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**DECLARATION OF
COVENANTS, CONDITIONS RESTRICTIONS AND
EASEMENTS FOR THE
FELDSPAR SUBDIVISION**

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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR THE
FELDSPAR SUBDIVISION**

This Declaration of Covenants, Conditions, Restrictions and Easements for the Feldspar Subdivision (this "**Declaration**") is made effective as of this 5th day of ~~DECEMBER~~ 2018 by Eagle Single Family, LLC, an Idaho limited liability company ("**Declarant**"). Capitalized terms not otherwise defined in the text hereof are defined in Article 1.

WHEREAS, Declarant owns those certain residential and common area lots legally described as follows (collectively, the "**Community**");

Lots 1 through 19 in Block 1 of Feldspar Subdivision, according to the official plat thereof recorded in the real property records of Ada County, Idaho in Book 115 of Plats at Pages 17300-17310, Instrument No. 2018-119299.

WHEREAS, the Community is a residential development, which Declarant currently intends to develop in accordance with existing development approvals obtained from the City of Eagle or any other development plan(s) for which Declarant may from time to time obtain approval. The Property may contain parcels of Common Area, including but not limited to public and/or private open space, landscaping, irrigation equipment, drives, and other amenities and facilities. Any development plans or schemes for the Community in existence prior to or following the effective date of this Master Declaration are subject to change at any time by Declarant and impose no obligation on Declarant as to how the Property is to be developed or improved.

WHEREAS, Declarant desires to execute and record this Declaration to set forth the basic covenants, conditions, restrictions, limitations, easements and equitable servitudes that will apply to the Community, which are designed to protect, enhance and preserve the value, amenities, desirability, and attractiveness of the Community and to ensure a well-integrated, high-quality development.

NOW, THEREFORE, Declarant hereby declares that the entire Community, and each Lot or portion therein, is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved in accordance with this Declaration, which is hereby declared to be in furtherance of a general plan to enhance the value, desirability and attractiveness of the Community; and is declared also to be for the purposes of ensuring a well-integrated high-quality development and to guaranteeing adequate maintenance of the Common Area and the Improvements located thereon in a cost effective and administratively

efficient manner. This Declaration shall (a) run with the land and shall be binding upon any person or entity having or acquiring any right, title or interest in any lot, parcel or portion of the Community; (b) inure to the benefit of every Lot or portion of the Community; and (c) inure to the benefit of and be binding upon Declarant and each Owner having or holding an interest in any Lot or portion of the Community, and their successors-in-interest.

ARTICLE I DEFINITIONS

"Articles" mean the Articles of Incorporation of the Association.

"Assessments" mean the Regular Assessments, Special Assessments and Limited Assessments, and together with any late charges, interest and costs incurred in collecting the same, including attorneys' fees.

"Association" means the Feldspar Subdivision Association, Inc., an Idaho nonprofit corporation.

"Board" means the Board of Directors of the Association.

"Bound Party" shall have the meaning set forth in Section 8.1.

"Building Envelope" means the area within a Lot where a residential structure and accessory structures may be located, always subject to the Committee's approval. Unless otherwise designated by Declarant, the Building Envelope shall be that portion of the Lot not located within easements or setback required by this Declaration or applicable law.

"Bylaws" mean the Bylaws of the Association.

"Claims" shall have the meaning set forth in Section 8.1.

"Committee" means the Architectural Review Committee constituted in Section 4.1.

"Common Area" means (a) Lots 1, 7, 8, 11, 12, 13 and 18 in Block 1 of Feldspar Subdivision according to the Plat; (b) any real or personal property held by or for the benefit of the Association, including irrigation facilities, recreational facilities, utility facilities and open spaces; and (c) any lease, license, use rights or agreement rights for amenities or facilities held by the Association from time-to-time.

"Common Driveway" has the meaning set forth in Section 3.22.

"Common Driveway Lots" has the meaning set forth in Section 3.22.

"Community" shall have the meaning set forth in the first recital.

"Community Documents" shall mean, to the extent applicable, this Declaration, the

Articles, the Bylaws, the Community Rules, the Design Requirements and any other procedures, rules, regulations or policies adopted under such documents by the Association or the Committee. In the event of any conflict between this Declaration and any other of the Community Documents, this Declaration shall control.

"Community Rules" shall have the meaning set forth in Section 2.6.1.

"Declarant" shall have the meaning set forth in the introductory paragraph of this Declaration.

"Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements for the Feldspar Subdivision.

"Design Requirements" has the meaning set forth in Section 4.2.

"Expenses" shall have the meaning set forth in Section 5.2.

"Fine" shall mean a sum imposed by the Board as punishment for any violation of the Community Documents. A Fine shall not include any sums to be recovered as reimbursement for expenses incurred to cure or remedy any violation of the Community Documents.

"Household Pets" shall have the meaning set forth in Section 3.8.

"Initial Development Period" shall have the meaning set forth in Section 9.1.

"Improvement" shall mean any structure, facility, system or object, whether permanent or temporary, which is installed, constructed, placed upon or allowed on, under or over any portion of the Community, including residential structures, accessory buildings, pump or lift stations, fences, streets, drives, driveways, parking areas, sidewalks, bridges, paths, curbs, landscaping, walls, hedges, plantings, trees, wildlife habitat improvements, vegetation, rocks, signs, lights, mailboxes, pipes, pumps, ditches, recreational facilities, drainage facilities, utility improvements and fixtures of any kind whatsoever.

