

RECEIVED

DEC 28 2015

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Mobley LLC Phone 208-863-8348
 Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address 120 Mobley Dr City Boise

State ID Zip 83712 Email elb@keynetics.com

2. Source of water supply Ground Water which is a tributary of _____

3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
3N	4W	13			NW	SW	Canyon	Ground Water	existing
3N	4W	13			NW	SW	Canyon	Ground Water	proposed

4. Water will be used for the following purposes:

Amount 0.27 cfs for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 0.27 cfs cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. 1 existing and 1 proposed well, pressurized irrigation system

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No

c. Proposed well diameter is 8 inches; proposed depth of well is 500 feet.; 6 inches & 390 feet (existing)

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No

e. If well is already drilled, when? 6/17/2008; drilling firm Knie Pump & Drilling; well was drilled for (well owner) Mohammed Ali Mohammadi; Drilling Permit No. D0053009

7. Description of proposed uses (if irrigation only, go to item 8): (well report attached)

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; complete and attach the [Municipal Water Right Application Checklist](#).

d. Domestic; show number of households _____

e. Other; describe fully. _____

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	4W	13										13.7							13.7

Total number of acres to be irrigated: 13.7

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

None

10. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

Propose ground water diversion from an existing and possible future well for use in a pressurized irrigation system to supply irrigation the Shiraz Point Subdivision, including common areas and individual lots. Proposed flow rate and total acres accounts for irrigation of 3.8 acres common area and 9.9 acres of residential area (estimated at 70% of total residential lot area). Potable domestic water will be provided from private wells.

Water bearing zone to be appropriated is from 100 to 500 feet.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Eileen Langan Barber
Signature of Applicant

Signature of Applicant

Eileen Langan Barber, Manager
Print Name (and title, if applicable)

Print Name (and title, if applicable)

Received by DM Date 12/28/15 Time 11:45 Preliminary check by DM
Fee \$ 250⁰⁰ Received by DM Receipt No. W043769 Date 12/28/15

IDAHO DEPARTMENT OF WATER RESOURCES WELL DRILLER'S REPORT

851129

1. WELL TAG NO. D 0053009

Drilling Permit No. PO Box 1958

Water right or injection well # _____

2. OWNER: Mohammad Ali Mohammad

Name Mohammad Ali

Address Chicken Dinner Road No. 444

City Caldwell State Id Zip 83607

3. WELL LOCATION:

Twp. 3 North ☒ or South ☐ Rge. 4 East ☐ or West ☒

Sec. 13 1/4 NE 1/4 SE 1/4

Gov't Lot _____ County Canyon

Lat. _____ (Deg. and Decimal minutes)

Long. _____ (Deg. and Decimal minutes)

Address of Well Site Off of Hwy 55 on 15500

Chicken Dinner Road City Caldwell

Lot 13 Blk. NO Sub. Name Shiraz Point

4. USE:

☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation ☐ Thermal ☐ Injection

☐ Other _____

5. TYPE OF WORK:

☒ New well ☐ Replacement well ☐ Modify existing well

☐ Abandonment ☐ Other _____

6. DRILL METHOD:

☒ Air Rotary ☐ Mud Rotary ☐ Cable ☐ Other _____

7. SEALING PROCEDURES:

Seal material	From (ft)	To (ft)	Quantity (lbs or ft)	Placement method/procedure
Burnt night	0	20	600 lbs	10" over bore

8. CASING/LINER:

Diameter (nominal)	From (ft)	To (ft)	Gauge/Schedule	Material	Casing Liner	Threaded	Welded
6" +3	345	250		Steel	☒	☐	☒
5"	330	350	188	Steel	☐	☒	☒

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 345

9. PERFORATIONS/SCREENS:

Perforations ☐ Y ☒ N Method _____

Manufactured screen ☒ Y ☐ N Type Johnson

Method of installation pull back

From (ft)	To (ft)	Slot size	Number/ft	Diameter (nominal)	Material	Gauge or schedule
350	390	12"		5	SS	40

Length of Headpipe 20 Length of Tailpipe -0-

Packer ☒ Y ☐ N Type K

10. FILTER PACK:

Filter Material	From (ft)	To (ft)	Quantity (lbs or ft)	Placement method
X	X	X	X	X

11. FLOWING ARTESIAN:

Flowing Artesian? ☐ Y ☒ N Artesian Pressure (PSIG) _____

Describe control device well cap

12. STATIC WATER LEVEL and WELL TESTS:

Depth first water encountered (ft) 120 Static water level (ft) 70'

Water temp. (°F) X Bottom hole temp. (°F) 70°

Describe access port X

Well test:	Test method:
Drawdown (feet)	Pump ☒ Bailer ☐ Air ☐ Flowing artesian ☐
Discharge or yield (gpm)	
Test duration (minutes)	
<u>50</u>	<u>60</u>

Water quality test or comments: Softer Smell

13. LITHOLOGIC LOG and/or repairs or abandonment:

Bore Dia. (in)	From (ft)	To (ft)	Remarks, lithology or description of repairs or abandonment, water temp.	Water Y	N
10	0	8	Top Soil		
10	8	20	Dry Gravel RECEIVED		
6	20	38	= = JUN 27 2008		
6	38	83	Clay WATER RESOURCES WESTERN REGION		
6	83	100	Brown Sand		
6	100	120	Clay		
6	120	139	Sand + Clay Strips ✓		
6	139	145	Clay ✓		
6	145	168	Sand + Clay Strips ✓		
6	168	202	Clay ✓		
	202	215	Fine Sand ✓		
	215	220	Clay ✓		
	220	245	Blue clay ✓		
	245	310	Light Blue clay ✓		
	310	318	Sand ✓		
	318	325	Clay Blue		
	325	333	Sand ✓		
	333	345	Light Blue Clay		
	345	350	Sand		
	350	357	Sand Small Gravel. hard ✓		
	357	370	Sand + Clay		
	370	400	Shale		
	400	420	Sand Fine 390 ✓		
Completed Depth (Measurable):					

Date Started: 5-3-08 Date Completed: 6-17-08

14. DRILLER'S CERTIFICATION:

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name Kate Pump Drilling Co. No. 417

*Principal Driller Bob Kue Date 6-26-08

*Driller Mike Kue Date _____

*Operator II _____ Date _____

Operator I _____ Date _____

* Signature of Principal Driller and rig operator are required.

Neely, Rachel

From: Neely, Rachel
Sent: Friday, April 01, 2016 9:24 AM
To: 'IDAHO PRESS TRIBUNE'
Subject: Canyon Legal Ads
Attachments: Canyon Cover Letter.docx; Canyon Legal Ad.docx

Good Morning Legal Clerk,

Please see the attached ads for publication on 4/7/2016 & 4/14/2016.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

March 31, 2016

LEGAL NOTICE DEPARTMENT
PRESS TRIBUNE
PO BOX 9399
NAMPA, ID 83652

RE: Application for Permit No. 63-34148
 Application for Permit No. 63-34171
 Application for Permit No. 63-34184
 Application for Permit No. 63-34188

Dear Legal Notice Department:

Please publish the enclosed legal notices on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notices on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 4/25/2016. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34148

MIKE SKOGSBERG
DIAMOND S FARMS LLC
23460 STAFFORD RD
CALDWELL, ID 83607

Points of Diversion SWSE SESE S1 T04N R04W CANYON County Source UNNAMED DRAIN Tributary BOISE RIVER

Use: WILDLIFE 11/16 to 02/28 1 CFS

Total Diversion: 1 CFS

Date Filed: 9/17/2015

Place of Use: WILDLIFE

T04N R04W S1 L2(NESW) L1(SESW) SWSE

63-34171

VALLIVUE SCHOOL DISTRICT #139
5207 S MONTANA AVE
CALDWELL, ID 83607

Point of Diversion NWSE S30 T04N R02W CANYON County Source GROUND WATER

Use: IRRIGATION 03/01 to 11/15 0.72 CFS

Total Diversion: 0.72 CFS

Date Filed: 11/27/2015

Place of Use: IRRIGATION

T04N R02W S30 NWSE

TOTAL ACRES: 19

Water bearing zone to be appropriated is from 50 to 200 feet.

Irrigation of 12 acres will occur within a 19 acre permissible place of use.

63-34184

MOBLEY LLC
120 MOBLEY DR
BOISE, ID 83712

(2)Points of Diversion NWSW S13 T03N R04W CANYON County Source GROUND WATER

Use: IRRIGATION 03/01 to 11/15 0.27 CFS

Total Diversion: 0.27 CFS

Date Filed: 12/28/2015

Place of Use: IRRIGATION

T03N R04W S13 NWSW

Total Acres: 14

Water bearing zone to be appropriated is from 100 to 500 feet.

Application is for irrigation within Shiraz Point Subdivision.

