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ARTICLES OF PROTECTIVE COVENANTS

TRAIL CREEK ESTATES - DIVISION 2

The undersigned hereby declare that all of the real property located in the County of Bannock, State of Idaho, TRAIL CREEK ESTATES - DIVISION 2 SUBDIVISION, is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to the TRAIL CREEK ESTATES - DIVISION 2 Subdivision Covenants meaning the covenants, conditions and restrictions set forth in this DECLARATION. All of said restrictions are declared and agreed to be in furtherance of a general plan for the purpose of enhancing and perfecting the value, desirability and attractiveness of said real property and every part thereof. All of the covenants, conditions and restrictions as set forth in this DECLARATION, shall run with all of said real property for these purposes and shall be binding upon and inure to the benefit of the undersigned, all lots and all owners and their assigns, transferee and successors in interest. These protective covenants shall be subject to amendments only by the constituted municipal governing body in which this subdivision is located, together with a minimum of two-thirds (2/3) vote of legal property owners in the subdivision. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

The residential area shall consist of Lots 1-13 Block 1, Lots 1-11 Block 2, Lots 1-2 Block 3, TRAIL CREEK ESTATES - DIVISION 2. Lots within such area shall be for the exclusive use and benefit of the Owners thereof, subject, however, to all of the following limitations and restrictions;

1. **RESIDENTIAL USE.** Each numbered lot within the residential area shall be used exclusively for single family residential purposes. No structure whatever, other than one private single-family dwelling, together with a private garage, and a practically sized yard shed for the storage of yard tools shall be erected, placed or permitted to remain on any of the lots. No gainful occupation, profession, trade, business or other non-residential use which encourages patron visits shall be conducted in, on, or from any lot or building. This provision, however, does not restrict the use of the property for a private office wherein telephone and computer based work requiring limited additional traffic, parking and visits are undertaken. No signs will be displayed for business purposes. Nothing herein shall be deemed to prevent the leasing of an entire lot and all the improvements thereon to a single family, and not otherwise, from time to time by the OWNER thereof subject to all of the provisions of the TRAIL CREEK ESTATES - DIVISION 2 subdivision Restrictions.
2. **BUSINESS CONSTRUCTION.** No store, office or other place of business of any kind, and no hospital, sanatorium or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, saloon, or other place of entertainment, or any church shall ever be erected or permitted upon any of the lots or any part thereof.
3. **MAINTENANCE AND REPAIR OF BUILDINGS.** No building, residence, improvement or structure upon any lots shall be permitted to fall into disrepair, each

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such building and structure shall at all times be kept in good condition and adequately painted or otherwise finished. Owners shall maintain in good repair the exterior surfaces, including but not limited to, walls, roofs, porches, patios, and appurtenances. Nothing shall be done in or to any such building which will impair the structural integrity of any building. Garages must be kept in a neat and tidy manner at all times.

4. **MAINTENANCE OF LAWNS AND PLANTINGS.** Each owner shall at all times keep all shrubs, trees, grass and plantings of every kind on Owner's lot, including set back easement areas, and park strip next to the curb, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material.
5. **ARCHITECTURAL CONTROL.** No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure with a lot drainage plan has been approved by the Architectural Control Committee as to quality of material, color, workmanship and harmony of external design with existing structures and as to location with respect to topography and finished grade elevation. Homes constructed in this subdivision will have as a minimum some brick, rock and/or drivet/stucco finishes on the front and steel siding on the remainder of the home. Vinyl "shake" can be installed as accent pieces to the home. Roof pitches on two story homes shall be 5/12 or greater and on single level homes, 6/12 or greater. No structure shall be built on any lot unless it meets with the approval of the Committee hereinafter referred to, or if there is no committee, it shall conform to be in harmony with the existing structures in the subdivision. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or designated representatives, fail to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will be deemed to have been fully complied with. The architectural committee is composed of Brian K. Ball and Rod Furniss, all of Rexburg and Rigby, Idaho, along with a designated third individual or party. This third person/party, will be appointed by McCORMICK RANCH, LLC. As of this date, Billy Satterfield, of Pocatello, will serve as the third member. A majority of the committee may designate a representative to act for it. So long as McCORMICK RANCH, LLC owns any lots in the subdivision the authority and functions of the architectural committee shall be lodged in and exercised by them. At the time a certificate of occupancy is given for the home built on the last vacant residential lot in the TRAIL CREEK ESTATES - DIVISION 2 subdivision the architectural control committee provided by McCORMICK RANCH, LLC for the TRAIL CREEK ESTATES - DIVISION 2 subdivision is dissolved and in turn the existing committee may appoint at least three lot owners of TRAIL CREEK ESTATES - DIVISION 2 to replace them on the committee. The then formed interim committee will have all the powers and rights of architectural control and will be responsible to call by notice in writing, a meeting of all homeowners within the subdivision to elect a standing architectural control committee for the subdivision.
6. **ANIMALS.** No animals or fowl, poultry, or livestock, other than a reasonable number of generally domesticated household pets, shall be maintained or permitted on any lot and then only if they are kept, bred or raised thereon solely as household pets