"Irrigation System" means the system for delivering irrigation water to the Community that exists separate and apart from the potable water system, as further described in Section 3.13 hereof. The Irrigation System does not include any pipes, sprinklers, controls or other equipment within each Lot that is downstream from each Lot's connection point to the Irrigation System, such as the Lot's distribution lines, sprinklers and controls.

"Limited Assessment" shall mean a charge against a particular Owner for an expense directly attributable to such Owner, equal to the cost incurred by the Association in connection with corrective action or maintenance, repair, replacement and operation activities performed pursuant to the provisions of this Declaration, including damage to or maintenance, repair, replacement and operation activities performed for any Common Area or the failure of an Owner to keep the Owner's Lot in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all

Owners.

"Lot" shall mean any lot depicted on the Plat. For voting, membership and Assessment purposes herein, the term Lot shall not include any real property owned by the Association as Common Area.

"Mortgage" shall mean any mortgage, deed of trust, or other document pledging any portion of the Community or interest therein as security for the payment of a debt or obligation.

"Occupant" means any resident or occupant of a Lot.

"Owner" means the record owner, whether one or more persons or entities, holding fee simple interest of record to a Lot, and buyers under executory contracts of sale, but excluding those persons or entities having such interest merely as security for the performance of an obligation, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

"Person" shall mean any individual, partnership, corporation, trust, estate or other legal entity, including Grantor.

"Plat" shall mean any subdivision plat covering any portion of the Community as recorded in the Ada County Recorder's Office.

"Regular Assessment" shall mean the portion of the cost of maintaining, improving, repairing, managing and operating the Common Area, including all Improvements located thereon, and the other costs and expenses incurred to conduct the business and affairs of the Association which is levied against the Lot of each Owner by the Association pursuant to the terms of this Declaration.

"Special Assessment" shall mean that portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration.

ARTICLE 2 THE FELDSPAR SUBDIVISION ASSOCIATION

2.1 **Organization of the Association.** Declarant has organized or, prior to transfer of the first Lot, will organize the Association to manage the business and affairs of the Community in accordance with applicable law and the Community Documents.

2.2 **Membership.** Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a member of the Association, and no Owner shall have more than one membership per Lot in the Association. Memberships in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. Membership in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of the Lot that such membership is appurtenant to. Any attempt to make a prohibited

membership transfer shall be void and will not be reflected on the books of the Association.

2.3 **Membership Meetings; Voting.** The Association shall hold an annual member meeting and periodic special meetings as set forth in the Bylaws. Each Owner shall be entitled to one vote as a member in the Association for each Lot owned by that Owner (subject to Declarant's rights during the Initial Development Period).

2.4 **Board of Directors.** The business and affairs of the Association shall be managed by the Board. The Board shall consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Declarant shall have the exclusive right to appoint, remove and replace directors at any time and from time-to-time in Declarant's sole discretion. After the Initial Development Period, the Owners shall have the right to appoint, remove or replace directors as provided in the Bylaws. Any vacancy on the Board may be filled by majority vote of the remaining Directors, through a special election at any meeting of the Board.

2.5 **Delegation of Authority.** The Board may, at any time (and from time-to-time), delegate all or any portion of its powers and duties to committees, officers, employees or to any person or entity to act as manager. The Association may employ or contract for the services of a professional manager or management company to manage the day-to-day affairs of the Association. No such employment or contract shall have a term of more than one (1) year. If such manager is Declarant or Declarant's affiliate, such contract shall be subject to cancellation by the Association with or without cause and without payment of a termination fee so long as the Association provides at least thirty (30) days prior notice of termination.

2.6 **Powers of the Association.** The Association shall have all the powers of a nonprofit corporation organized under Idaho law and all the powers and duties set forth in the Community Documents, including the power to perform any and all acts which may be necessary to, proper for or incidental to the foregoing powers. The powers of the Association include, by way of illustration and not limitation:

2.6.1 **Community Rules.** The power and authority to adopt, amend and repeal such rules and regulations as the Association deems reasonable and appropriate to govern the Community, including rules and regulations regarding (a) the use of the Common Area and the Irrigation System, (b) imposition of fines for violation of Community Rules (subject to applicable law, such as Idaho Code § 55-115), and (c) procedures in the conduct of business and affairs of the Association (the "**Community Rules**"). Except when inconsistent with this Declaration, the Community Rules shall have the same force and effect as if they were set forth in and were made a part of this Declaration.

2.6.2 **Common Area.** The power and authority to acquire and dispose of, and the duty to manage, operate, maintain, repair and replace the Common Area for the benefit of the Community; provided, however, except as permitted under Section 2.6.6 hereof, no interest in the Common Area shall be disposed of without the approval by the vote or written consent of Owners representing more than 75 percent of the total voting power in the Association.

2.6.3 Improvements. The power and authority to construct, install, maintain, repair, replace and operate any Improvements in any Common Area, any public right-of-way serving the Community or any other location deemed by the Board to benefit the Community, including any fences, signs or other Improvements at Community entrances or otherwise in the vicinity of the Community, and any berms, retaining walls, fences and water amenities within or abutting any Common Area.

2.6.4 Irrigation System. The power and authority to construct, install, maintain, repair, replace and operate the Irrigation System. The Association may operate the Irrigation System as part of a common irrigation water supply arrangement with neighboring properties.

