shall claim no damage on account of the stoppage of the flow of water, whether from accident, or if necessary to make alterations, repairs, improvements, or otherwise.

(g) Each Owner shall keep all plumbing and related fixtures on Owner's Lot and Living Unit in good repair and shall promptly stop all leaks from such fixtures. Each Owner shall also repair and keep repaired, at Owner's sole cost, the individual service line from and including the water meter.

(h) The Division of Environmental Quality of the Idaho Department of Health and Welfare (or any other public agency having jurisdiction) shall have the right to make reasonable inspections of the Water System and water service facilities, including those located on an Owner's Lot and within its Living Unit.

(i) All Owners and water users shall comply with any requirement imposed by the Idaho Department of Health and Welfare or by local regulatory agencies concerning water use or water service facilities.

#### **IV. MEMBERSHIP AND VOTING RIGHTS**

1. Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary ownership interest, and shall not be separated from the Lot; provided, however, that any transfer of Lot ownership shall not release the transferring Owner from any obligations or liabilities incurred or incidental to membership prior to such transfer. Memberships shall not be assigned, transferred, or encumbered in any way, except by transfer of title to a Lot.

2. Voting Rights. The Association shall have the following described two classes of voting membership:

- Class A.....The Class A Member shall be all the Owners other than Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.
  
- Class B.....The Class B Member shall be Declarant or a person or party designated in writing by Declarant as the “Successor Declarant.” The Class B Member shall be entitled to three (3) votes for each Lot in which it holds an interest required for membership in the Association. The Class B membership shall automatically cease and be converted to Class A membership upon the first to occur of the following events:
  - (i) When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member; or
  - (ii) The expiration of ten (10) years after the first Lot is conveyed.

3. Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. The first Class A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned, unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever, other than to determine whether a quorum exists.

**V. PROPERTY RIGHT IN COMMON AREAS**

1. Easement of Enjoyment. Each Owner shall have a right and easement of use and enjoyment including the right of ingress and egress to and from its Lot and in and to the Common Areas, except for the Water System. Such right and easement shall be appurtenant to, and shall pass with, title to each Lot, and in no event shall such right and easement be separated therefrom. Any Owner may grant the use and enjoyment described herein to any tenant, lessee, or contract purchaser who resides on such Owner’s Lot

2. Transfer of Title. Declarant agrees that it shall, on or prior to the sale of all Lots, convey to the Association title to all Common Areas of the Development, and Declarant further agrees that it will discharge all liens and encumbrances on said Common Areas on or before the sale and closing of the last Lot in the Development.



3. Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to suspend an Owner's right to the use of any amenities included in the Common Areas for any period during which an assessment on such Owner's Lot remains unpaid and, for a period not exceeding ninety (90) day, for any other infraction by such Owner, or by such Owner's guests and/or invitees, or by the residents of such Owner's Lot, of the provisions of this Declaration or of any rule or regulation promulgated by the Association.

(b) The right of the Association to impose reasonable limitations on the number of guests per Owner who, at any given time, are permitted to use the Common Areas.

(c) The right of Valley County and any other governmental or quasi-governmental body having jurisdiction over the Property to access, and rights of ingress and egress over and across, any street, parking area, walkway, or open spaces contained within the Property for purposes of providing police and fire protection and providing any other governmental or municipal services; and

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes, and subject to such conditions, as may be agreed to by the Association. Any such dedication or transfer pursuant to this subsection must, however, be assented to by two-thirds of the vote of each class of membership that Owners, whether present in person or by proxy, are entitled to cast at a meeting duly called for such purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Owners at least ten (10) days but not more than thirty (30) days prior to the date of such meeting.

4. Encroachments. If any portion of a Living Unit or improvement constructed by Declarant, or any portion of a Living Unit reconstructed so as to substantially duplicate the Living Unit originally constructed by Declarant, encroaches upon the Common Areas or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the Development, a valid easement for such encroachment and for the maintenance of the same shall exist so long as such encroachment exists.

5. Minimum Open Landscape Areas.

(a) A minimum of twenty percent (20%) of the multi-family residential areas of the Property, as indicated on the Plat, shall be preserved as open landscape areas.

(b) A minimum of twenty percent (20%) of the commercial lot areas of the Property, as indicated on the Plat, shall be preserved as open landscape areas.

## VI. ASSESSMENTS

1. Personal Obligation and Lien. Declarant, for each Lot owned by it (subject to the express exception contained in paragraph 3 of this Section VI regarding the Declarant), and each Owner, shall, by acquiring or in any way becoming vested with an interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Article, together with the interest, late fees, and costs of collection hereinafter provided for. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (b) the personal obligation of the Person who is the Owner of such Lot at the time such assessment falls due. No Owner may exempt himself or its Lot from liability for payment of assessments by waiver of its rights concerning the Common Areas or by abandonment of its Lot or otherwise. Any such liens, however, shall be subordinated to the lien or equivalent security interest of any first mortgage on the unit recorded prior to the date any such assessments become due.