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and not for commercial purposes. No such animal or fowl shall be allowed to make an unreasonable amount of noise or otherwise to become a nuisance. Any structure for the care, housing confinement of any such animal or fowl shall generally be attached to the main dwelling unit.

7. **ANTENNAS AND SATELLITE DISHES.** No antenna or satellite dish for transmission or reception of television or radio (including short-wave) signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors whether attached to a building or structure or otherwise, unless approved by the Committee. Satellite dishes and small internet antennas made a part of the home structure and measuring 18" or less in diameter are precluded from this restriction.
8. **UTILITY SERVICE.** Lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals shall be underground. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of an approved building.
9. **TEMPORARY OCCUPANCY.** No trailer, basement of any incomplete building, tent, shack, garage or bam, and no temporary or incomplete building or structure shall be lived in or occupied in any manner.
10. **TRAILERS, BOATS AND MOTOR VEHICLES.** No mobile home, trailer of any kind, tent, or similar structure, and no non-functional vehicles, commercial trucks larger than a pickup, truck camper, recreational vehicle, motorcycle, ATV, go-cart, dune buggy, boat, or boat trailer shall be kept, stored, placed, maintained, constructed, reconstructed or repaired, upon any lot or street within this subdivision unless such vehicles are kept at least 25 feet behind the front property line and screened from street view. Incidental use of recreational vehicles in the street for up to two days is precluded from this requirement.
11. **NUISANCES.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any lot, and no odors shall be permitted to arise there from, so as to render any lot or portion thereof unsanitary, unsightly, offensive or detrimental to any of the occupants thereof. No nuisance shall be permitted to exist or operate upon any lot so as to be offensive or detrimental to any property in the vicinity thereof or to its occupants. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells, or other devices used exclusively for security purposes, shall be located, used or placed on any lot.
12. **TRASH CONTAINERS AND COLLECTION.** All garbage and trash shall be placed and kept in covered containers of a type and style as approved by the City of Pocatello. In no event shall such containers be maintained so as to be visible from neighboring property except to make the same available for collection. All rubbish, trash or garbage shall be removed from the lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any lot.

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13. **CLOTHES DRYING FACILITIES.** Outside clotheslines or other outside clothes drying or airing facilities shall be maintained exclusively within a fenced service yard or otherwise concealed and shall not be visible from neighboring property.
14. **ROAD ENCROACHMENTS.** No tree, shrub, planting building or improvement of any kind shall be allowed to overhang or otherwise to encroach upon any road or pedestrian way from ground level to a height of eight (8) feet.
15. **MACHINERY AND EQUIPMENT.** No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any lot within the Residential Area except such machinery or equipment as is usual and customary in construction of a private residence in TRAIL CREEK ESTATES - DIVISION 2 SUBDIVISION. No elevated tanks or large containers of any kind shall be erected, placed or permitted upon any lot.
16. **CONSTRUCTION.** Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for the builder of homes in TRAIL CREEK ESTATES - DIVISION 2 SUBDIVISION to maintain during the period of construction and sale of said homes, upon such portion of the premises as such builder may choose, such facilities as in the sole opinion of said builder may be reasonably required, convenient or incidental to the construction and sale of said homes, including but not without limitation, a business office, storage area, construction yard, signs, model units and sales office.
17. **DISEASES AND INSECTS.** No owner shall permit anything or condition to exist upon Owner's lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.
18. **RESTRICTION ON FURTHER SUBDIVISION.** No lot in the subdivision shall be further subdivided or separated into small lots, nor shall any less than all of such lots as originally platted be conveyed or transferred or any easement or other interest given therein, except for public utilities, without the prior written approval of the Declarant.
19. **SIGNS.** No commercial signs whatsoever which are visible from neighboring property shall be erected or maintained on any lot within the residential area except:
 - a. Such signs as may be required by legal proceedings;
 - b. Not more than two (2) Residential identification signs of a combined total face area of seventy-two (72) square inches or less for each lot;
 - c. During the time of construction of any residence or other improvement, or to sell an existing home, two job identification signs not larger than eighteen (18) by twenty-four (24) inches in height and width and having a face area not larger than three (3) square feet; and
 - d. Such signs the nature, number, and location of which have been approved in advance by the Declarant.