2.6.5 Entry onto Lots. The power and authority to enter upon any Lot (but not inside any building constructed thereon) in the event of any emergency involving potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner of such Lot as practical under the circumstances, shall be affected only after 24-hour prior notice where practicable and any damage caused thereby and not resulting from the negligent or willful act or omission of the Owner of the Lot shall be repaired by and at the expense of the Association.

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

2.6.6.1 Underground lines, cables, wires, conduits or other devices for the transmission of electricity, electronic signals or other communications media for lighting, heating, power, telephone, television, computer or other purposes, and the above-ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services;

2.6.6.2 Public and other sewers, storm drains, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

2.6.6.3 Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing and landscaping abutting Common Areas, public and private streets or land conveyed for any public or quasi-public purpose including pedestrian and bicycle pathways.

2.6.7 Amenity Agreements. The power and authority to enter into any lease, license, use or other agreements as the Board deems proper or convenient to secure the use of off-site amenities or facilities for the benefit of the Community. Without limiting the generality of the foregoing, and only by way of example, the Association may enter into such agreements with others for the use of any recreational amenities or facilities, including clubhouses and swimming pools, by the Owners on such terms as the Association deems reasonable or prudent. In such event, any costs incurred by the Association related thereto shall be Expenses, and such Expenses shall be included in the Regular Assessments.

2.6.8 Reserves. The power and authority to establish and fund such operating and capital reserves as the Board deems necessary or prudent.

2.6.9 Taxes. The power and authority to pay all real and personal property taxes and assessments (if any) levied against the Common Area, the Association and any other property owned by the Association. In addition, the Association shall pay all taxes, including income, revenue, corporate or other taxes (if any) levied against the Association.

2.6.10 Enforcement. The power and authority at any time and from time-to-time, on its own behalf or on behalf of any consenting Owners, to take any action, including any legal action, to prevent, restrain, enjoin, enforce or remedy any breach or threatened breach of the Community Documents. The power of enforcement includes:

2.6.10.1 The right to remove, alter, rebuild or restore any Improvements constructed, reconstructed, refinished, added, altered or maintained in violation of the Community Documents. If such Improvements are located on a Lot, the Association shall first provide the Owner thereof with a notice specifying the default and a reasonable opportunity to cure (not to exceed 30 days), and the Owner of the Improvements shall immediately reimburse the Association for all expenses incurred with such removal.

2.6.10.2 The right to enforce the obligations of the Owners to pay each and every Assessment or charge provided for in the Community Documents.

2.6.10.3 The right to perform any duty or obligation of an Owner under the Community Documents if such duty or obligation is not timely performed by such Owner. In such event, the defaulting Owner shall immediately reimburse the Association for all costs reasonably incurred by the Association in performing such duty or obligation. Except in the event of an emergency, the Association shall provide the defaulting Owner with a notice specifying the default and a reasonable period (no less than five days and no more than 30 days) to cure prior to exercising its power and authority hereunder.

2.6.10.4 The right to authorize variances from the requirements of this Declaration when required by applicable law (such as the Fair Housing Act to

the extent applicable) or when needed to prevent the requirements would impose an undue hardship on an Owner that would be inequitable for such Owner to bear. The granting of a variance shall not waive any element of the Declaration for any purpose except as to the particular Lot and the particular provision covered by the variance. Approval of a variance shall not affect the Owner's obligation to comply with the other elements of this Declaration or applicable law.

If the Association employs attorneys to collect any Assessment or charge, whether by suit or otherwise, or to otherwise enforce compliance with the Community Documents, the Association shall be entitled to recover its reasonable attorneys' fees in addition to any other relief or remedy obtained.

2.6.11 Insurance. The power and authority to obtain such bonds and insurance as may be required by applicable law and such further insurance as the Board deems necessary or prudent, including casualty insurance for any property or Improvements owned or maintained by the Association, public liability insurance related to the Association's operations and the use of the Common Area, directors and officer's liability coverage, automobile insurance, worker's compensation insurance and fidelity bonds. Unless otherwise authorized by Declarant or, after the Initial Development Period, a vote of at least 65 percent of the Members, the Association shall procure at least the following insurance policies to the extent such policies are available on commercially reasonable terms:

2.6.11.1 Casualty insurance on all insurable personal property and Improvements owned by the Association or for which the Association bears risk of loss, which insurance shall be for the full replacement cost thereof without optional deductibles;

2.6.11.2 Such other insurance, including motor vehicle insurance and workmen's compensation insurance and employers' liability insurance, to the extent necessary to comply with all applicable laws;

2.6.11.3 Broad form comprehensive public liability insurance insuring the Association, the Board, the Committee and their respective agents and employees against any liability incident to the ownership or use of the Common Area; which insurance shall be for not less than One Million Dollars (\$1,000,000) per occurrence with respect to personal injury/sickness/death and One Million Dollars (\$1,000,000) per occurrence with respect to property damage; and

2.6.11.4 Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars (\$250,000).

2.6.12 Entitlement Obligations. The power and authority to fulfill any duties imposed by any governmental or other quasi-governmental agencies as part of the entitlements for the development of Community, including any requirements or

obligations identified in such entitlements as the responsibility of community association or homeowners' association, such as plat notes, development agreements or conditions of approval.

2.6.13 Financing. The power and authority to enter into any agreements necessary or convenient to allow Owners to take full advantage of, or secure the full availability of, any financing programs offered or supported by the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Housing Administration (FHA), the Veterans Administration (VA), the Federal Home Loan Mortgage Corporation (FHLMC) or any similar entity.