2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the maintenance, health, safety, and welfare of the Property and the Owners of Lots within the Property. The uses made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the Common Areas; necessary insurance; maintenance, repair, replacement, and improvement of the Common Areas; common utilities (if any); cable television (if the Board opts for cable television to be provided to all Lots on a group basis); payment of required maintenance on Owner's Lots; management and supervision of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any other expense deemed by the Board, in its reasonable discretion, necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

3. Base for Assessment. Excepting Lots owned by Declarant, each Lot, whether improved or unimproved, shall be assessed at a same and equal rate and shall pay a monthly assessment. Additionally, Declarant shall have the obligation to subsidize the Association until control of the Association passes to Owners. Subsidization shall be defined as the payment of the reasonable cash needs of the Association for ordinary and necessary maintenance expenses, not to include reserves or capital replacement, not covered by Owner's monthly assessments. In no event, however, shall the subsidized amount exceed the monthly assessments.

4. Special Assessments. In addition to the monthly assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any

expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or required repair or replacement in connection with the Common Areas. Any such special assessment must be assented to by more than fifty percent (50%) of all votes that Owners, whether present in person or represented by proxy, are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting shall be mailed to all Owners at least ten (10) days but not more than thirty (30) days prior to such meeting date.

5. Quorum Requirements. The quorum required for any action authorized by Section 4, above, shall be as follows: At the first meeting called for any purpose, the presence of Owners or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting called or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 4), at which the presence of Owners or of proxies entitled to cast one-half (1/2) of the percentage required to constitute a quorum at the immediately preceding meeting shall constitute a quorum. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting at which a quorum is not present.

6. Equal Rate of Assessment. Both monthly and special assessments shall be fixed at a uniform (equal) rate for all Lots, subject to the express exception contained in paragraph 3 of this Section VI regarding the Declarant.

7. Monthly Assessment Due Dates. Declarant may set the amount of the monthly assessment and may change the amount as necessary in its discretion. The monthly assessments provided for herein shall commence as to a Lot on the date a deed is delivered to the first purchaser of the Lot, or the date of a contract of sale regarding the lot, or on the date of occupancy under an occupancy agreement, whichever first occurs. The first monthly assessment shall be adjusted according to the number of days remaining in the month of conveyance, contract, or occupancy, as the case may be. At least fifteen (15) days prior to the effective date of any change in amount of the monthly assessment, the Association shall give each Owner written notice of the amount and the first due date of the monthly assessment concerned.

8. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all Persons who, in good faith, rely thereon.

9. Effect of Non-Payment; Remedies. Any assessment not paid when due, together with the hereinafter provided for interest, late fees and costs of collection, shall be, constitute, and remain a continuing lien on the Lot; provided, however, that any such lien shall be subordinate to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date

any such assessment becomes due. The Person who is the Owner of the Lot at the time the assessment falls due shall also be and remain personally liable for all assessment amounts due. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. If any assessment is not fully paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and, in addition, a late payment service charge of \$20.00 shall be added to each such overdue assessment payment. The Association may, in the reasonable discretion of the Board, bring an action against any Owner who is personally liable as provided herein, and/or foreclose the lien against such Owner's Lot. Any judgment obtained by the Association shall include reasonable attorney's fees, court costs, and each and every other expense incurred by the Association in enforcing its rights under this Declaration.

10. Tax Collection from Lot Owners by Valley County Authorized. It is recognized that, under the Declaration, the Association will own the Common Areas and that it will be obligated to pay property taxes to Valley County. It is further recognized that each Owner of a Lot is a Member of the Association and, as part of the monthly assessment against such Owner's Lot, shall be required to pay to the Association its pro-rata share of such property taxes on the Common Areas. Notwithstanding anything to the contrary contained in this Declaration, or otherwise, Valley County shall be, and is, authorized to collect such pro-rata share (on an equal basis) of property taxes on Common Areas directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Valley County is hereby directed to do so. If the Valley County Assessor separately assesses Common Areas to the Association, the Board may, in its discretion, require a special assessment to pay such taxes, or simply add the pro rata amount of each Lot's property taxes assessed against Common Areas to the amount of each Lot's regular assessment.

## VII. OPERATION AND MAINTENANCE

1. Maintenance of Lots and Living Units. Each Lot and Living Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to adversely affect the value or use of any other Lot or Living Unit or the Property. The Association shall have no obligation regarding maintenance or care of Lots or Living Units, except as provided in Section 2 of this Article VII.