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20. **ON-SITE GRADING.** Each builder/homeowner will design on-site lot grading to facilitate protection of their improvements, including landscaping, from any abnormal runoff created by the subdivision improvements or adjacent properties. Lot grading should be completed in accordance with or similar to those designs provided by BUD-FHA in their manual (4240.1) which includes provision for any run-off waters to drain along each side lot line and along all lot lines. Lot grading is to include sloping the yard away from the home in all directions eliminating the possibility of run-off waters running to the house foundation. (See attached Detail). For those lots with a side slope, it will be the responsibility of the owner of the downhill (lower) lot to insure the existing grade of the adjoining lot uphill from his/her, by means, if necessary, of a retaining wall, erosion resistant landscaping or other decorative structure on his/her property if they have altered the existing grade to accommodate their foundation or driveway, etc. Likewise if the owner of the upper lot alters the existing grade, they will be responsible to retain the altered dirt on their own property, and provide means for lot drainage to flow down lot lines.
21. **MAILBOX LOCATION.** Mailboxes shall be individual mailboxes furnished by homeowner/builder.
22. **UTILITIES.** All lots shall be served by underground utility, electrical and telephone lines and cable television and no above ground distribution lines shall be installed. Overhead wires shall not be allowed and are expressly prohibited.
23. **BUILDING SIZES.**
No dwelling shall be permitted on these lots having a ground floor area of the main structure, exclusive of one-story open porches and garages, of not less than 1250 square feet for a one-story dwelling on lots 1-13 Block 1, and 1500 for all other lots, and not less than 2000 square feet on the above grade floors of a two-story or split-level dwelling so long as there is at least a 3 car garage. All 3-car garages are to have either 3 single 9 foot doors or one single 9 foot door and one double 16' or greater door.
It is further required that each home have a minimum of a two-car garage having an exterior width of not less than 24 feet attached to the home with two single garage doors of at least 9 feet in width each or one door of at least 18 feet in width. However, if homes are constructed with 2 car garages, then minimum square footage shall be increased by 150 square feet above grade, added to the minimum for a 3 car dwelling.
In the entire subdivision, garages may only be used for the storage of automobiles or other personal property and may not be converted to living area unless a new garage is built at the same time of garage conversion and is approved by both the architectural review committee and the City.
24. **PARK STRIP.** Homeowners are responsible for the maintenance of the "Park Strip" between the curb and the sidewalk, and are to plant, care for and maintain three (3) trees per street frontage area evenly spaced in the park strip. These trees are to be of the species Little Leaf Linden, (*Tilia cordata*). Trees will be planted within the first growing season possible following completion of construction of the home on any given lot. This "Park Strip" is to be specifically covered with grass.

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25. **TREE PLANTINGS.** Certain species of trees will not be allowed in this subdivision. These include Siberian Elm (*Ulmus pumila*), American Elm (*Ulmus americana*), Russian Olive (*Eleagnus Spp.*), all cottonwood and poplar species (*Populus spp.*), except Quaking Aspen (*P. tremuloides*). Trees are not to exceed 40 ft. in height. At the time any tree exceeds this height of 40 feet, it must be trimmed or removed. Attached is a list of recommended species to be used.
26. **LANDSCAPE & FENCES.** All yards shall be landscaped in a professional like manner and appearance, with fencing permitted only in the back and side yards with no fencing closer than 25 feet from the front property line. Landscaping shall match other landscaping within subdivision. Landscaping shall be installed no later than the beginning of the first growing season after the completion of home construction. All fences shall comply with the city ordinance. No wire netting, chicken wire, barbed wire or chain link fences will be allowed. Any fencing will be of wood, masonry, vinyl, or similar materials and maintained in an attractive manner.
29. **REMEDIES.** These covenants and restrictions are to run with the land and it shall be lawful for any other person or persons owning any other lot in said development, or subdivision, including the Developer, to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate such covenants or restrictions and either to prevent him or them from so doing to recover damages or other dues for such violations, but the Developer shall not be liable for damages of any kind to any person for failing either to enforce or carry out any of these Restrictions. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