63-34188

GAYLE MANUFACTURING CO
80 N KINGS RD
NAMPA, ID 83687

Point of Diversion NESW S24 T04N R04W CANYON County Source GROUND WATER

Use: FIRE PROTECTION 01/01 to 12/31 0.5 CFS

Total Diversion: 0.5 CFS

Date Filed: 1/21/2016

Place of Use: FIRE PROTECTION

T04N R04W S24 NESW

Water bearing zone to be appropriated is from 100 to 150 feet.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 4/25/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 4/7/2016 and 4/14/2016



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

March 31, 2016

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

MOBLEY LLC
120 MOBLEY DR
BOISE, ID 83712

Application for Permit No. 63-34184

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the PRESS TRIBUNE on 4/7/2016 and 4/14/2016. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Rachel Neely', with a long horizontal line extending to the right.

Rachel Neely
Administrative Assistant

CC:
SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE, ID 83706

Merriman, Danielle

From: Lori Graves [LGraves@spfwater.com]
Sent: Monday, March 21, 2016 11:15 AM
To: Merriman, Danielle
Cc: Eileen Barber; Jason Thompson
Subject: RE: Application for Permit 63-34184
Attachments: 2015-08-17 Shiraz Pointe Subdivision A&R CC&Rs.pdf; SHIRAZ POINTE HOA, INC. _ ID Articles of Incorporation (FILED).pdf

Danie,

Just heard back from the client. She sent me the attached Shiraz Pointe CCRs and an HOA docs. The homeowners' class A membership does not go into effect until 13 of the 14 lots sell or the year 2025 (whichever comes first). She and the on-site developer/builder will be meeting with the three new homeowners to go over water right issues and pond plans. They have been keeping the three lot owners informed of the irrigation application process.

Please let me know if you have additional questions.

Regards,
Lori

From: Merriman, Danielle [<mailto:Danielle.Merriman@idwr.idaho.gov>]
Sent: Tuesday, March 15, 2016 10:22 AM
To: Lori Graves <LGraves@spfwater.com>
Subject: Application for Permit 63-34184

Good Morning Lori,

I am processing an Application for Permit that you submitted on behalf of Mobley LLC and have a question regarding the land ownership. In section 10b of the application form, Mobley LLC states that they own the land to be irrigated. Based on Canyon County tax lot data from 3/8/16, there are at least three lots within the described POU that are owned by others (Steinmeyer, Frost, and Felles.) What is the arrangement that Mobley LLC has with these lot owners that enables them to make this filing? Is there a CCR or some other document that could be submitted that shows that Mobley has permission to provide irrigation water?

Thanks much!

Danie Merriman
Water Resource Agent
Idaho Department of Water Resources
Phone: (208) 334-2190
Fax: (208) 334-2348
Email: danie.merriman@idwr.idaho.gov

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MAR 21 2016

WATER RESOURCES
WESTERN REGION

FILED EFFECTIVE

ARTICLES OF INCORPORATION
OF
SHIRAZ POINTE HOA, INC.

2015 DEC -3 AM 9:37

SECRETARY OF STATE
STATE OF IDAHO

The undersigned, acting as incorporator of a corporation under the Idaho Nonprofit Corporation Act (as amended, the "Act"), adopts the following Articles of Incorporation for such corporation.

ARTICLE I.

NAME

The name of the corporation is Shiraz Pointe HOA, Inc. (hereinafter referred to as the "Association").

ARTICLE II.

PERIOD OF DURATION

The period of its duration shall be perpetual.

ARTICLE III.

PURPOSE

The Association is organized exclusively for charitable, scientific, literary or educational purposes within the meaning of and pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (or under the corresponding provision of any future United States Internal Revenue law). References in these Articles of Incorporation to the "Code" shall be to the Internal Revenue Code of 1986, as amended from time to time.

IDAHO SECRETARY OF STATE

12/03/2015 05:00

CK:PREPAID CT:2105 BH:1502710

1@ 30.00 = 30.00 INC NONP #2

1@ 20.00 = 20.00 NON EXPEDI #3

C207941

ARTICLE IV.

POWERS

The Association shall have all powers provided for nonprofit corporations under the Act.

ARTICLE V.

LIMITATIONS

A. No part of the income or net earnings of the Association shall inure to the benefit of, or be distributable to, any director or officer of the Association or any other private individual (except that reasonable compensation may be paid for services rendered to or for the Association affecting one or more of its purposes, and reimbursement may be made for any expenses incurred for the Association by any officer, director, agent or employee, or any other person or corporation, pursuant to and upon authorization of the Board of Directors); and provided further that no director or officer of the Association, or any other private individual shall be entitled to share in any distribution of any of the corporate assets on dissolution of the Association or otherwise. No substantial part of the activities of the Association shall consist of carrying on propaganda or otherwise attempting to influence legislation, except as otherwise provided in section 501(h) of the Code. The Association shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of, or in opposition to, any candidate for public office.

B. No part of the assets of the Association shall inure to the benefit of or be distributable to any organization whose income or net earnings or any part thereof inure to the benefit of any private shareholder or other individual or any substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation.

C. Upon dissolution of the Association, all of its assets shall be paid over to organizations organized and operated exclusively for charitable or educational purposes and recognized by the Internal Revenue Service as exempt from federal income tax under Section 501(c)(3) of the Code, as the Board of Directors shall determine. Any assets not so disposed shall be disposed of by a court of general jurisdiction in Ada County, Idaho.

D. Notwithstanding any other provision hereof, the Association shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization which is tax-exempt under the provisions of section 501(c)(3) of the Code.

E. Notwithstanding any other provision of these Articles, during any period that the Association is a "private foundation" within the meaning of section 509 of the Code, the Association shall be required to distribute its income for each taxable year of the Association at such time and in such manner as not to subject the Association to tax under section 4942 of the Code; and the Association shall be prohibited from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings in violation of the provisions of section 4943(c) of the Code, from making any investments in such manner as to subject the Association to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code.

ARTICLE VI.

MEMBERS

The members of the Association shall be all of the owners of lots in the Shiraz Pointe Subdivision (the "Project"), as such owners are shown on the records of the County Recorder of Canyon County, State of Idaho. The term "owner" shall not include any mortgagee, trustee, or beneficiary under any mortgage, trust deed, or other security instrument by which a lot or any

part thereof is encumbered (unless such mortgagee, trustee, or beneficiary has acquired title for other than security purposes). If record ownership of a lot in the Project is jointly held, the membership appertaining to such Lot shall also be jointly held. Membership in the Association shall be mandatory and not optional. Each membership in the Association shall be appurtenant to and shall not be separated from the lot to which it relates. No person or entity other than an owner of a lot in the Project may be a member of the Association.

ARTICLE VII.

VOTING RIGHTS

The classes of membership and related voting rights are set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Shiraz Pointe Subdivision dated August 17, 2015, and recorded in the official records of Canyon County, State of Idaho, on August 17, 2015, as Instrument No. 2015-031550. If a membership is jointly held, any or all holders thereof may attend any meeting of the members, but such holders must act unanimously to cast the votes relating to their joint membership. Any designation of a proxy to act for joint holders of a membership must be signed by all such holders as set forth in the Bylaws.

ARTICLE VIII.

BOARD OF DIRECTORS

All business affairs of the Association shall be conducted by its Board of Directors. The number of directors serving on the Board of Directors shall be fixed in accordance with the Association's Bylaws, which number shall be at least three (3) and no more than five (5). The Directors shall be elected at the annual meeting of the Members in the manner provided for in the Bylaws of the Association. Directors may be removed and vacancies of the Board of Directors

shall be filled in the manner to be provided in the Bylaws of the Association. Directors may, but need not be, Members of the Association. The names and addresses of the persons who are to serve as the initial Directors of the Association are:

<u>Name</u>	<u>Address</u>
1. Eileen L. Barber	120 Mobley Drive, Boise, Idaho, 83712
2. Janine Greene	14395 W. Woodspring Dr., Boise, Idaho, 83713
3. John Cotner	P.O. Box 785, Meridian, Idaho, 83680

ARTICLE IX.

MANAGER

The Board of Directors may by written contract delegate to a professional management organization or individual such of its managerial duties, responsibilities, functions, and powers as are properly delegable, as more particularly set forth in the Bylaws.

ARTICLE X.

OFFICERS

The Board of Directors may appoint a President, one or more Vice Presidents, a Secretary, a Treasurer and such other officers as the Board of Directors believes will be in the best interest of the Association. As provided in the Bylaws, any two or more offices may be held by the same Person, except the offices of President and Secretary. These officers shall have such duties as may be prescribed in the Bylaws of the Association and shall serve at the pleasure of the Board of Directors.

ARTICLE XI.

REGISTERED OFFICE

The address of the initial registered office of the Association is 120 Mobley Drive, Boise, Idaho, 83712, and the name of its initial registered agent at such address is Eileen L. Barber.

ARTICLE XII.

INCORPORATOR

The name and address of the incorporator is:

Name	Address
Eileen L. Barber	120 Mobley Drive, Boise, Idaho, 83712

ARTICLE XIII.

PRINCIPAL OFFICE

The address of the principal office of the Association is 120 Mobley Drive, Boise, Idaho, 83712.

ARTICLE XIV.