2. Operation and Maintenance by the Association.

(a) Until such time as the Declarant conveys the Common Areas to the Association, the Declarant shall maintain and operate the Common Areas as herein provided. Upon conveyance of the Common Areas to the Association, the Association, by its duly delegated representative, shall provide for such maintenance and operation of the Common Areas and the

yard areas of each Lot as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive, and generally in good condition and repair. Lot Owners may elect, by so notifying the Board, and obtaining and retaining the Board's written approval, to maintain all or a portion of their yard areas provided that: (a) the portion maintained by the Lot Owner is kept in a good and sightly condition, and (b) there shall be no reduction in assessment by virtue of such maintenance by a Lot Owner.

- (b) If, in the discretionary determination of the Declarant or Association, the exterior of any Living Unit or building is not properly or attractively maintained and/or repaired, the Association may accomplish such maintenance and/or repair, and the cost of all such maintenance and repair shall be added to and become a part of the assessment to which such Lot is subject.
- (c) In the event that the need for maintenance or repair to the yard area of a Lot or Common Area is caused through the willful or negligent act of the Owner, its family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

3. Utilities. The Association shall pay for the monthly cable television (if elected to be provided by the Board), sewer, and garbage pickup for each Lot, unless billed directly to the Lot Owner by the party providing or furnishing such service. Each Lot Owner shall pay for all utility services that are separately billed or metered to individual Lots by the utility or other party providing or furnishing such service.

4. Manager. The Association may, through a Manager, carry out any of its functions that are properly the subject of delegation. Any Manager so engaged may be an independent contractor or an agent or employee of the Association and shall be responsible for managing the property for the benefit of the Association and the Owners.

5. Terms of Management Agreement. Any agreement for professional management of the Development, or any other contract providing for services of the Declarant, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days written notice.

## VIII. USE RESTRICTIONS

1. Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Living Units. No admission fees, charges for use, leases or other income-producing arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas. Common Areas shall be kept exclusively as a scenic or natural open area, although portions of the Common Areas, not extensive in proportion to the total area of the Common Areas, may be developed for non-profit recreation and/or leisure-time activities, as the Board or Declarant determine in their sole discretion. Further, portions of the Common Areas may be developed by Declarant or the Association as may be reasonably necessary for installation of the below-surface utilities, as may be necessary or desirable to provide or improve access to or from or to enhance the use and enjoyment of the Property, or as may be necessary or desirable to protect, support, enhance or preserve the Property. Unless and until conveyed to a governmental authority, including a park or recreation district which is existing and willing to accept and maintain the same, the Common Areas shall be maintained by the Association and shall be held by the Association for the exclusive use of Owners of a Lot, their invitees and guests, although the Board may at any time and from time to time, in its sole discretion, restrict use of all or portions of the Common Areas to certain uses and/or to certain Persons or classes of Persons, and may prescribe rules and regulations governing use of Common Areas.

2. Use of Lots and Living Units. No Lot or Living Unit shall be used, occupied or altered in violation of law, or so as to create a nuisance or so as to interfere with the rights of any Owner, or so as to increase the cost of insurance covering the Common Areas. A Living Unit may only be constructed within the Building Envelope.

3. Fences. No fences shall be allowed except, if at all, as may be installed by Declarant or as are a part of the original construction of the Living Unit after specific, written, prior approval of the Architectural Control Committee.

4. Use of the Property. Except as expressly otherwise provided herein, only those portions of the Property identified on the Plat as “Commercial Building” shall be used for any commercial, retail mercantile, storing, vending (except as may be installed as a convenience by the Declarant or Association); and/or other such non-residential purposes, and/or for the conduct of any trade, business, and/or professional activity. Notwithstanding the foregoing, those portions of the property designated as “Plaza” may be used for commercial purposes related to the adjacent Commercial Building(s); those portions of the property identified on the Plat as “Proposed Storage Units” may be used for that purpose; those portions of the Property identified on the Plat as “Storage and Lease Center” may be used for that purpose; and/or Declarant may use any portion

of the Property for a model home site display, for a sales and construction office during the construction and sales period, and for other related activities of Declarant.

5. Sign Regulations. No sign or advertising device of any nature shall be erected, maintained, or displayed on any portion of the Property except, if at all, as may be necessary to identify the ownership or occupancy of a Living Unit and its address. Notwithstanding this prohibition, Declarant may use sign(s) to advertise Property during the construction and sales period.

6. Quiet Enjoyment. No noxious or offensive trade or activity shall be carried on upon any Lot or any part of the Property, nor shall anything be done thereon that may become an annoyance or nuisance to the neighborhood, or that interferes in any way with the quiet enjoyment of each of the Owners or such Owners' respective Living Unit(s) or in any way increases the rate of insurance.