2.6.14 Estoppel Certificates. The power and authority to execute a written statement stating (a) whether or not, to the knowledge of the Association, a particular Owner or Owner's Lot is in default of this Declaration; (b) the dates to which any Assessments have been paid by a particular Owner, and (c) such other matters as the Board deems reasonable. Any such certificate may be relied upon by a bona-fide prospective purchaser or mortgagee of such Owner's Lot, but only to the extent such prospective purchaser or mortgagee has no knowledge to the contrary. The Association may charge a reasonable fee for such statements.

2.6.15 Improvements in the Public Right-of-Way. The power and authority to enter into license agreements with the Ada County Highway District (or assume the duties and obligations under any such license agreement entered into by Declarant) to install, maintain, improve, irrigate, trim, repair and replace improvements and landscaping in the public rights-of-way (including sidewalk easements and planter strips).

2.6.16 Open Space Corridors. The power and authority to enter into agreements with any governmental entity, utility provider, irrigation company, conservation organization or any other public or private entity (or assume any such agreement entered into by Declarant) to improve, operate, maintain, repair or replace any wildlife, open space, recreation, greenbelt or trail spaces, either for the benefit of the Community or the general public.

2.6.17 Other. Such other and further powers as the Board deems reasonable and appropriate, it being the intent of Declarant that the Association have broad power and authority consistent with the Community Documents and applicable law.

2.7 **Association Records; Owner Inspection**. The Association shall keep such records of its business and affairs as is customary for community or homeowner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets and minutes of meetings of the Board and committees. Such records shall be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to (a) notice to be given to the custodians of the records by persons desiring to make the inspection, (b) hours and days of the week when such an inspection may be made, and (c) payment of the cost of reproducing

copies of documents requested pursuant to this Section 2.7. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

2.8 **Immunity; Indemnification.** Each Owner understands and agrees that Declarant, the Association, the Association's manager (if any), the Committee and the directors, officers, agents, employees and committee members of any of them (each individually a "**Released Party**") shall be immune from no personal liability to such Owner or any other person, and such Owner hereby knowingly and voluntarily waives and releases each Released Party, for such Released Party's actions or failure to act with respect to the Community Documents that does not constitute gross negligence or willful misconduct on the part of such Released Party. The Association shall indemnify, defend and hold each Released Party harmless from any action, expense, loss or damage caused by or resulting from such Released Party's actions or failure to act with respect to the Community Documents; provided, however, the Association shall not be obligated to indemnify, defend and hold harmless any Released Party for their own gross negligence or willful misconduct.

2.9 **Waiver of Consequential Damages.** The Association shall not be liable to any Owner, and each Owner releases the Association from any form of indirect, special, punitive, exemplary, incidental or consequential or similar costs, expenses, damages or losses.

ARTICLE 3 GENERAL AND SPECIFIC OBLIGATIONS AND RESTRICTIONS

3.1 **Residential Use.** All Lots shall be used exclusively for residential purposes and other uses incidental thereto as permitted under any applicable law, including home occupations allowed pursuant to the Eagle City Code. It shall not be a violation of this Section 3.1 for an Owner to lease its Lot and the Improvements thereon in accordance with Section 3.2.

3.2 **Leasing.** In order to foster and maintain the stable, residential character of the Community and to preserve the Community values, no Owner may lease, in whole or in part, such Owner's Lot or the primary residential dwelling located thereon to any person or entity except as expressly permitted in this Section 3.2. For purposes of this Section 3.2, the term "lease" as applied to a Lot shall be deemed to include, without limitation, any rental, letting, subletting, demising or assignment of any interest, estate or right of use, enjoyment, occupancy or possession of any Lot (or portion thereof) to any entity or a person who is not the Owner. Owner may lease its entire Lot to any tenant comprised as of a single housekeeping unit so long as such lease is for a term of one year or greater. For purposes of this Section, the term "single housekeeping unit" shall be one or more individuals living together sharing household responsibilities and activities which may include, sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other. An Owner who leases a Lot shall be fully responsible for the conduct and activities of such Owner's tenant as if such Owner were the tenant. An Owner who leases a Lot shall enter into a

written lease with their tenant, shall attach the Community Documents as exhibits to such lease agreement and be responsible to ensure that such lease agreement requires tenants to comply with the Community Documents. Notwithstanding the foregoing, tenants shall be bound in all respects by the restrictions and covenants of the Community Documents irrespective of attachment of same to a written lease agreement. Any Owner who leases a Lot shall comply with the Fair Housing Act to the extent it applies to such Owner.

3.3 Exterior Maintenance Obligations. Each Owner shall keep all Improvements on such Owner's Lot in good condition and repair. In the event that any Owner permits any Improvement on such Owner's Lot to fall into disrepair such that it, in the judgment of the Association, creates an unsafe, unsightly or unattractive condition, the Association may, upon thirty (30) days' prior notice to the Owner of such Lot, to enter upon such Owner's Lot and take such action as the Association deems necessary or appropriate to correct such condition. The Owner shall pay all amounts due for such work within ten (10) days after receipt of the Association's demand therefor and such amounts shall be a Limited Assessment against such Owner and such Lot. Each Owner hereby designates the Association as the Owner's agent for purposes of Idaho's mechanic's lien statute (i.e., Idaho Code § 45-501), and laborer, material supplier or other person who performs work on such Owner's Lot at the direction of the Association shall have a mechanic's lien against the Owner's Lot for such work.