AMENDMENT

These Articles of Incorporation may only be amended by vote of at least a majority of the Association's Directors.

ARTICLE XV.

TAXABLE YEAR

The taxable year of the Association shall be determined by the Association's Directors.

ARTICLE XVI.

BYLAWS

Provisions for the regulation of the internal affairs of the Association shall be set forth in the Association's Bylaws.

ARTICLE XVII.

LIMITATION OF LIABILITY

There shall be no personal liability, either direct or indirect, of any director of the Association to the Association for monetary damages for any breach or breaches of fiduciary duty as a director; except that this provision shall not eliminate the liability of a director to the Association for monetary damages for any breach, act, omission or transaction as to which the Act (as in effect from time to time) prohibits expressly the elimination of liability. This provision is effective on the date of the Association's incorporation. This provision shall not limit the rights of directors of the Association for indemnification or other assistance from the Association. Any repeal or modification of the foregoing provisions of this Article by the members of the Association or the elimination of liability of directors by this Article, shall not affect adversely any elimination of liability, right or protection of a director of the Association with respect to any breach, act, omission, or transaction of such director occurring prior to the time of such repeal or modification.

IN WITNESS WHEREOF, I have subscribed these Articles of Incorporation this 2nd day of December, 2015.



Eileen L. Barber, Incorporator

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MAR 21 2016

WATER RESOURCES
WESTERN REGION

2015-031550	
RECORDED	
08/17/2015 03:43 PM	
CHRIS YAMAMOTO	
CANYON COUNTY RECORDER	
Pgs=25 EHOWELL	\$82.00
TYPE: MISC	
HOLLAND & HART - BOISE	
ELECTRONICALLY RECORDED	

Space for recorder's use

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR SHIRAZ POINTE SUBDIVISION**

THIS AMENDED AND RESTATED DECLARATION (the "**Declaration**") is made effective the date it is recorded in the official records of Canyon County, Idaho (the "**Effective Date**") by Mobley, LLC, an Idaho limited liability company (the "**Declarant**").

RECITALS

A. Declarant is the owner of certain real property in the County of Canyon, State of Idaho, commonly known as Shiraz Pointe Subdivision (herein referred to as the "**Property**" or "**Shiraz Pointe Subdivision**") and more particularly described as follows:

Lots 1 through 11, inclusive, Block 1, and Lots 14 through 17, inclusive, Block 1, of Shiraz Pointe Subdivision, according to the Official Plat thereof, recorded June 6, 2008, as Instrument No. 2008030937, official records of Canyon County, Idaho, and

Lots 12, 13, and 18, Block 1, of Shiraz Pointe Subdivision, according to the Replat thereof, recorded November 4, 2011, as Instrument No. 2011043685, official records of Canyon County, Idaho.

A metes and bounds legal description is attached hereto as Exhibit A.

B. Declarant recorded the original Declaration of Covenants, Conditions, and Restrictions for Shiraz Pointe Subdivision on August 13, 2015 as Instrument No. 2015-031126 (the "**Original Declaration**"). Declarant now desires to amend, restate and replace the Original Declaration in its entirety, on the terms and conditions provided below.

C. Shiraz Pointe Subdivision shall be used for the construction and development of single-family residential property and common area. Any development plans for the Property in existence prior to or following the Effective Date of this Declaration are subject to change at any time by Declarant, in Declarant's sole discretion, and impose no obligations on Declarant as to how the Property is to be developed or improved. Any purchaser of a Building Lot, by

acceptance of a deed therefor, acknowledges that said Building Lot is subject to currently enacted zoning and subdivision ordinances and regulations and such other governmental ordinances and regulations and approvals hereunder as may be in effect or as may from time to time be imposed.

D. Declarant desires to place covenants, conditions, and restrictions on the property to protect value, attractiveness, compatibility, and conformity of the use of the various lots and common areas, and to guarantee the maintenance of the Common Area and improvements located thereon in a cost-effective and administratively efficient manner.

DECLARATION

NOW THEREFORE, for and in consideration of the foregoing recitals, which are hereby incorporated into this Declaration, in furtherance of such intent, Declarant hereby declares that all of said Property is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to and upon the easements, conditions, covenants, restrictions, and reservations hereinafter set forth, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, improvement and sale thereof, and to enhance the value, desirability, and attractiveness thereof. The easements, covenants, restrictions, conditions, and reservations herein shall run with the land, and with each estate therein, and shall be binding upon all Persons having or acquiring any right, title or interest in the Property or any Building Lot, parcel or portion thereof; shall inure to the benefit of and be binding upon Declarant, Declarant's successors in interest, each Owner, and each Owner's successors in interest; and, subject to the terms and conditions hereof, may be enforced by Declarant, Declarant's successors in interest, any Owner, any such Owner's successors in interest, or by the Association.

Notwithstanding the foregoing, until one hundred percent (100%) of all the Building Lots in the Property are transferred by Declarant, no provision of this Declaration shall be construed so as to prevent or limit Declarant's right to complete development of the Property, nor Declarant's right to maintain model homes, construction, sales or leasing offices or similar facilities (temporary or otherwise) on any portion thereof, including any Common Area or any public right-of-way, nor Declarant's right to post signs incidental to construction, sales or leasing, nor Declarant's right to modify plans for the Property.

ARTICLE ONE

Definitions

1.1 "Architectural Control Committee" or "ACC" shall mean and refer to a designated association of not less than one and not more than three individuals whose primary function is to review and approve or disapprove all construction plans submitted by a Building Lot Owner before construction commences, and to enforce the construction standards as required by the ACC and this Declaration.

1.2 "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Association.

1.3 **"Association"** shall mean and refer to Shiraz Pointe HOA, Inc., which shall be formed as an Idaho non-profit corporation, its successors and assigns.

1.4 **"Building Lot"** shall mean and refer to any plot of land shown upon the recorded subdivision plat and replat of Shiraz Pointe Subdivision.

1.5 **"Bylaws"** shall mean the Bylaws of the Association.

1.6 **"Declarant"** shall mean and refer to Mobley, LLC, an Idaho limited liability company, its successors and assigns.

1.7 **"Declaration"** shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Shiraz Pointe Subdivision.

1.8 **"Common Area"** or **"Common Area lot"** shall mean and refer to those lots or areas (including improvements thereon) owned by the Association for the common use, enjoyment, or benefit of all Members of the Association. Common Areas in Shiraz Pointe Subdivision are more particularly described in Article 7 to this Declaration.

1.9 **"Limited Assessment"** shall mean a charge against a particular Owner and such Owner's Building Lot, directly attributable to the Owner, equal to the cost incurred by Declarant or the Association, as the case may be, for corrective action performed pursuant to the provisions of this Declaration including, without limitation, damage to any Common Area or the failure of an Owner to keep such Owner's Building Lot and/or structure and/or improvements in proper repair, and including interest thereon as provided in this Declaration.

1.10 **"Member(s)"** shall mean and refer to every person or entity that holds membership in the Association as a result of being an Owner of a Building Lot in the Subdivision, other than a Common Area lot. The Association shall have **"Class Members"** and a **"Class B Member"** as more particularly identified in Article 4. Declarant is the only Class B Member.

1.11 **"Mortgage"** shall mean and refer to any mortgage or deed of trust securing an obligation by an Owner. **"Mortgagee"** shall mean and refer to the mortgagee under a mortgage or the beneficiary under a deed of trust, and **"mortgagor"** shall mean and refer to the mortgagor of a mortgage or the grantor of a deed of trust.

1.12 **"Original Declaration"** shall mean that certain Declaration of Covenants, Conditions, and Restrictions for Shiraz Pointe Subdivision on August 13, 2015 as Instrument No. 2015-031126.

1.13 **"Owner"** shall mean and refer to the person, persons or entity who holds record fee simple title to any platted lot in the Subdivision, and shall include those persons purchasing such a lot on contract from the record title holder. **"Owner"** does not include a mortgagee.

1.14 **"Person"** means any individual, partnership, corporation or other legal entity.

1.15 **"Plat"** shall mean and refer to, collectively, the recorded Plat of Shiraz Pointe Subdivision, recorded on June 6, 2008, as Instrument No. 2008030937, official records of

Canyon County, Idaho, and the Replat of Shiraz Pointe Subdivision, recorded on November 4, 2011, as Instrument No. 2011043685, official records of Canyon County, Idaho.

1.16 **“Regular Assessment”** shall mean the pro rata cost of maintaining, improving, repairing, managing and operating the Common Area and all improvements located thereon, and other costs of the Association which are levied against each Building Lot and paid to the Association by each Owner, pursuant to the terms of this Declaration.

1.17 **“Setback”** shall mean and refer to those minimum distances from established lot boundary lines on the Plat and/or from streets/roads in the Subdivision to those points within a Building Lot where an Owner intends to construct a residence or outbuilding. Setback requirements include those stated in the Plat, from this Declaration or from the requirements of Canyon County, Idaho zoning and building codes.

1.18 **“Special Assessment”** shall mean that portion of the cost of the capital improvements or replacements, equipment purchase and/or shortages in the Regular Assessment, which are authorized to be paid to the Association by the Owners pursuant to the provisions of this Declaration.