7. Temporary Structures, Equipment, Motor Vehicles, Etc. Excepting Declarant, no buildings or structures shall be moved onto the Property or onto a Lot except as may be first approved in writing by the Architectural Control Committee. No trailer houses or mobile homes or anything similar shall be parked on or within any Lot except that a trailer, camper, or motor home may be temporarily occupied by a representative of Declarant, or by an Owner during construction upon the prior written approval of the Architectural Control Committee. Any such temporary structure/vehicle utilized during construction shall be immediately removed at the completion of construction activities. Otherwise, no other structure, vehicle, or enclosure of any type, including without limitation a tent, shack, or similar, may be used as a residence, whether temporarily or permanently. No building shall be erected or maintained on a Lot site prior to the erection of the dwelling thereon, except that a garage or other small building of permanent construction may be erected for the purpose of storing tools and other small articles prior to and necessary for the erection of a permanent dwelling. Excepting Declarant, no trailer, boat, truck larger than two (2) tons, or similar equipment shall be parked on a Lot or within the Property except as may be necessary for construction purposes or as may be specifically approved by the Architectural Control Committee in advance, in writing. No motor vehicle whatsoever may be parked on or within the Property except in designated parking areas.

8. Animals. No Lot shall be used for keeping or pasturing of any animal, or the keeping of any poultry, or for the keeping of any non-domesticated animal, as that term or phrase is commonly used. Upon the prior written approval of Declarant or the Association, dogs, cats, and other household pets may be kept; provided, that no animals are kept, bred, or maintained for any commercial purpose; provided further, that animals are not kept on any Lot in unreasonable numbers; provided further, that any and all animals kept on any Lot are in keeping with the quiet nature of the Property; and provided further, that no animal shall be allowed to disturb other

residents of the Property or otherwise constitute a nuisance or an annoyance, by noise or otherwise, to other persons. There shall be no kennels or other outside living quarters or recreational areas on any Lot for animals. All animals shall be kept within the confines of a Lot or on a leash at all times. Each of Declarant and the Association have the right to remove any animal that, in their sole discretion, does not fully comport with the above guidelines.

9. Garbage Removal. No Lot shall be used in whole or in part as a dumping ground or storage site for rubbish. Trash, garbage, refuse and all waste materials shall be regularly removed from the Property, shall not be allowed to accumulate thereon, and shall be deposited only in sanitary containers that meet the requirements of the sanitation ordinances and regulations of Valley County and the State of Idaho health authorities. The sanitary containers shall be located such that they are obscured from view of adjoining Lots and Common Areas. All receptacles or storage for trash, garbage, etc., shall at all times be maintained in a sanitary and clean condition. No machinery, appliances or unsightly materials shall be stored on a Lot, excepting only such items as are actually and immediately necessary for construction of a building already approved in writing by the Architectural Control Committee and, in that event, only when an Owner is ready and able to commence construction with respect to which such building material shall be used, and then such building material shall be placed on the Lot in such a location that, to the maximum extent possible, it is not visible to view from those not on the Lot. Further, all clotheslines, woodpiles and storage areas shall be prohibited upon any Lot unless entirely obscured from view of adjoining Lots and/or Common Areas.

10. Electronic Antennas. No television, radio, or electronic antennae, satellite dish, or similar device of any type shall be erected, constructed, placed, or permitted to remain on any Lot or on the exterior of any Living Unit or structure on or in any Lot unless first approved in writing by Declarant, until all Lots are sold, and thereafter by the Architectural Control Committee.

11. Exception for Declarant. Notwithstanding the restrictions contained in this Article VIII, for the ten (10) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Valley County, Idaho, Declarant shall have the right to use any Lot or Living Unit owned or leased by it and any part of the Common Areas, that Declarant deems reasonably necessary or appropriate in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement of the Common Areas or improvement and/or sale of all Lots owned by Declarant. Declarant may also conduct collateral business activity on the Property.

12. Access. Once conveyed by Declarant to the Association, all streets, roads, and other access to Lots on the Property shall be owned and maintained by the Association. The use of all such streets, roads, and other access shall be and is permitted to Declarant, permittees, Owners and their guests, and other individuals as and if authorized by the Association. All users of the streets,



roads, and other access shall comply with all regulations, rules, and bylaws authorized by the Declarant or the Board. Snowmobiles, motorcycles, four-wheelers, scooters, go-karts, and all other mechanized vehicles shall have operational mufflers affixed and such vehicles shall be used only on the streets and roads and strictly for transportation purposes only. Joyriding or recreational use of such or similar vehicles is prohibited.