3.4 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Community, including the Common Area or vacant Lots, and no odor shall be permitted to arise from any portion of the Community so as to render the Community or any portion thereof unsanitary, unsightly, offensive or detrimental to the Community, or to any other property in the vicinity of the Community. No business or home occupation, no noise, no exterior fires, no obstructions of pedestrian walkways, no unsightliness or other nuisance shall be permitted to exist or operate upon any portion of the Community so as to be offensive or detrimental to the Community or to its occupants or residents or to other property in the vicinity or to its occupants or residents, as determined by the Association, in its reasonable judgment, or in violation of any federal, state or local law, rule, regulation or ordinance. Without limiting the generality of any of the foregoing, no whistles, bells or other sound devices (other than security devices used exclusively for security purposes which have been approved by the Committee), flashing lights or search lights shall be located, used or placed on the Community without the Committee's approval. No unsightly articles shall be permitted to remain on any Lot so as to be visible from any other portion of the Community. Without limiting the generality of the foregoing, refuse, garbage, trash, equipment, gas canisters, propane gas tanks, barbecue equipment, heat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material and scrap shall be kept at all times in such containers and in areas approved by the Committee. Trash cans and other trash receptacles, including recycling cans and receptacles, shall not be visible except between 5:00 AM and 8:00 PM on the day selected by the trash collector for trash and recycling pick-up. No clothing or fabric shall be hung, dried or aired in such a way as to be visible to any other portion of the

Community. Only permanent basketball hoops or poles are permitted within the Community. Basketball standards shall not be permitted on the roof or walls of any structure. No major appliances (such as clothes washers, dryers, refrigerators or freezers) may be kept, stored or operated on any balcony, patio, porch or other exterior area of any Improvement. Window air-conditioning units are not allowed. Windows shall be covered only by drapes, shades or shutters and shall not be painted or covered by foil, cardboard, sheets or similar materials.

3.5 **ATV Use.** ATVs (defined as any wheeled vehicle used for recreation including, without limitation, go-carts, scooters, dirt bikes, motorcycles, ATVs, UTVs, quads and golf carts) shall not be operated within the Community except to the extent they are used for transportation in a manner that is legal on public highways in the State of Idaho and are equipped with adequate mufflers to prevent their use constituting a nuisance.

3.6 **Drones.** No unmanned flying machine ("Drone") shall be landed in any Common Area, whether such Drone is operated privately or by a commercial delivery service ("Delivery Drones"). No recreational use of drones shall be permitted within the Community or at an elevation of less than 250 feet over the Community. Delivery Drones may be operated in the Community subject to the following restrictions:

3.6.1 Operation shall be limited to the hours of 8:00 a.m. and 6:00 p.m.;

3.6.2 Delivery Drones shall land and/or deliver packages only to and upon private driveways and packages shall be removed within two hours of delivery; and

3.6.2 Delivery Drones shall not be used in a manner that intrudes on the privacy or quiet enjoyment of the property of Owners.

3.7 **No Hazardous Activities.** No activities shall be conducted on the Community, and no Improvements shall be constructed in the Community which are or might be unsafe or hazardous to any Occupant.

3.8 **Insurance Rates.** Nothing shall be done or kept on any Lot which will increase the rate of or cancel any insurance on any other portion of the Community without the approval of the Owner of such other portion, nor shall anything be done or kept on the Community or a Lot which would result in the cancellation of insurance on any portion of the Community owned or managed by the Association or which would be in violation of any law.

3.9 **Vehicles and Equipment.** All on-street parking shall be limited to those specific areas where on-street parking is not expressly prohibited by the governmental or quasi-governmental agencies with responsibility therefor. Vehicles shall not extend or otherwise be permitted on or into any sidewalk, bicycle path or pedestrian path unless such vehicle is engaged in an emergency procedure, or as provided elsewhere in the

Community Documents. No motor homes, motor coaches, campers, trailers, snowmobiles, aircraft, boats, recreational vehicles, all-terrain vehicles, abandoned or inoperable vehicles (defined as any vehicle which has not been driven under its own propulsion for a period of seven days or longer), oversized vehicles (defined as vehicles which are too high or too wide to clear the entrance of a standard residential garage door opening), dilapidated or unrepaired and unsightly vehicles or similar equipment such as snow removal equipment, garden maintenance equipment and/or any other unsightly equipment and machinery shall be placed upon any portion of the Community, including but not limited to streets, parking areas and driveways, unless the same are located on a concrete pad and enclosed by a structure concealing them from view in a manner approved by the Committee. To the extent possible, garage doors shall remain closed at all times. Electric, gas or other fuel operated gardening, yard or snow removal equipment shall only be operated from 7:00 a.m. to 9:00 p.m., subject to applicable law.