1.19 **“Subdivision”** shall mean and refer to Shiraz Pointe Subdivision according to, collectively, the Official Plat thereof, recorded on June 6, 2008, as Instrument No. 2008030937, official records of Canyon County, Idaho, and the Replat of Shiraz Pointe Subdivision, recorded on November 4, 2011, as Instrument No. 2011043685, official records of Canyon County, Idaho.

ARTICLE TWO

General Development and Use Restrictions

2.1 **In General.** The restrictions set forth herein are intended to be an initial guide for Owners in submitting plans for approval. Compliance with this Article 2 does not guarantee that the ACC will approve submitted designs in accordance with the process in Article 6 herein and the ACC is free to consider any other criteria, in its sole discretion, in considering whether to approve or disapprove submitted plans.

2.2 **Land Use – Residential.** Each Building Lot in Shiraz Pointe Subdivision, other than a Common Area lot, shall be used solely for residential purposes and shall not be used for any commercial purposes, including the conduct of trade, business, or professional activities, except that:

a. A Building Lot Owner may conduct limited business activities through a “home office,” providing that those business activities are conducted through telephonic and mail communications, and that the Owner does not hire employees or contractors to work in the residence, and that there is no visual business appearance on the Building Lot, and further providing that such business activities are not otherwise prohibited by the laws of the State of Idaho, and of Canyon County, Idaho.

b. The construction trades shall be permitted to construct or use temporary facilities used solely for the purpose of aiding in the construction of a residence or authorized improvement on a Building Lot, providing further than all such temporary facilities will be

removed after the construction is complete. No temporary structure shall be used as a residence at any time, including during the completion of the Owner's residence on the Building Lot.

2.3 Residence and Improvements Construction Generally. Each Owner, including any contractor, builder, or agent for an Owner, intending to construct a residence or authorized improvement on a Building Lot, shall do so only if all of the following conditions have been met:

a. The Building Lot Owner, or the contractor, builder or agent acting on behalf of the Owner, shall first submit all necessary grading plans and construction drawings and architecture building drawings for approval by the ACC. The Owner shall not commence the intended construction until he or she has received written approval from the ACC, according to the provisions of Article 6 of this Declaration.

b. Each residence constructed on a Building Lot in Shiraz Pointe Subdivision shall be a "single-family" dwelling as defined by the Uniform Building Code or building codes applicable to Canyon County, and must contain a minimum of 2,300 square feet, excluding the square footage of any permitted garage or other authorized outbuilding. No manufactured, pre-fabricated (in whole or in part) or trailer homes shall be allowed.

c. A residence shall only be constructed if the Owner, including any contractor, builder, or agent acting on behalf of the Owner, has obtained both (i) a building permit from Canyon County and any other governmental agency with jurisdiction over residential construction on a Building Lot, and (ii) ACC approval.

d. All residential construction, including garages and outbuildings and all other residential accommodations, shall strictly follow all of the covenants, conditions, and restrictions in this Declaration, including all requirements established by the ACC as a part of its written approval.

2.4 Commencement and Completion of Construction. Construction of a residence on a Building Lot shall be commenced no later than one (1) year after the original purchase of the Building Lot from Declarant; provided, however, that the Owner shall have the option to extend this period for one (1) additional year on the prior written approval of the Declarant. Construction shall be diligently pursued after commencement and shall be completed, including all outbuildings, garages, exterior surfaces, and features, not later than one (1) year after commencing construction.

a. In the event that construction is not commenced within the timeframes set forth in Section 2.4 (i.e., one year or as extended to two years), then Declarant or its successor shall have the option, in its sole discretion, to repurchase the Building Lot at the price for which the Building Lot was originally purchased.

2.5 Residence and Improvements Construction Specifically. In order to obtain ACC approval of a proposed residence and each improvement on a Building Lot, the following architectural details shall be included in the Owner's plan submittal:

a. No residence shall exceed two (2) full stories in height above the principal ground level, but may include a basement plus two (2) additional stories; provided, however, that Lots 7,

8, 9, 11, 13 and 14 shall be restricted to one (1) story except if they are able to incorporate a basement.

b. Exterior wall surfaces shall primarily be natural materials, including naturally surfaced woods, rock or brick trim or wainscoting. A combination of stucco or other hard surfaced exterior siding materials may be used in conjunction with natural surface woods, rock, or brick materials. It shall be at the ACC's discretion to determine the aesthetic blend and amount of materials needed for architectural balance. All colors of siding and trim shall be natural earth tones. Roof shingles shall be 30-year or better Antique Black architectural grade asphalt shingles. Roof pitch and lines shall be consistent with the overall design theme and the height thereof shall be approved by the ACC. T-111 siding, metal, and vinyl siding materials shall not be permitted.

c. Outbuildings are permitted as follows:

(1) One (1) small outbuilding, such as a storage shed, boat house, RV storage, or similar structure, shall be allowed upon the submittal of details plans to and prior written approval of the ACC. No outbuilding shall be used as a residence at any time, either temporary or permanent.

(2) All outbuildings shall match the approved design theme of the residence including color, quality and materials, and shall not be constructed prior to the construction of the residence unless special conditions for the timing of the construction of the residence are provided in the Owner's plan.

(3) All outbuildings shall be limited in height to the height of the main residence roof peak.

(4) No outbuilding shall be placed on a Building Lot in a location that makes the outbuilding the dominant feature to the exclusion of the residence and the ACC shall consider the location of the outbuilding on the Building Lot so as not to substantially obstruct the natural view of another Building Lot.

2.6 Setbacks and Utility Corridors. Each residence and all authorized improvements shall be constructed within the minimum setback as established by Canyon County, and as are described on the Plat, and as are additionally set forth in this Declaration. An Owner shall not place any permanent obstruction, including invasive landscaping, in any utility easement corridor identified on the Plat or by this Declaration. The following setbacks are established by this Declaration and the Plat:

a. Pursuant to the Plat, a twenty (20) feet setback is located on the west side of Lots 2, 3, 4, 5, and 17, Block 1, of the Subdivision.

b. Pursuant to the Plat, a thirty (30) feet setback is located on the north side of Lots 1, 5, and 7, Block 1, of the Subdivision.

c. The Plat notes establish a ten (10) foot non-exclusive public utility and lot drainage easement corridor which shall run parallel to and across all lots along the entire

perimeter of the exterior boundary of the Plat, and across all lots bordering interior streets/roads, parallel to those streets/roads as shown on the Plat, and centered on all interior lot lines (five feet on each lot). Other easements and restrictions are shown on the Plat. No Owner shall place any invasive landscaping or take any other action that would defeat the purpose of these reserved public and drainage easement corridors. Additionally, Declarant, the Association and their respective agents reserve access to these public utility easement corridors to perform any function consistent with the intent and purpose of the easement corridor. However, this reservation shall not create a duty upon the Declarant or the Association to perform any specific function or purpose in this reserved easement corridor unless that duty is expressly provided for in this Declaration or is a duty adopted by the Association by the required adoption process for the Association.

2.7 Residential Landscaping. The following provisions shall govern the landscaping of all Building Lots within the Property:

a. The Owner, at his or her sole and separate cost, shall cause his or her Building Lot to be landscaped in a style complimentary to the style, size, and value of the residence constructed thereon. A professionally prepared site plan, including grading and drainage, and a separately prepared landscape plan are required to be submitted to the ACC and approved by the ACC prior to commencement of any improvements to a Building Lot.

b. No fruit trees of any type shall be permitted in Shiraz Pointe Subdivision.

c. The ACC shall adopt guidelines regulating landscaping permitted and required. In the event that any Owner shall fail to install and maintain landscaping in conformance with such guidelines and in conformance with the landscape plan approved by the ACC, or shall allow such Owner's landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the Association, upon thirty (30) days' prior written notice to such Owner, may cause such landscaping to be installed and/or repaired to come into conformance with this Declaration and the original landscape plan approved by the ACC for the particular Building Lot. Owner shall promptly reimburse the Association for the cost thereof. Such costs shall be a Limited Assessment and shall create a lien enforceable in the same manner as other Assessments as set forth herein. The Owner of the offending Building Lot shall be personally liable, and such Owner's Building Lot may be subject to a lien for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due, if any, including reasonable attorney fees. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefore, or the amounts may, at the option of the Association Board be added to the amounts payable by such Owner as Regular Assessments.

2.8 Fences. Owners may, subject to the prior written approval of the ACC, construct fences within their property. Any such fencing shall be subject to the following restrictions.

a. All fencing shall be shown on the landscape plan submitted to the ACC.

b. Vinyl almond-colored privacy or three-rail fencing between individual Building Lots will be considered by the ACC with permission of the Owner of the adjacent Building Lot(s) where the proposed fence is to be located.

c. No fencing shall exceed six (6) feet in height.

d. Fencing requirements for specific lots:

(1) Landscape fencing shall be constructed on the west side of the Subdivision east of the designated open space area (i.e. along the boundary of Lots 2, 3, 4, 5, and 17, Block 1), and shall be constructed along the ingress/egress (i.e. along the boundary of Lots 2, 16, and 17, Block 1).