13. Easements. Declarant reserves an easement for maintenance, repair, and related activities in and on all Common Areas. Declarant and, upon transfer of the Common Areas, the Association, reserves a twenty (20) foot easement along all road rights-of-way and a five (5) foot easement along the side and rear lines of each and every Lot for the purpose of installing, operating, and maintaining utility lines and mains thereon and other activities, together with the right to trim or cut or remove any trees and/or brush, and the right to locate guy wires, braces, and anchors wherever necessary (whether or not within the five (5) foot easement specified above) for said installations, operations, or maintenance, together with the right to install, operate, and maintain gas and water mains, and appurtenances thereto, sewer lines, culverts, and drainage ditches, reserving also the right of ingress and egress to such areas for any purposes mentioned above.

Declarant, and upon transfer of the Common Areas the Association, further reserves the right to grant utility easements upon any Common Areas within the Property in favor of Declarant and/or the Association or in favor of any other company or entity providing utility service, for the installation of power lines, telephones lines, water lines, cable television, gas lines, sewage lines, or other utility services lines, equipment, or facilities and/or for the maintenance, repair, and replacement of such lines, equipment, or facilities; provided, however, that whether or not stated in the instrument granting the same, any such easement shall be subject to the condition that, following the grant of such easement, sufficient area shall remain on each affected Lot to allow for construction of a Living Unit thereon and reasonable use thereof. Any such utility easement shall be valid and effective when granted by an instrument executed by the Declarant or Board, whether or not such instrument is executed by the Owner of any affected Lot.

Declarant further grants and/or reserves, as applicable, the easements depicted and/or described on the Plat.

14. Fire Hazard. No Owner shall use the Property or any Lot or permit or allow its Lot or the Property to be used by others in any way that will increase the risk of fire or the fire hazard on the Property, Lot, Common Areas, or surrounding real property, or any parts thereof. No Owner shall maintain or permit to be or allow to be maintained in or about the Property or any Lot any article that may increase the risk of fire or the fire hazard. Each Owner, at its sole expense, shall at all times comply with each and every requirement pertaining to the Property and Lot of any applicable insurance organization, United States Forest Service, Valley County, or State of Idaho necessary for fire protection for use of said lands.

15. Excavation. No excavation for stone, gravel, earth, or minerals shall be made upon any Lot or any other portion of the Property; provided, however, that such excavation as may be necessary for the construction of a building thereon in accordance with plans first approved in writing by the Architectural Control Committee may be performed thereon. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth.

16. Sewage Disposal. All bathroom, sink, and toilet facilities shall be located inside buildings and shall be connected by an underground pipe to a central sewage treatment system, which pipe shall be placed at a depth and made of a type of material approved by Valley County and State of Idaho health authorities. No waste shall be permitted to enter into streams, rivers, or lakes, and all sanitary facilities must conform to the requirements and recommendations of Valley County, the State of Idaho, and any other governing body having general jurisdiction over the premises. No drain system or other disposal system shall be allowed nearer than one hundred (100) feet to a stream, river, or lake (or greater if required by applicable government regulations), and shall not in any way contribute to the pollution of said stream, river, or lake.

17. Maintenance of Property. All Property and improvements thereon, including all Living Units, shall be kept and maintained by the Owner in a clean, safe, attractive, and sightly condition and in good repair.

18. Drainage. Natural drainage patterns shall not be altered in any manner that results in the diversion of additional water onto any Lot(s) or onto Common Areas or roads. Erosion control must be planned for and in place prior to and during all construction and excavation. Permanent erosion control must be incorporated into the design of any building, driveway, landscaping, and other associated building improvements.

19. Lighting. Yard lights that direct illumination onto any other Lot or the Common Areas is prohibited; provided, however, that indirect landscape lighting may be installed and operated with prior written approval of the Architectural Control Committee. In all respects, outside lighting shall comply with Valley County standards and requirements.

20. Violations. If any Owner or other Person violates or attempts to violate any of the covenants or restrictions herein set forth, whether directly or indirectly, then Declarant, any other Owner, and/or the Association may initiate and prosecute any proceedings at law or in equity against the Owner or other Person or Persons violating or attempting to violate any such covenant or restriction, whether to prevent or enjoin such Owner or other Person or Persons from violating or attempting to violate any of the covenants or restrictions herein set forth, or to recover damages, or both enjoining and recovering damages, or any other relief as appropriate. The prevailing Person in any such action shall be entitled to reimbursement, from the non-prevailing Person, of its attorneys' fees and costs. Declarant or the Association may cure any violation and assess any

Owner in violation the costs and all related expenses of doing so, which assessment shall be a lien upon the Owner's Lot, enforceable as provided herein.