3.10 Animals/Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that Household Pets (defined below) may be kept for an Owner's personal use provided that (a) such Household Pets are not bred or maintained for any commercial purpose, (b) no more than two (2) of any combination of domesticated dogs or domesticated cats may be kept on a Lot, and (c) any such Household Pets shall be properly restrained and controlled at any time they are within the Community. "Household Pets" shall mean generally recognized household pets that are customarily kept as indoor pets, such as domesticated dogs, domesticated cats, fish, birds (excluding roosters or turkeys), rodents and non-poisonous reptiles. Household Pets shall not include livestock, poultry, swine or waterfowl. Household Pets shall not be kept which unreasonably bother or constitute a nuisance to other Owners. Any noisy animal (defined below), any vicious animal, any non-domestic household pet or any animal which damages or destroys property shall be deemed a nuisance. Excessive or untimely barking, molesting passersby, chasing vehicles, pursuing or attacking other animals, including wildlife, and trespassing upon private property in such a manner as to damage the Community shall also be deemed a nuisance. A "noisy animal" means any animal which habitually or frequently disturbs the sleep, peace or quiet of any Occupant. Owners shall contact the local animal control agency regarding noisy animals prior to complaining to the Board about such animals. Any costs associated with responding to complaints of a noisy animal or nuisance pet may be levied against an Owner as a Limited Assessment. The Owner of a Lot where a Household Pet is kept, as well as the legal owner of the Household Pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the Household Pet, and for any clean-up of any Common Area, roads or other property necessitated by such Household Pet. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. Each dog in the Community shall be kept on a leash, curbed, and otherwise controlled at all times when such animal is off the premises of its owner. Such owner shall clean up any animal defecation immediately from the Common Area or public right-of-way. Failure to do so may result, at the Board's discretion, in a Limited Assessment levied-against such animal owner.

3.11 Assistance Animals. Assistance animals are welcome in the Community in accordance with the Fair Housing Act (42 U.S.C. § 3601 et. seq., as amended) and the

implementing regulations promulgated thereunder and other applicable law. An assistance animal shall be as defined in the Fair Housing Act and/or other applicable law, which shall include, without limitation, any animal needed by a disabled individual to have an equal opportunity to use and enjoy a dwelling. Examples of assistance animals are, without limitation, guide animals, animals that alert people who are hearing impaired, animals that pull a wheelchair, animals that alert and protect a guest who is having a seizure, animals that remind an individual with mental illness to take prescribed medications, animals that calm an individual with Post Traumatic Stress Disorder (PTSD) during an anxiety attack and animals that provide comfort or emotional support. Assistance animals in training are to be treated as assistance animals, even if the handler is not disabled. An assistance animal need not be licensed or certified by any government. Individuals with assistance animals shall not be treated less favorably than other residents or charged fees that are not charged to other residents without animals. The Association shall have the right, to the extent permitted under the Fair Housing Act, to prohibit or restrict any assistance animal that (a) is out of control and the handler does not take effective action to control it or (b) the animal's behavior poses a threat to the health or safety of others. Any individual who brings an assistance animal on the Community is financially and legally responsible for any injury or damage caused by such assistance animal, and for any clean-up of Common Areas, roads or other property necessitated by such assistance animal.

3.12 Construction and Temporary Structures. During the course of construction, no trailer houses or similar mobile units designed for overnight accommodations shall be parked on any street. No trailer, tent, shack, garage, barn or other unattached structure erected on a Lot shall, at any time, be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No building of any kind shall be erected or maintained on a Lot prior to the construction of the Improvements thereon. The construction of Improvements shall be prosecuted diligently and continuously from the time of commencement thereof until such Improvements are fully completed and painted. The construction site shall be cleaned of trash and debris nightly and maintained in a non-nuisance condition.

3.13 Drainage. No Owner shall interfere with the established drainage pattern over any portion of the Community, unless adequate alternative provisions for proper drainage have first been approved by the Committee and properly installed. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Community is completed by Declarant, or that drainage which is shown on any plans approved by the Committee, which may include drainage from Common Area over any Lot in the Community.

3.14 Grading. Except as provided in Section 3.13, no Lot shall drain onto, over, across or under the Common Area or an adjacent Lot except in drainage easement areas specified by the Community Documents, recorded easements or on the Plat (the "Drainage Easements"). Owners shall grade each Lot in such a manner that all runoff runs either over the curb and into the Private Street or into and through the Drainage Easements. The Owner

of any Lot within the Community in which grading or other work has been performed pursuant to a grading plan approved by any public agency, or by the Committee, shall maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means or devices which are not the responsibility of any public agency, and plantings and ground cover installed or completed thereon.

3.15 Irrigation System. The Association shall operate the Irrigation System for the Community. Each Owner shall connect its Lot(s) to the Irrigation System, if available, upon the earlier to occur of the issuance of a certificate of occupancy or nine months after the issuance of a building permit to ensure that all required landscaping is maintained in a high-quality manner and first-class condition and in accordance with the Community Documents. Each Owner acknowledges that Irrigation System water may be inadequate, particularly during low water years and seasons, and that each Owner is not guaranteed any specific amount of water for use on such Owner's Lot. No Owner shall modify any portion of the Irrigation System, including that portion of the Irrigation System on the Owner's Lot.

3.16 Water Supply Systems. No separate or individual water supply system, regardless of the proposed use of the water to be delivered by such system, shall be permitted on any Lot unless such system is approved by all government authorities having jurisdiction and designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Committee.

3.17 Sewage Disposal Systems. No individual sewage disposal system shall be used on the Community. Each Owner shall connect the appropriate facilities on such Owner's Lot to the public sewer system and pay all charges assessed thereon.

3.18 Energy Devices, Outside. No energy production devices or generators of any kind (such as solar energy devices or windmills) shall be constructed or maintained on any portion of the Community without the Committee's approval, except for mechanical equipment shown in the plans approved by the Committee and generators used temporarily during power outages. This Section shall not apply to passive solar energy systems incorporated into the approved design of a residential structure.