(2) A six (6) feet almond-colored vinyl fence shall be constructed around the exterior boundary of the property located at 15276 Chicken Dinner Road where it is adjacent to the southwestern portion of the Subdivision, and shall also be constructed along the northern boundary of the Subdivision (i.e. along the boundary of Lots 5, and 7, Block 1).

e. All fencing shall otherwise comply with any applicable permit, rule, ordinance, regulation or law imposed by any governmental entity.

2.9 Nuisances and Hazardous Activities. No noxious or offensive activity shall be carried on upon any Building Lot or Common Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to the other Building Lot Owners or the Association as the owner of the Common Areas. No activity shall be conducted on or in any residence, Building Lot, or within a Common Area which is or might be unsafe or hazardous to any person or property. "Noxious" or "offensive" or "hazardous" activities shall include, but not be limited to, causing or creating any or all of the following to occur on a Building Lot or Common Area: causing foul odors to emanate from such, accumulating or depositing garbage or debris, burning garbage or debris, causing repetitive noises above the normal decibel level for residence use, discharging firearms or explosive devices, constructing or operating lights that continually illuminate neighboring Building Lots, or using, accumulating or storing environmentally hazardous materials.

2.10 Signs. No sign of any kind shall be displayed to the public view on any residential Building Lot. However, a Building Lot Owner may display one temporary sign of not more than six (6) square feet advertising the property for sale or rent, and may display temporary political signs, and a builder-owner may display a sign on his or her Building Lot to advertise the property during a construction and sales period. Additionally, Declarant may display signs identifying, advertising, and promoting the Subdivision in such locations and such size as Declarant shall deem appropriate. Owners may display their name and address on a plaque attached to the residence or mailbox.

2.11 Garbage and Refuse Disposal. No Building Lot or Common Area shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All facilities for the storage or disposal of such material shall be kept in a clean and sanitary condition, and shall be promptly disposed of. Owner understands that there is no public garbage collection service for the Subdivision and that each Owner, at his

or her cost and expense, shall be required to remove his or her garbage in a proper manner. All garbage shall be screened away from view and away from the roadways.

2.12 Permitted Use of Vehicles and Recreational Equipment. An Owner (including Owner's invitees, guests, and renters) (i) shall not park vehicles on Subdivision streets/roads, (ii) shall not park an inoperable or non-working vehicle on any Building Lot or Common Area, unless the inoperable or non-working vehicle is stored in an enclosed garage or storage facility, and/or (iii) shall not park or display a vehicle with a "for sale" sign on any lot or street. An Owner may store or park recreational equipment, such as RVs, boats, snowmobiles, trailers, motorcycles, and the like on a Building Lot, provided they are not placed in front of a residence or within the setback restrictions and they are enclosed or completely screened from any neighboring view.

2.13 Animals. No large animals, including and without limitation, horses, mules, llamas, cattle, chicken, pigs, goats, nor exotic or dangerous animals shall be allowed on any Building Lot. Dogs, cats, and ordinary domestic animals may be kept as pets. A maximum of three (3) dogs and three (3) cats shall be permitted to be kept on any Building Lot. Domestic pets shall be kept or maintained within the boundaries of the Building Lot and kept in compliance with all applicable laws and ordinances. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. Each dog in the subdivision shall be subject to all applicable "leash laws" when such animal is off the premises of its Owner. Any animals not on an Owner's Building Lot must be accompanied by the Owner or other responsible person and must be on a leash or other appropriate tether, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings. Each Owner shall be further responsible for any damage caused by such Owner's animals. No animal whose habits or odors are deemed by the ACC to be a nuisance or offensive shall be permitted to be kept or maintained on any Building Lot.

a. Kennels. A kennel not exceeding two hundred (200) square feet may be located on the Building Lot without the prior written approval of the ACC. Any kennel larger than two hundred (200) square feet must be approved by the ACC prior to its construction. Such kennel shall not be located on the Building Lot in such a fashion as to create a nuisance for any adjacent Building Lot Owner and shall at all times be kept in a clean and odor-free condition. Kennels shall be built behind the residence away from any road.

2.14 Reconstruction and Other Improvements. In any case where it is necessary to reconstruct a residence or make an improvement on a Building Lot, that reconstruction or improvement shall be prosecuted diligently, continuously, and without delay from time of commencement thereof until such structure is fully completed, unless prevented by a cause beyond control of the Building Lot Owner, and diligently thereafter, after the delay cause is abated. The plans to reconstruct or to make an additional improvement shall be submitted to the ACC for written approval before the reconstruction or improvement is commenced. The Owner shall submit all reconstruction/ improvement plans to Canyon County and obtain a building permit before the reconstruction/improvement is commenced.

2.15 Television Antennas. No radio or television antennas, satellite dishes, or other reception devices shall be allowed except for the following: (i) a satellite dish not exceeding twenty-four (24) inches in diameter may be attached to a residence; (ii) a local television antenna may be

installed if fully enclosed within the roof structure and a probe not to exceed thirty-six (36) inches may be attached to the residence other than the front of the residence facing the road.

2.16 Subdividing. No further subdividing of any Building Lot shall be allowed.

2.17 Driveways. The Owner of each Building Lot is responsible for the cost of the construction of a driveway leading from the road to the residence. The driveway shall be made of concrete.

2.18 Lights. There shall be no bright halogen outside lights attached to any structures on a Building Lot. Motion lights are acceptable. Installation of lights that unreasonably illuminate adjacent Building Lots may be considered a nuisance. Each residence must have not less than one (1) fixture per garage bay, and not less than one (1) exterior light at the home entrance. A yard light, pathway lights, or driveway lights are encouraged.

2.19 Storage Tanks. Any storage tank, including propane tanks, installed or located on a Building Lot and any type of air conditioning or heating unit if located above ground must be concealed from view of neighboring Owners or otherwise attractively screened from view. The type, location, and screening of any storage tank shall be approved by the ACC prior to construction.

2.20 Maintenance of Lots. Each Building Lot and the improvements thereon shall be kept and maintained by the Owner in a clean, safe, attractive, and sightly condition and shall be maintained in good repair. In the event that any Owner of a Building Lot shall permit any improvement or Building Lot, including trees and landscaping, which are the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, or so as to damage adjoining property or facilities, the Association, upon fifteen (15) days' prior written notice to the Owner of such Building Lot, shall have the right to correct such condition and to enter upon such Owner's Building Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall be a Limited Assessment and shall create an enforceable lien. The Owner of the offending Building Lot shall be personally liable, and such Owner's Building Lot may be subject to a mechanic's lien for all costs and expenses incurred by the ACC in taking such corrective acts, plus all costs including, without limitation, attorneys' fees incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

2.21 Drainage. Natural drainage patterns shall not be altered in a manner which will result in the diversion of additional water onto other Building Lots.

2.22 Mailboxes. Each Building Lot is required to have a freestanding mailbox. All mailboxes shall be constructed, at Owner's sole expense and cost, of stone with an attached light and are subject to the prior written approval by the ACC of the written plans for the mailbox.

ARTICLE THREE Utilities and Utility Easements

3.1 Utilities Provided by Declarant. All Building Lots shall be served with underground utility lines for power and telephone services. Declarant shall not be required to provide any other utilities to the Subdivision or to a Building Lot. The lines for power and telephone shall be installed in the streets or in the platted utility corridor easements. The costs of bringing these services to the Owner's Building Lot are the sole and separate costs of the Declarant; provided, however, that the Declarant is entitled to recover any and all connection fees or escrowed funds advanced by Declarant to any respective utility provider, if any, to bring these services to the Building Lots of the Subdivision. An Owner, or the Owner's builder constructing an Owner's residence or authorized improvement, shall be liable for all additional costs for final hookups charged by a utility company as a condition precedent to final connection, as well as for the cost of any other utility service not supplied by Declarant.

3.2 Other Utilities. Other utility services, including but not limited to drinking water, sewage disposal, cabling (TV, internet or other), and/or propane gas service, shall to the extent desired by Owner or required by this Declaration, be provided by the Owner. All costs and expenses associated with these other utilities, including septic systems and wells, shall be the sole and separate cost of each Building Lot Owner and shall not be that of the Declarant or Association.

a. Septic System. The Subdivision is not serviced by a central sewer system, and each Owner will be required to provide a lawfully constructed septic system, upon application and permit from Southwest District Health. Special attention to the placement of septic systems shall be given in order to minimize any effect on surrounding Building Lots. Southwest District Health will control the location of the septic system (and drain field), but plans for the location and construction of the septic system shall be submitted to the ACC and approved by the ACC prior to construction.

b. Wells/Water. The Subdivision is not serviced by a central drinking water system. Each Building Lot Owner (except those lots with existing wells) will be required to drill his or her own domestic well in a manner permitted by Water Resources for the State of Idaho at Owner's sole and separate cost. Pursuant to Southwest District Health regulations, any well must be at least one hundred (100) feet from any septic system (and drain field). Although drinking water wells are expected to yield acceptable drinking water at a depth of 300 to 450 feet, neither Declarant nor the Association makes any guaranty that any acceptable drinking well will be found at any depth. No cross connection between the irrigation system and the domestic water supply system shall be made at any time.

c. Irrigation. Each Building Lot Owner shall be responsible for the connection to and the construction and maintenance of his or her own irrigation system to the Subdivision's powered irrigation water system (the "Irrigation System"). The Association shall maintain all common components of the Irrigation System, including the pump and any other components not located on Building Lots.