ARTICLE II

UNINCORPORATED NONPROFIT HOMEOWNER'S ASSOCIATION

- 2.01 **Creation of Association.** Unless and until Grantor conveys by written deed, ownership to each and every unit of the Property there shall be no Association, and all authority, decisions, assessments, restrictions and/or powers reserved to the Association herein shall be held, maintained and administered solely by Grantor. All restrictions, limitations and/or conditions described herein shall be in full force and effect regardless of whether Grantor has conveyed by written deed, the ownership to each and every unit of the Property. Upon the conveyance by the Grantor of all the units, the Trail Creek Homeowner's Association, as defined above, shall be created pursuant to Idaho Code 53-701 et seq., and/or the then existing Uniform Unincorporated Nonprofit Association Act as adopted by the State of Idaho. Membership of the Association shall be as defined Article I, Clause 1.04 above.
- 2.02 **Officers of the Association.** Upon the creation of the Trail Creek Homeowner's Association as set forth above, the then existing members shall elect by majority vote the following officers/persons who are authorized to manage the affairs of the Association by the majority vote of the members: (1) a President; (2) a Secretary; (3) a Treasurer; and (4)

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an Agent, who shall be named by appointment in a formal statement which shall be filed with the Idaho Secretary of State's Office pursuant to Idaho Code 53-710. In the event of the death, incapacity or resignation of the above named officers and/or Agent, the remaining members shall have full authority to designate successor officers and/or an Agent pursuant to Idaho Code 3-710(3). Unless altered by the majority vote of the members, officers of the Association shall perform the duties of their office for a period of two years, at which time new officers shall be elected by a majority vote of the members at the annual meeting of the Association which shall be held at the same time and place each year as designated by the Grantor. The responsibilities of the officers will be as follows:

- A. **President.** The President of the Association shall be responsible for the carrying out the terms, conditions, requirements, limitations, restrictions and covenants that exist upon the creation of the Association and/or that are approved and/or are modified at any time by the members of the Association;
- B. **Secretary.** The Secretary of the Association shall be responsible for maintaining the records of the Association including minutes of meeting, notices, mailings, and any other record that arise due to the operation of the Association;
- C. **Treasurer.** The Treasurer of the Association shall be responsible for the collection of the monthly accounts held by the Association and for any payments made by the Association to third persons as designated by the President of the Association;
- D. **Agent.** The Agent of the Association shall be responsible for receiving service on behalf of the Association from third persons as set forth in Idaho Code 53-710.

2.03 Voting within the Association. Once Grantor has conveyed by written deed, ownership to each and every unit of the Property, which shall create said Association, all Association business, decisions, restrictions, authority and powers shall be determined by the majority vote of the members as follows: there shall be allowed one (1) vote for each unit owned. Should a husband and wife, or any other type, kind or degree of co-ownership of a unit exist, said husband and wife or other co-owners shall be constituted as one member in the Association.

2.04 Deadlock. In the event the Members are equally divided in their vote on the basis of any aspect of the management of the Association and/or the Property, business and/or affairs of the Association, and the deadlock is preventing action or one-action by the Association, then the Association may submit the deadlock to be decided by the President of the Association.

2.05 Purposes of the Association. The purposes of the creating the Association are as follows:

- (1) to provide for the maintenance, repair and upkeep of the common areas by creating and collecting a general Annual assessment together with collecting any special assessments as are necessary from the members to pay for the expenses of the common areas of the Property, which may include but are not limited to storm water retention ponds, retention walls, private roadways and/or streets, walkways, mailboxes, park areas, grassy areas and/or any and all other common areas associated or created with respect to the Property and/or for any other legal purpose,
 - a. the amount of the regular annual assessment will be determined by Grantor, will be reflected in the buy/sell agreement for each lot, and will be subject to the review annually by the Grantor or the Association, once it is active, for purposes

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- of determining increases and/or decreases;
 - b. all other assessments will be determined by the Grantor or the President of the Association;
 - c. each assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the owner(s) of the unit assessed, and shall constitute a lien and charge upon the unit;
 - d. in the event the Association is required to file any Notice of Lien or lawsuit, legal proceeding, administrative proceeding or the like against any member to collect any assessment and/or to enforce compliance with any other provision of this Declaration, all the legal fees, costs, expenses and interest associated with the said action shall likewise constitute a separate, distinct and personal debt and obligation of the owner(s) and shall become a lien on the lot assessed pursuant to applicable Idaho law;
- (2) to manage the Property by the majority vote of the members;
 - (3) to maintain the common areas, and enforce compliance with the covenants, conditions, limitations, restrictions and equitable servitudes of the Property as contained herein including the collection of any and all Association Fees that are due and owing by any member; the enforcement of compliance with this Declaration shall be accomplished by any and all legal means available to the Association including but not limited to recording of a Notice of Lien, filing of legal suit or action, and/or the like; and
 - (4) to provide a fair and equitable means of allowing the members to collectively resolve any and all issues or disputes not contemplated by the Grantor with regard to the Property. The Association shall have all rights and abilities to enforce the terms and conditions contained in this Declaration.