## **IX. ARCHITECTURAL CONTROL**

1. Architectural Control Committee. The Board of the Association shall appoint a three (3) member Architectural Control Committee, the function of which shall be to ensure that all exteriors of Living Units and landscaping within the Property harmonize with existing surroundings and structures, and to accomplish other responsibilities as set forth in this Declaration. The Architectural Control Committee shall report to the Board. The Architectural Control Committee need not be composed of Owners. If such an Architectural Control Committee is not appointed, the Board itself shall perform the duties required of the Architectural Control Committee.

2. Submission to Architectural Control Committee. No Living Unit, addition thereto, landscaping, building or other structure shall be erected, constructed, placed, maintained, or altered, and no alteration, repainting, re-staining, or refurbishing of the exterior of any Living Unit shall be performed, unless complete construction plans and specifications and a specific plan showing the location of the item have been submitted to and approved in writing by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design, location with respect to topography and finish grade elevation and other structures in or near the Lot, safety, compliance with the provisions of this Declaration, square footage and such other items and design and approval criteria as the Architectural Control Committee, in their sole discretion, may determine appropriate. Additionally, the Architectural Control Committee, in determining whether to issue approval, shall consider whether, in its discretion, the requested construction, alteration, etc., conforms to and harmonizes with the surroundings and existing structures and open space and otherwise complies with all applicable provisions of this Declaration. The Architectural Control Committee may, but is not required to, adopt guidelines and procedures in this regard. The Architectural Control Committee shall make its determinations by majority rule.

3. Approval Procedure. The Architectural Control Committee shall provide a written response to any application, approving or disapproving the same. If disapproval, a brief explanation of the reasons therefore shall be issued. If the Architectural Control Committee fails to respond in writing within thirty (30) days of the date on which complete construction plans and specifications and a specific plan showing the location of the item have been submitted to it, such failure shall be deemed approval, but nothing shall relieve the Applicant from building precisely in accordance with the plans, specifications and location submitted. The failure of the Architectural Control Committee to commence suit to enjoin construction, alteration, erection, landscaping,

plans or specifications shall not be deemed waiver by the Architectural Control Committee, the Association, or the Declarant of the right to seek an affirmative injunction or other judicial relief.

4. Construction. Once begun, any improvements, construction, landscaping, alterations or related matters approved by the Architectural Control Committee shall be diligently processed to completion and the exterior thereof shall be completed within twelve (12) months after the date of commencement of construction unless such completion is prevented by causes beyond the control of the Owner and, additionally, a time extension is specifically authorized in writing by the Architectural Control Committee.

5. Building Location, Size and Materials. Except as otherwise expressly stated herein, or as otherwise authorized and approved by the county or municipality having zoning and land use authority over the Property, no building shall be located on any Lot outside the Building Envelope (as shown on the Plat) or nearer than fifteen feet (15') to any interior side Lot line, nor nearer than thirty feet (30') from any street-side Lot line, or nearer than thirty feet (30') from the front and rear Lot lines. For the purpose of this paragraph, eaves, steps, open porches, and bays shall be considered a part of the building or structure. No single-family dwelling shall be erected or placed on any residential building site, the main floor area of which (exclusive of one-story open porches, terraces, and garages) shall be less than one thousand (1,000) square feet. All buildings, including (without limitation) dwellings, barns, garages, and other outbuildings, erected upon any building site shall be structurally constructed of steel, log, frame, concrete, pumice block, or other structurally proven material. Building siding shall be of solid wood, stone, or brick veneer, or of other residential siding material that is compatible with the environment and nearby structures. All exterior surfaces (including the roof) of all buildings shall be in earth-tone colors resembling tones or colors of natural materials native to the natural environment of the area. All wood and other materials visible from outside the home and subject to the elements shall be finished, stained, or painted, and such finish, stain, or paint shall be of earth-tone colors and maintained in good and slightly condition.

6. Disclaimer of Liability. Neither the Architectural Control Committee, nor any member thereof acting in good faith, shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings or specification; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings or specification; (c) the development or manner of development of any of the Property; (d) any engineering or other defect in approved plans or specification; or (e) delay or weather.

7. Non-waiver. The approval by the Architectural Control Committee of any plans and specification for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications.

8. Exception for Declarant. The foregoing provisions of this Article IX shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant on any Lot or on any part of the Common Areas and which occurs at any time during the ten (10) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Valley County, Idaho. Declarant shall further have the right to designate the location and design of any Common Area amenities including but not limited to pool or other recreational amenities or green areas, provided that the Declarant shall not be required to provide any such amenities by virtue of this paragraph.