(1) Should any damage occur to an Owner's irrigation system on his or her own Building Lot, it shall be the sole responsibility of said Owner to repair the damage

immediately. Any damages caused by an Owner to the irrigation system on Common Area or Building Lots owned by other Owner(s) shall be repaired at the cost of the offending Owner.

(2) The Declarant, Association, and ACC reserves the right to promulgate any rules and regulations pertaining to the Subdivision's powered irrigation water system.

ARTICLE FOUR Owners' Association

4.1 Organization of Association. Declarant intends to organize an entity to be known as Shiraz Pointe HOA, Inc., an Idaho non-profit corporation, and shall file Articles of Incorporation and Bylaws, which are made a part of this Declaration by reference. The Association's duties and Members' and Owners' rights may be more particularly described or supplemented in the Articles and Bylaws, in addition to the basic duties and rights of the Declarant and Association Members are set forth in this Declaration. Until such time as the Association is created, Declarant shall undertake and perform all duties of the Association and its Board, including payment of monetary obligations.

4.2 Members. Every Building Lot Owner in the Subdivision, including the Declarant and excluding the Association, shall be a Member of the Association, which Membership is compelled as an incident to Building Lot ownership for as long as that Building Lot ownership is maintained. A Member's membership interest in the Association is not assignable, and is appurtenant to the ownership of a Building Lot. A Member's interest shall not be transferred, pledged, or alienated in any manner, except with the conveyance and transfer of the fee estate of a Building Lot, and shall always be subject to the terms and conditions of this Declaration and the Articles and Bylaws of the Association.

A Member shall be designated as either a Class A or Class B Member.

a. Class A Members shall be each lot Owner in the Subdivision except Declarant (until such time as Declarant becomes a Member as set forth below), and include builder-owners who intend to construct a residence for sale to a future Building Lot Owner. Class A Members shall have the full benefit and use of every Common Area. Whenever an issue is placed for membership voting, each Class A Member shall be entitled to one vote for each Building Lot owned. When more than one (1) person is an Owner of a Building Lot, all such persons shall be Members, but the single vote for such Building Lot shall be exercised as they jointly determine, but in no event shall more than one (1) vote be cast with respect to any Building Lot.

b. The sole Class B Member shall be the Declarant. Declarant shall not be assessed membership assessments unless and until it has become a Class A Member; provided, however, that Declarant and/or Association shall be obligated to pay all costs and expenses of the Association in excess of the amount of Regular Assessments levied during the time there is a Class B Member. Whenever an issue is placed for membership voting, the Class B Member shall be entitled to ten (10) votes for each Building Lot Declarant owns on the day of the vote.

Declarant's Class B membership shall cease and Declarant's membership shall be converted automatically to Class A membership (one Class A membership interest for each

Building Lot owned) upon the happening of one of the following events, whichever occurs earlier:

- (I) When thirteen (13) of the fourteen (14) Building Lots in the subdivisions have been conveyed by deed to Owners other than Declarant; or
- (II) On December 31, 2025; or
- (III) At any time that Declarant elects in writing to accept Class A membership status.

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

a. **Assessments.** The power to levy assessments (initial, regular, limited and special) on the Owners of Building Lots and to force payment of such assessments, all in accordance with the provisions of this Declaration.

b. **Right of Enforcement.** The power and authority from time to time, in its discretion, in its own name, on its own behalf, or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, including violations of Association Rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise all provisions hereof.

c. **Delegation of Powers.** The authority to delegate its power and duties to officers or to committees or to any person, firm, or corporation that the Association may hire by contract. Neither the Association, board members of the Association, nor the Members shall be liable for any omission or improper exercise by any person or entity of any such duty or power so delegated.

d. **Association Rules.** The Association may adopt, amend, and repeal, after reasonable consultation with Class A Member committees or delegates, such rules and regulations as the Association deems reasonable ("Association Rules") governing the common use of the Common Areas by the Members, families of an Owner, or any invitees, guests, or licensees of Owners and other restrictions on activities within the Subdivision, provided, however, that the Association Rules may not discriminate among Members and shall not be inconsistent with this Declaration. A copy of the Association Rules, as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Member. Upon such mailing or delivery to all Members, said Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any

conflict between any Association Rule and any other provision of this Declaration, the provisions of this Declaration shall control.

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

(i) Underground lines, cables, wires, conduits, and other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes;

(ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating, and gas lines or pipes; and

(iii) Any similar public or quasi-public improvements or facilities. The right to grant such licenses, easements, and rights-of-way are hereby expressly reserved to the Association. Subject to the Articles of Incorporation, the Bylaws and this Declaration, and without limiting the generality thereof, the Association shall conduct all general business affairs of common interest to all Owners and Members, including the following:

4.4 Operation and Maintenance of Common Area and Common Property. Operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of all Common Areas. The Common Areas shall include all Common Area equipment and property, common systems and common property, including the repair and replacement of any common property damaged or destroyed.

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

b. Insurance. The Association may, but shall not be required to, obtain policies of insurance from reputable insurance companies authorized to do business in the State of Idaho, and to maintain in effect the following types of policies of insurance:

(i) Comprehensive public liability insurance insuring the Association, the Members, the Owners, and their agents and employees, against any liability incidental to the ownership and/or use of the Common Area or other common property owned or managed by the Association.

(ii) Fire insurance including those risks embraced by coverage of the type known as the broad form "All Risk" or special extended coverage endorsement on a blanket

agreed amount basis for the full insurable replacement value of all improvements, equipment and fixtures located within the Common Area.

(iii) Such other insurance as deemed necessary or required to carry out the Association.

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

4.5 Meetings. Each year the Association shall hold at least one meeting of the Members, according to the schedule for such meetings established by the Bylaws; provided, that such meeting shall occur no earlier than April 15 and no later than June 30 of each year. Only Members shall be entitled to attend Association meetings, and all other persons may be excluded. Notice for all Association meetings, regular or special, shall be given by regular mail to all Members not less than ten (10) days nor more than thirty (30) days before the meeting and shall set forth the place, date and hour of the meeting and the nature of the business to be conducted. All meetings shall be held within the Property or as close thereto as practical at a reasonable place selected by the Board. The presence at any meeting in person of the Class B Member where there is such a Member, and of the Class A Members representing Owners holding at least thirty percent (30%) of the total votes of all Class A Members, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than ten (10) days nor more than thirty (30) days from the time the original meeting was scheduled. At any such meeting properly called, the presence of any Class A Member and the Class B Member (if applicable) shall constitute a quorum.

4.6 Personal Liability. No officer or board member of the Association, nor any Member or committee of the Association, nor the Declarant, shall be personally liable to any Member or Owner or to any other third party, including the Association, Member or Building Lot Owner, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association or of a Member or membership committee, or of the Declarant, provided such person or entity has upon the basis of such information as may be possessed by him acted in good faith without willful or intentional misconduct.

4.7 Dissolution. In the event the Association is dissolved, the assets of the Association shall be dedicated to a public body or conveyed to another non-profit organization with similar purposes and in a manner to protect the rights of the Members.

ARTICLE FIVE

Covenant for Assessments

5.1 Creation of Lien and Personal Obligation for Assessments. The Declarant hereby covenants with each Building Lot Owner within the Property that by acceptance of a deed from or through the Declarant, and whether or not it is expressly stated in said deed, that each Owner shall agree to pay to the Association the following:

a. All Regular Assessments for specified services and maintenance as set forth in Section 5.4;

b. All Special Assessments for specified services and maintenance as set forth in Section 5.5; and

c. All Limited Assessments as set forth in Sections 2.7, 2.20 and 5.7.

Each assessment, together with interest accrued thereon, shall be a charge on the Owner's Building Lot and shall create a continuing lien upon the Owner's Building Lot against which each assessment is made, from and after the date the assessment is due. Each assessment shall bear interest at the rate of twelve (12%) percent per annum to accrue after the due date until fully paid. Additionally, each assessment and accrued interest shall be the personal obligation of the Owner of the Building Lot assessed at the date of assessment and may be collected by judicial action in the nature of a delinquent open account, which action may be in lieu of or in addition to the foreclosure of the lien. Any collection action, whether it is by lien foreclosure and/or by action on a delinquent account, shall also obligate the Owner of the Building Lot assessed to pay reasonable attorney fees and court costs to be included as a part of the assessment debt to the Association. Prior to bringing an action to foreclose the continuing assessment lien granted by this Article, the Association shall cause a notice of lien claim to be prepared and filed of record with the Canyon County Recorder's office, and shall send a copy by certified mail to the delinquent Owner. The cost of preparing, filing and mailing this claim of lien (which cost is understood to be a liquidated cost set at \$250.00 plus the filing fee charge), and plus any reasonable attorney fee incurred by the Association, shall also be the separate cost of the delinquent Building Lot Owner and shall be recovered from the Building Lot Owner as a part of the assessments due.