3.06 Non-Liability of Officers, the Agent and/or Members of the Association. Neither the Officers, nor the Agent nor any member of the Association thereof shall be liable to any unit owner for any loss, damage or injury arising out of or in any way connected with the performance of the Association hereunder, unless due to the negligence, willful misconduct or bad faith of said persons.

3.07 Reservations to the Grantor/Association. The Grantor hereby reserves to itself an easement on each residential lot on the Property and/or associated with the Property or the Association for the installation and maintenance of any and all utilities and drainage facilities or the like. Said easement may or may not be identified on the recorded plat. After the creation of the Association, the easement created and described herein in favor of the Grantor shall pass by assignment and succession from Grantor to the Association.

3.08 Association Fees. At all times while Grantor maintains the Association as set forth herein, and at all times thereafter, the Association Fee for each and every unit, unless changed by an amendment to this Declaration, shall be \$75 annually. This \$75 annual assessment is due and owing by each unit owner in an annual payment on or before the 15th of March. Said payments are to be made payable to TRAIL CREEK ESTATES ADDITION 2 HOMEOWNERS ASSOCIATION and mailed to the following address: **“Five Star Property Management, LLC”, 1505 E. Center St, Pocatello, ID 83201.** Furthermore, if at any time a unit is sold, conveyed or transferred in any way, a \$150 exchange fee shall be assessed by the Grantor and/or the Association to the members(s) obtaining said unit.

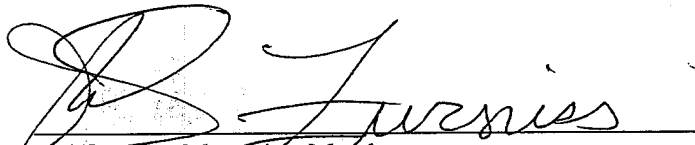
- (1) If at any time a member of the Association fails to make a regular semi-annual payment,

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or the exchange fee described more fully above, a monthly late fee of \$15.00 shall accrue on each unpaid assessment for each and every month said assessment goes unpaid.

- (2) If after 90 days a member's unpaid assessments together with all late fees are not paid the Grantor and/or the Association shall cause a lien is filed for the amount that is unpaid and shall charge the member against whom the lien is filed a filing fees and attorney expenses.
- (3) Grantor reserves the right to increase or decrease the Association Fees, late fees at any time by written notice to all existing members and by recording of an Addendum to this Declaration. The failure of any member to pay these fees shall also result in the Association's collection of these fees as outlined herein. The Grantor's and/or Association's failure to timely exercise any rights provided by this Declaration shall not constitute a waive of those rights.

IN WITNESS WHEREOF, the undersigned have executed this DECLARATION This
14 day of August, 2019.

McCORMICK RANCH, LLC


Red Furniss, Managing Member

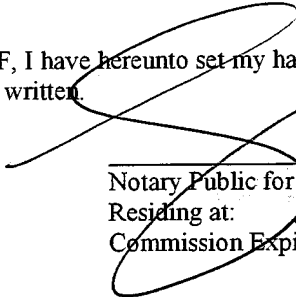
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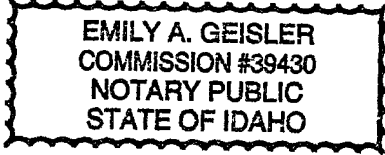
State of ID } ss
County of Bannock }

On this 14 day of AUGUST, in the year 2019 before me, EMILY A. GEISLER
a Notary Public in and for said state, personally appeared ROD FURNISS known or identified to me to be
the Managing Member in the Limited Liability Company known as McCORMICK RANCH, LLC who
executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC
name.

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



Notary Public for the State of ID
Residing at: Pocatello
Commission Expires: 01-29-21



RECORDED BY
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE 37 DEPUTY DR

McCormick Ranch

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