9. Declarant's Obligation. Declarant hereby covenants in favor of each Owner: (a) that all Living Units erected by it, or caused to be erected by it, and all improvements of the Common Areas accomplished by it, shall be architecturally compatible with respect to one another; and (b) that on or before ten (10) years from the date on which this Declaration is filed for record in the Office of the County Recorder of Valley County Idaho, there shall be substantially completed and usable as part of the Common Areas all open spaces in the locations shown on the Plat.

10. Water Rights Appurtenant to Subdivision Lands. Declarant owns certain water rights which are appurtenant to the Property and which may be utilized in connection with any irrigation system, if any, and the Water System, defined above. Declarant hereby reserves unto itself any and all water and water rights, including groundwater and groundwater rights, ditch and ditch rights, and storage and storage rights appurtenant to the Property, and accordingly, the Owner of any Lot shall not have right, title, or interest in any of such water or water rights, including (without limitation) groundwater and groundwater rights, ditch and ditch rights, and/or storage and storage rights.

## **X. CONDEMNATION**

If at any time or times the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent all Owners of Lots in such proceedings, negotiations, settlements, or agreements. All compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. Upon completion of such work and payment in full therefore, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Areas shall be disposed of in such manner as the Association shall reasonably determine; provided, however, that in the event of a taking in which any Lot(s) or portion(s) therefore is eliminated, the Association shall disburse the portion of the proceeds of the condemnation award allowable to the interest of the Owner(s) of such Lot(s) or portion(s) thereof

to such Owner(s) and any first Mortgagee(s) of such Lot(s), as their interests shall appear, after deducting the proportionate share of said Lot in the cost of debris removal.

## **XI. MISCELLANEOUS**

1. Form for Conveying. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

All of Lot \_\_\_\_\_ [*insert lot number*] of Valley Meadows Subdivision, according to the official plat thereof, subject to the Declaration of Conditions, Covenants, Restrictions, and Easements, all on file in the office of the Valley County Recorder.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any Person who acquires any interest in a Lot.

2. Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the Person named as the Owner, at the latest address for such Person as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by personally delivering or first class mailing the same to the Managing Agent or the President of the Association. Any notice required or permitted to be given to the Architectural Control Committee may be given by personally delivering or first class mailing the same to the Chairman, or to such other Person as the Chairman may designate.

3. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions, to ensure that the Property is maintained and used in such a manner consistent with the interests of the Owners, and to carry out the provisions of this Declaration, all to be solely determined in the discretion of the Board.

4. Amendment. Any amendment to this Declaration shall require:

- (a) The affirmative vote of at least two-thirds (2/3) of all Class A membership votes which members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose; and
- (b) So long as the Class B membership exists, the written consent of Declarant.

Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be mailed to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called, the Class B membership, if then existent, and the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3) at which a quorum shall be the Class B membership, if existent, and one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Association (and by the Declarant if the Class B membership then exists). In such instrument, an officer or director of the Association shall certify that the vote required by this Section for amendment has occurred. Notwithstanding anything herein contained to the contrary, until eighty percent (80%) of the Lots in the Development have been sold to purchasers, the Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration as may be reasonably necessary or desirable, in Declarant's sole and unfettered discretion:

- (a) To more accurately express the intent of any provision of this Declaration in light of then existing circumstances, information or Mortgagee requirements; or
- (b) To better ensure, in light of then-existing circumstances or information, workability of the arrangement which is contemplated by this Declaration;
- (c) To make amendments to comply with applicable local or state law, the law in any jurisdiction in which the Development is registered, or to conform to the requirements of any secondary market lender.

5. Consent in Lieu of Vote. In any case in which this Declaration requires, for authorization or approval of a transaction, the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the class of membership concerned. The following additional provisions shall govern any application of this Section 4:

- (a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member and notice of the intention to solicit consents must be mailed to all Owners.

- (b) The total number of votes required for authorization or approval under this Section 4 shall be determined as of the date on which the last consent is signed.
- (c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owners thereof shall not be considered for any purpose. A change in ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold its consent.
- (d) Except as otherwise stated in this Declaration, unless the consent of all Members whose membership are appurtenant to the same Lot are secured the consent of none of such Members shall be effective.

6. Reserve Fund. The Association shall establish and maintain an adequate reserve fund to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and exterior maintenance and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Lot Owners rather than by special assessments, if possible.

7. Lease Provisions. Any Owner may lease or rent its Lot or Living Unit; provided, however, that any lease or rental agreement between a Lot Owner and a lessee must be in writing and must provide, inter alia, that:

- (a) The terms of the lease shall, in all respects, be subject to the provisions of the Declaration, the Articles of Incorporation of the Association, and the Bylaws; and
- (b) Any failure by the Lessee, or the invitees or guests of such Lessee, or the residents of the leased Lot, to comply with the terms of such Governing Documents shall constitute a default under such lease.