5.2 Initial Assessment. Each Building Lot sold by Declarant shall be subject to a one-time initial assessment of \$250.00 to be paid by the first Owner to purchase a Building Lot directly from the Declarant. This one-time initial assessment shall be paid to the Declarant for the purposes stated in Section 5.3. The Declarant shall instruct the closing agent to make direct payment of this initial assessment to the Declarant in the same manner as other purchaser closing costs are paid.

5.3 Purpose of Initial Assessment. The purpose of the initial assessment will be used to pay the costs and fees to form the Association, including but not limited to the Bylaws and Articles of Incorporation.

5.4 Regular Assessments. Each Building Lot Owner shall be assessed and pay a Regular Assessment to the Association, to begin to accrue at the time the Owner closes on the Building Lot, which Regular Assessment are to be used by the Association for the purpose of paying for the maintenance of the Common Areas and all other duties and responsibilities of the Association. The Association may elect to collect these Regular Assessments on a monthly, quarterly, semi-annual, or annual basis, as it deems appropriate. The initial Regular Assessment shall be \$500.00 per Building Lot on an annual basis. The amount of the Regular Assessment may be changed by the Association Board based on the necessary budget and actual expenses of the Association

a. During such time there is a Class B Member, the Declarant and/or the Association, as the case may be, shall pay all costs and expenses of the Association in excess of the amount of Regular Assessments levied.

5.5 Special Assessment for Repairs, Operations, or Maintenance. In addition to the Regular Assessments, the Association may from time to time, by the majority vote of its Members at a meeting called for that purpose, make any Special Assessment for a specific one-time cost or expense benefiting common properties, or for some common interest or purpose benefiting all Members.

5.6 Notice of Action under Sections 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.4 and/or 5.5 of this Declaration shall be sent to all Members not more than fifty (50) days or less than ten (10) days in advance of the meeting.

5.7 Limited Assessments. Limited Assessments may be levied against any Owner in an amount equal to the costs and expenses incurred by Declarant or the Association including, without limitation, attorneys' fees, whether or not suit has been filed, for any corrective action taken by Declarant or the Association pursuant to this Declaration or otherwise as necessitated by any intentional or negligent act or omission by any such Owner or the occupant of such Owner's Building Lot, or the agents, contractors or employees thereof. Such costs and expenses shall include, without limitation, costs and expenses incurred for the repair and replacement of Common Area or other property owned or maintained by Declarant or the Association, and for landscaping performed by Declarant or the Association which has not been performed by such Owner as provided herein.

5.8 Reevaluation of Regular Assessments. The Association shall annually re-establish the amount of the Regular Assessment per Building Lot each year based on the actual and necessary costs and expenses incurred by the Association, and shall send written notice of that re-assessment to each Owner thirty (30) days before the effective date of the re-established Regular Assessment. The Association shall, upon request and for a reasonable charge, furnish a certificate signed by officers of the Association stating whether or not assessments by the requesting Owner are current.

5.9 Effect of Nonpayment of Assessments and Remedies of the Association. Subject to the provisions of Idaho Code Section 55-115, any assessment not paid within thirty (30) days after the due date shall be deemed to be delinquent and shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the delinquent assessment or may record and foreclose a lien against the Owner's Building Lot, and the Owner shall also pay any reasonable attorney fees incurred in such enforcement action. No Owner may waive or otherwise avoid liability for assessments provided for neither herein by non-use of the Common Area nor by non-use of his Building Lot.

5.10 Subordination of Assessment Liens to Mortgages. The lien of any unpaid assessment shall be subordinate to any first mortgage or deed of trust placed against a Building Lot by its Owner. No mortgagee of a mortgage or beneficiary of a deed of trust shall be required to collect

any unpaid assessment. The failure of an Owner to pay assessments shall not constitute a default under a mortgage or deed of trust. Sale or transfer of a Building Lot shall not affect the assessment lien, nor shall the transferee in such sale or transfer be relieved from liability for any assessment thereafter becoming due or from the lien thereof.

5.11 Transfer Fee. In addition to any other assessment set forth herein, upon the transfer of any Building Lot from one Owner to another (not including the initial transfer from Declarant to the first owner), a transfer fee of \$200.00 shall be paid to the Association to defer the costs of record keeping and other administrative functions necessitated by such transfer.

ARTICLE SIX

Architectural Control

In order to protect the quality and value of all improvements constructed on every Building Lot in the Subdivision, and for the continued protection of all Owners, an Architectural Control Committee shall be established by Declarant. The ACC shall be subject to the control of the Declarant as long as the Declarant owns any Building Lot within the Subdivision.

6.1 Creation. Within thirty (30) days after the date on which Declarant first conveys a Building Lot to an Owner (other than to a builder), Declarant shall appoint at least one (1) and not more than three (3) individuals to serve on the Architectural Committee or ACC. Each member shall hold office until such time as such member has resigned or has been removed, or such member's successor has been appointed, as provided herein. A member of the ACC need not be an Owner. Members of the ACC may be removed by the person or entity appointing them at any time without cause. Without limiting the foregoing, at Declarant's discretion, the Board of Directors of the Association or a property management company selected by the Association to perform the Association's duties, may be designated as the ACC.

6.2 Declarant's Right of Appointment. Declarant shall have the exclusive right to appoint and remove all members of the ACC until Declarant has conveyed one hundred percent (100%) of the aggregate Building Lots within the Property, as the same may be now or hereafter platted, or until ten (10) years after the recording date of this Declaration, whichever occurs later. If a vacancy on the ACC occurs until a permanent replacement has been appointed, Declarant may appoint an acting member to serve for a specified temporary period not to exceed one (1) year.

6.3 Association's Right of Appointment. After Declarant has conveyed one hundred percent (100%) of the aggregate Building Lots within the Property, or ten (10) years after the recording date of this Declaration, whichever occurs later, the Board of the Association shall have the exclusive right to appoint and remove all members of the ACC.

6.4 Approvals Required. No building, residence, or residential outbuilding of any type shall be commenced, erected, or installed upon any Building Lot until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location of the same and such other detail as the ACC may require shall have been submitted to and approved in writing by the ACC. The ACC may consider such subjective criteria as compatibility with surrounding structures and overall design, as well as objective criteria as to the quality of materials, exterior

building and trim paint color, roof material and color, and engineering in making an approval or disapproval and those specific requirements set forth in Article 2.

6.5 Enforcement. The ACC may, by and through the Association, exercise all available legal and equitable remedies available to prevent or remove any unauthorized or unapproved construction or improvements on any Building Lot, Common Area lot, or any portion thereof. In the event the ACC exercises its right to remove or restrain the violation of any rule, the ACC shall recover liquidated damages in the amount of \$5,000.00, in addition to its reasonable attorney fees and court costs, as a means to reimburse the ACC for the time and effort in enforcement.

6.6 Waivers. The approval of any plans, drawings, or specifications for any plans, improvements, or construction, or for any matter requiring the approval of the ACC, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications, or matter subsequently for approval.

6.7 Liability. Neither the ACC nor any member thereof shall be liable to any Owner or to any other party for any damage suffered or claimed on account of any act, action, or lack thereof, or conduct of the ACC or the respective members thereof, as long as they have acted in good faith on the basis of information they then possessed.

6.8 Procedure.

a. Review of Proposed Construction. Application for review of proposed improvements shall be made to the ACC on a form prepared by the ACC. The ACC shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to this Declaration, including the inspection of construction in conformance with plans approved by the ACC. The ACC shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of improvements shall be submitted for ACC review and approval. The ACC shall have the power to hire an architect, licensed with the State of Idaho, to assist the ACC in its review of proposals or plans and specifications submitted to the ACC, and the ACC may charge a reasonable plan review fee, as determined in its reasonable discretion. The ACC shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated are in conformity with this Declaration, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on Declarant, the Association, or the Property, as the case may be. No approval by the ACC of any plans and specifications so reviewed and approved shall constitute, or be deemed to be, a warranty by the ACC that such plans and specifications comply with applicable laws, rules or regulations, or that such plans and specifications are structurally sound or comply with applicable safety requirements.

b. Detailed Plans. The ACC may require such detail in plans and specifications submitted for its review as it deems proper including, without limitation, floor plans, site plans, landscape plans, drainage plans, elevation drawings and descriptions or samples of exterior

material and colors. Until receipt by the ACC of all such required plans and specifications, the ACC may postpone review of any plans and specifications submitted for approval.

c. ACC Decisions. Responses by the ACC to the submitting Owner will be sent to the address set forth in the application for approval within thirty (60) days after filing all materials and submitting all design review fees required by the ACC. Any materials submitted pursuant to this Article shall be deemed approved unless written disapproval by the ACC shall have been mailed or otherwise delivered to the Applicant within thirty (60) days after the date of filing of all of said materials with the ACC.