3.19 Signs. No more than one sign shall be allowed on any Lot at the same time to advertise the Lot for sale or to advertise the Lot during the course of construction. No sign of any kind shall be displayed to the public view more than six square feet in size and not more than three feet above grade. The Association may erect and maintain identification signs, street signs and other appropriate informational signs upon the Common Area or upon utility easements of a size and design approved by the Committee. No other signs shall be placed or maintained upon the Common Area. Directional and open house signs may be used during open house time period only. All Lot signs must be removed within 30 days after occupancy. Signs advertising a Lot for rent are not allowed anywhere within the Community. Political signs are permitted for up to 30 days prior to a primary or general election, shall be removed within two days after an election and shall be limited to the same sizes as applicable to sale signs.

3.20 Flags. No flags, banners, windsocks or similar items are permitted within the

Community except for a standard American flag that is no larger than six feet in length.

3.21 **Antenna; Satellite Dishes.** All exterior radio antenna, television antenna, satellite dishes or other such devices of any type shall be installed on the rear of the residential structure on the Lot, or within four feet of the rear of the structure on any such structure's side walls. All such devices shall be screened by a fence, landscaping or similar structures in accordance with the Design Requirements, or as otherwise required to ensure the safety of the residents of the Community, except that screening shall not be required where it would unreasonably delay installation or unreasonably increase the cost of installation, maintenance or use thereof, or preclude the reception of an acceptable quality signal. No such device may be installed until after an Owner has received Committee approval for construction of residential Improvements on the Owner's Lot.

3.22 **No Further Subdivision.** No Lot may be further subdivided unless the subdivision is approved by the Board, and then only in accordance with applicable law.

3.23 **Holiday Lights.** Winter holiday decorations and lighting displays are permitted starting on November 15 of each year and must be removed by January 15 of the following year. Any other holiday decorations or lighting displays (such as Halloween) are permitted up to 15 days prior to the holiday and must be removed within three days after the holiday.

3.24 **Common Driveway.** There is hereby established a perpetual ingress/egress easement over, under, upon and through Lot 11 for the use of all Owners and their invitees (the "Private Street"). There is hereby established a perpetual ingress/egress easement over, under, upon and through Lot 8 in Block 1 of the Plat, and Lot 13 in Block 1 of the Plat (each a "Common Driveway"). The Common Driveway comprised of Lot 8 shall be a common driveway for the benefit of Lots 9 and 10 in Block 1 of the Plat and the Common Driveway comprised of Lot 13 shall be a common driveway for the benefit of Lots 14 and 15 in Block 1 of the Plat (the "Common Driveway Lots"). The Common Driveway comprised of Lot 8 shall also provide access for the benefit of Common Area Lot 7 in Block 1 of the Plat for the use of the Association and all Owners and their invitees. All Common Driveway Lots shall take access to the private street located on Lot 11 through their respective Common Driveway. The Association shall maintain, repair and replace the Common Driveways and the Private Street (including the surface paving thereon). The easements granted herein shall not be modified without the express written consent of the City of Eagle and any attempt to do so shall be void and of no effect.

3.25 **Building Size and Height.** No dwelling shall be erected, altered, placed or permitted to remain on any Parcel which contains less than 1,900 square feet of living area, and can only be single story. The square footage of living area shall be based on the interior living space at or above the grade of the Parcel, exclusive of basement, porches, patios and garages. Notwithstanding the foregoing, the existing home currently bearing the address of 368 North Taylor Street, which home does not satisfy the above requirements, shall be allowed to remain and be maintained without alteration or addition and any remodel of the existing home shall be allowed to be accomplished without increasing square footage to the

above minimums. Building height is limited to 20 feet.

3.26 **No Mining or Drilling.** No portion of the Property shall be used for the purpose of blasting, mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, sand, gravel or earth. This Section 3.26 shall not prohibit drilling or coring which is necessary to construct Improvements.

ARTICLE 4 ARCHITECTURAL REVIEW COMMITTEE

4.1 **Creation.** The Board shall appoint no less than three and no more than five individuals to serve on the Architectural Review Committee (the "**Committee**"). The Board shall have the exclusive right to appoint, remove and replace Committee members at any time with or without cause. If a vacancy on the Committee occurs and the Board has not yet appointed a replacement, the remaining Committee members may appoint an acting member to serve until the Board appoints a replacement. Committee members need not be an Owner.

4.2 **Design Requirements.** The Committee shall have the power and authority to adopt, amend and repeal such rules and regulations as the Committee deems reasonable and appropriate to ensure that all Improvements in the Community are Contemporary/Prairie design, do not exceed 20 feet in height, not comprised of less than 1900 square feet of living area and conform and harmonize as to external design, quality and type of construction, architectural character, materials, color, location in the Building Envelope, height, grade and finish ground elevation, natural conditions, landscaping and other design or aesthetic considerations (the "**Design Requirements**"). The Design Requirements may include rules and regulations to (a) protect the special qualities of the Community; (b) encourage creative design; (c) provide general architectural, design and construction guidelines; (d) landscape guidelines (including a description of existing, natural conditions and vegetation); (e) submittal and review procedures; (f) fees and charges for review; and (g) penalties for noncompliance. The Design Requirements shall be drafted to conform to this Declaration, and in the event of a conflict between the Design Requirements and this Declaration, this Declaration shall govern. In the event that any provision of the Design Requirements are deemed ambiguous on any matter, the Committee's interpretation such provision shall be given deference so long as the interpretation is a permissible construction of such provision. No basements shall be allowed in any residential Improvement located within FEMA special flood hazard zone.