8. Declarant's Covenant to Construct Common Areas. Declarant hereby covenants to construct all Common Areas and amenities indicated on the Plat.

9. Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

10. Interpretation. The captions which precede the various articles and sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the



plural shall include the singular, the whole shall include any part thereof, and any gender or identification shall include all other genders and identifications. The invalidity or unenforceability of any portion of the Declaration shall not affect the validity or enforceability of the remainder hereof.

11. Covenants to Run with Land. This Declaration and the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant and Owners. All Persons who hereafter acquire any interest in or to a Lot or in or to the Common Areas, and/or reside in or on any Lot, and/or are present in or on any Lot shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply with any of the foregoing shall be grounds for an action by the Association or any aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot, and/or by residing in or on a Lot, the Person acquiring such interest and/or residing in or on a Lot consents to, and agrees to be bound by, each and every provision of this Declaration.

12. Multiple Ownership. There shall be no timeshares (as defined by Idaho Law) allowed in the Property. Ownership of any Lot shall be limited to a maximum of twelve (12) families or separate interests.

13. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the Office of the County Recorder of Valley County, Idaho.

14. Non-Waiver. Any failure of Declarant or the Association to enforce any provision of these Covenants, Conditions and Restrictions shall not constitute a waiver of the right to enforce such provision or any other provision.

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# **EXHIBIT A**

**to the**

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
AND EASEMENTS FOR VALLEY MEADOWS SUBDIVISION**

## **LEGAL DESCRIPTION OF THE PROPERTY**

*[Please see attached.]*

**Parcel 1:**

A parcel of land situated in a portion of the Northeast 1/4 of Section 17, Township 16 North, Range 3 East, Boise Meridian, Valley County, Idaho and being more particularly described as follows:

Commencing at a found aluminum cap marking the Center 1/4 corner of said Section 17, which bears  $S00^{\circ}06'46''W$  a distance of 2,635.45 feet from a found 5/8-inch rebar marking the North 1/4 corner of said Section 17, thence following the westerly line of said Northeast 1/4,  $N00^{\circ}06'46''E$  a distance of 911.69 feet to POINT OF BEGINNING 1. Thence following said westerly line,  $N00^{\circ}06'46''E$  a distance of 1,264.95 feet to a found 5/8-inch rebar on the southerly boundary line of the Meadows at West Mountain Subdivision - Phase 2 & 3 (Book 10 of Plats, Pages 38-44); Thence leaving said westerly line and following said southerly subdivision boundary line the following four (4) courses:

1. 103.85 feet along the arc of a non-tangent curve to the left, said curve having radius of 235.00 feet, a delta angle of  $25^{\circ}19'13''$ , a chord bearing of  $S44^{\circ}10'41''E$ , and a chord distance of 103.01 feet to a found 5/8-inch rebar;
2.  $S56^{\circ}50'18''E$  a distance of 539.32 feet to a found 5/8-inch rebar;
3.  $S53^{\circ}58'32''E$  a distance of 100.16 feet;
4.  $S56^{\circ}50'17''E$  a distance of 445.14 feet to a point hereinafter referred to as "POINT A";

Thence leaving said southerly subdivision boundary line,  $S33^{\circ}09'43''W$  a distance of 475.78 feet; Thence  $N56^{\circ}50'17''W$  a distance of 495.14 feet to the centerline of W. Roseberry Road; Thence following said centerline,  $S33^{\circ}09'43''W$  a distance of 556.93 feet to POINT OF BEGINNING.

**Parcel 2:**

A parcel of land depicted as "Exception Parcel 1" on the plat of said Meadows at West Mountain Subdivision - Phase 2 & 3 and being further described as follows:

Commencing at a point previously referred to as "POINT A" thence  $N73^{\circ}59'14''E$  a distance of 105.72 feet to the westerly corner of Lot 43, Block 1 of said subdivision on the boundary line of said subdivision and being POINT OF BEGINNING 2. Thence following said subdivision boundary line the following five (5) courses:

1.  $N56^{\circ}50'17''W$  a distance of 514.26 feet;
2.  $N33^{\circ}09'43''E$  a distance of 383.81 feet;
3. 92.11 feet along the arc of a curve to the right, said curve having a radius of 950.00 feet, a delta angle of  $05^{\circ}33'18''$ , a chord bearing of  $N35^{\circ}56'22''E$ , and a chord distance of 92.07 feet;
4.  $S56^{\circ}50'17''E$  a distance of 509.80 feet;
5.  $S33^{\circ}09'44''W$  a distance of 475.77 feet to POINT OF BEGINNING.