d. Conditions on Approval. The ACC may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, and/or upon the agreement of the Owner submitting the same to grant appropriate easements for the maintenance thereof, and the ACC may require submission of additional plans and specifications or other information before approving or disapproving any material submitted.

e. Non-Liability of ACC Members. Neither the ACC nor any member or representative thereof shall be liable to Declarant, the Association, any Owner or any other party for any loss, damage or injury arising out of or in any way connected with performance of the ACC's duties hereunder, unless due to the willful misconduct or bad faith of the ACC or any such individual member or representative thereof. The ACC shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Property generally. The ACC shall take into consideration the aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishes and materials and similar features, but in no event shall the ACC be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with applicable law or building or other codes.

f. Variances. The ACC may, in its reasonable discretion, authorize variances from compliance with any of the architectural provisions of this Declaration or ACC rules and guidelines, including, without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, market conditions, or environmental considerations may require. Such variances must be evidenced in writing, and must be signed by at least one (1) member of the ACC. If such variances are granted, no violation of the covenants, conditions or restrictions contained in this Declaration or the ACC guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the ACC guidelines for any purpose except as to the particular Building Lot and particular provision hereof covered by the variance, nor shall such variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting such Owner's use of the Building Lot including, without limitation, zoning ordinances or requirements imposed by any governmental or municipal authority.

ARTICLE SEVEN

Common Areas

7.1 Definition of Common Areas. The Common Areas in this Subdivision include the following:

- a. Lot 1, Block 1, which shall be used for the purpose of an entry border to the subdivision.
- b. Lot 6, Block 1, which shall be reserved for future roadway right of way. The Association shall maintain the landscaping on Lot 6 until such time as Lot 6 is dedicated as a public roadway or otherwise transferred to the appropriate government agency.
- c. Lot 12, Block 1, and Lot 18, Block 1, which shall be used as Common Area. A portion of Lot 12, as indicated on the Plat, is designated as a storm drainage area.

7.2 Common Rights. Each Building Lot Owner in Shiraz Pointe Subdivision shall have an in common and perpetual access easement with all other Building Lot Owners for use within the purposes set forth above, which use and easement shall run with the Owner's Building Lot.

7.3 Declarant's Conveyance. Declarant shall convey title to these Common Areas to the Association at the time the Association is formed.

7.4 Association's Duty to Maintain. In addition to other duties required of the Association, the Association shall maintain all Common Areas.

7.5 No Individual Liability. No individual liability shall be imposed on the Declarant or any Owner for damages to a Common Area, except to the extent that his direct negligence is the cause of that damage.

7.6 Mortgage on Common Area. No mortgage or deed of trust shall be placed on a Common Areas without the written consent of two-thirds (2/3) of all Building Lot Owners, excluding the consent of the Class B Member. If a mortgage or deed of trust is placed on a Common Area, it shall be subject to and inferior to the use and easement rights granted to all Owners.

7.7 Easements for Improvements in a Common Area. Declarant reserves access to the Common Area to construct and establish improvements. Irrespective of this reservation, Declarant shall not be the Owner of these improvements, nor shall Declarant be required to maintain a Common Area. That responsibility shall be the responsibility of the Association. The Association, however, shall have the sole and exclusive right to determine the nature of all improvements that Declarant may choose to construct unless there is a special reservation in this Declaration.

ARTICLE EIGHT

Indemnification

8.1 To the full extent permitted by applicable law and without limiting any other provision in this Declaration, Declarant, each member of the Board, each member of an Association

committee, and each officer shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceedings to which he, she or it may be a party, or in which he, she or it may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he, she or it holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by insurance and except in such cases wherein such person or entity is adjudged guilty of willful misfeasance in the performance of his, her or its duties; provided, however, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association; and further provided that this right of indemnification shall be inapplicable to the extent necessary, if at all, for the Association to obtain any insurance required by this Declaration.

ARTICLE NINE

General Provisions

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

9.2 **Violations and Nuisances.** The failure of any Owner of a Building Lot to comply with any provision hereof, is hereby declared a nuisance and will give rise to a cause of action in Declarant, the Association, or any Owner of a Building Lot(s) within the Property for recovery of damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Declarant or the Association may enforce by self-help any of the provisions hereof, and only if such self-help is preceded by reasonable written notice to the Owner.

9.3 **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration any or all enforcement procedures in law and equity.

9.4 **Severability.** Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision hereof, and all other provisions of this Declaration shall remain in full force and effect.

9.5 **Term.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is filed of record. After completion of the initial term of twenty (20) years, this Declaration shall be automatically extended for successive periods of twenty (20) years unless appropriate action is taken to rescind or amend the Declaration.

9.6 **Amendment.** This Declaration may be amended only by the approving vote of two-thirds (2/3) of all Members, or by Declarant alone, provided that Declarant still owns one-third (1/3) of

all Building Lots and so long as an amendment does not materially adversely affect the rights of any Owner.

9.7 Successors and Assigns. All references herein to Declarant, an Owner, or a person shall be construed to include all successors, assigns, partners and authorized agents of such Declarant, Owner, or person.

9.8 Assignment by Declarant. Any or all rights, powers and reservations of Declarant herein contained may be assigned to any Person or entity that is now organized or may hereafter be organized, and will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned, and, upon any such Person or entity evidencing his, her or its intent in writing to accept such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. In the event of any such assignment and assumption, Declarant shall be released from any liability or obligation arising under this Declaration and accruing after the date of such assignment and assumption, except with respect to any rights, powers and reservations as may have been reserved unto Declarant. All rights of Declarant hereunder reserved or created shall be held and exercised by Declarant alone, so long as it owns any interest in any portion of the Property, which Property is subject to such reserved or created rights.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration of Covenants, Conditions, and Restrictions this 17 day of August, 2015.

MOBLEY, LLC

Eileen L. Barber

By: Eileen L. Barber

Its: Manager

STATE OF IDAHO)
 : ss.
County of Ada)

On this 17th day of August, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared EILEEN L. BARBER, the Manager of Mobley, LLC, an Idaho limited liability company, known to me to be the person who executed the within and foregoing instrument for and on behalf of said limited liability company, and acknowledged to me that said limited liability company executed the same.

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

Connie J. Dart

Notary Public for Idaho

Residing at Boise, Idaho

Commission expires 7-20-16

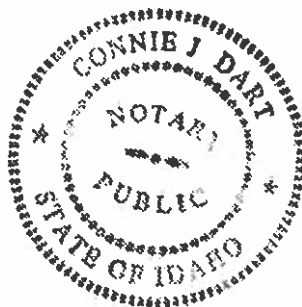


Exhibit A
Metes and Bounds Legal Description of Subdivision

A parcel of land situated in a portion of the NW 1/4 of the SW 1/4 of Section 13, Township 3 North, Range 4 West, Boise Meridian, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a 5/8 inch iron rod marking the northwest corner of the SW 1/4 of said Section 13;
Thence South 89°25'16" East 616.55 feet to a point in the centerline of Mora Canal;
Thence along the centerline thereof the following courses;
South 08°33'43" West 135.26 feet;
Thence South 12°56'47" West 53.29 feet;
Thence South 09°15'37" West 57.84 feet to a point of curvature;
Thence along the arc of a 140.00 foot radius curve to the left 99.28 feet through a central angle of 40°37'57" which long chord bears South 11°03'21" East 97.22 feet to a point of tangency;
Thence South 31°22'20" East 206.09 feet;
Thence South 32°53'48" East 165.65 feet;
Thence South 31°15'42" East 70.87 feet;
Thence leaving said centerline South 00°18'49" West 407.70 feet to a 5/8 inch iron rod;
Thence South 89°21'48" East 30.00 feet to a 5/8 inch iron rod;
Thence South 00°18'49" West 200.00 feet to a 5/8 inch iron rod;
Thence North 89°21'49" West 535.08 feet to a 5/8 inch iron rod;
Thence North 00°18'50" East 200.00 feet to a 5/8 inch iron rod;
Thence North 89°21'49" West 326.70 feet to a 5/8 inch iron rod;
Thence North 00°18'50" East 1118.52 feet to the POINT OF BEGINNING.

Said parcel contains 912,410 sq. ft. or 20.94 acres, more or less, and is subject to any and all easements and/or rights-of-ways of record.

7897578_3



SPF WATER
ENGINEERING

December 23, 2015

RECEIVED

DEC 28 2015

WATER RESOURCES
WESTERN REGION

Angie Grimm
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: Application for Permit

Dear Angie,

Enclosed on behalf of Mobley, LLC, is an *Application for Permit* proposing irrigation from ground water for Shiraz Point Subdivision. Applicants also filed a water bank rental application requesting irrigation authorization during the 2016 irrigation season while this application is being processed.

Check No. 1669 for \$250 is enclosed for the filing fee. Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Eileen Langan Barber

Enclosures

SPF file number: 1232.0010