4.3 **Design Review Required.** No Owner shall construct, reconstruct, alter, install or remove any Improvements except with the Committee's approval. The Committee shall review, study and either approve or reject the proposed Improvements on the Community, all in compliance with the Declaration and the Design Requirements. Except as otherwise set forth herein, any action or decision made by a majority of the Committee shall be the binding decision of the entire Committee. The Committee is authorized to retain the services of one or more consulting architects, landscape architects, engineers, designers and other

consultants to advise and assist the Committee on a single project, on a number of projects or on a continuing basis. The actions of the Committee in the exercise of its discretion by its approval or disapproval of the proposed Improvements on the Community, or with respect to any other matter before it, shall be conclusive and binding on all interested parties. The Committee shall not direct or control the interior layout or interior design of residential structures except to the extent incidentally necessitated by use, size and height restrictions or with respect to window coverings comprising a permanent fixture of the Improvements.

4.4 Landscaping. Each Owner shall install, maintain, repair and replace landscaping on such Owner's Lot as required by the Design Requirements which shall require, at a minimum, installation of: sod in all lawn areas; one two-inch caliper tree in the rear yard of each residential Lot of the species specified in the "Approved Tree List" attached hereto. All living trees located on a Lot that do not encroach upon into the Building Envelope shall be preserved except as approved by the Committee and, if applicable, the City of Eagle. Owner shall submit a landscaping plan to the Committee as part of any submittal for approval of a primary residential structure. The Owner shall complete the front and side yard landscaping in conformance with the landscape plan approved by the Committee within 30 days after substantial completion of the primary residential structure. The rear yard landscaping must be completed within six months of substantial completion of the primary residential structure. If installation of landscaping is made impractical by inclement weather, the completion of landscaping may be deferred for a reasonable period of time in the discretion of the Committee (but shall be completed no later than the next April 30th following occupancy). All Owners shall install, maintain, repair and replace a timer-controlled automated irrigation system, which shall be operated in accordance with any rules adopted by the Association. No fences, hedges or retaining walls shall be installed or maintained on any Lot unless approved by the Committee. Without limiting the foregoing approval rights of the Committee, any fencing located adjacent to any Common Area open space lots shall be an open fencing style such as wrought iron or other similar decorative style and constructed of durable fencing materials and any specific buffer area fences or decorative walls may be allowed as otherwise required in Eagle City Code.

4.5 Expenses. All expenses of the Committee shall be paid by the Association. The Committee shall have the right to charge reasonable fees for applications submitted to it for review, in amounts which may be established by the Committee from time-to-time, and such fees shall be collected by the Committee and remitted- to the Association to help defray the expenses of the Committee's operation, including reasonable payment to each member of the Committee for their services as provided herein. Each Owner, by submitting a design review application to the Committee, agrees to pay any additional reasonable fees based on costs incurred by the Committee in retaining consultants for the review and approval of the Owner's application(s).

4.6 Variances. The Committee may authorize variances from any of the Design Requirements when the Committee deems it desirable to address special circumstances, such as topography, natural obstructions, hardship, aesthetic considerations or other circumstances. The granting of a variance shall not waive any element of the Design Requirements for any purpose except as to the particular property and particular provision covered by the variance. Approval

of a variance shall not affect the Owner's obligation to comply with this Declaration or applicable law. Granting of a variance by the Committee shall not constitute or be interpreted to support or constitute a waiver of any provision of the Community Documents nor as a waiver or estoppel of its power to not grant such a waiver in the future nor as a waiver or modification of its power to review and approve any item required to be submitted to the Committee under the Community Documents.

4.7 **Committee Approvals.** The Committee's approval of any Improvement does not mean the Improvements will be permitted by applicable law, approved by the applicable governmental authorities or others. The Committee shall not be responsible in any way for any defects or errors in any plans or specifications submitted, revised or approved, nor for any structural or other defects in any work done according to such plans and specifications.

4.8 **Immunity; Indemnification.** The Committee's members, agents and employees shall be immune from liability and entitled to indemnification as set forth in Section 2.8 hereof.

ARTICLE 5 ASSESSMENTS

5.1 **Covenant to Pay Assessments.** Each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against such Owner or such Owner's Lot pursuant to the Community Documents. Assessments against a Lot shall be a continuing lien on such Lot until paid, whether or not ownership of such Lot is transferred. Assessments against a Lot are also the personal obligation of the Owner of the Lot when the Assessment becomes due and payable. Such personal obligation shall remain with such Owner regardless of whether such Owner remains the owner of the Lot. Delinquent Assessments related to a Lot shall not pass to such Owner's successors in title unless expressly assumed by them or unless and to the extent they are reflected by a lien recorded against the Lot in the real property records of Ada County at the time such successor takes title. Such Assessments and charges, together with interest, costs and reasonable attorneys' fees, which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made.

5.2 **Regular Assessments.** Regular Assessments are to be used to pay for all costs and expenses incurred by the Association for the conduct of its affairs or the exercise of any of the Association's powers, duties or obligations under the Community Documents (collectively, the "**Expenses**"). Without limiting the generality of the foregoing, the Expenses shall include:

5.2.1 The cost and expenses incurred by the Association for professional management of its business and affairs;

5.2.2 The costs and expenses incurred by the Association in the exercise of any of its powers under Section 2.6;

5.2.3 The costs and expenses of construction, improvement, protection, insurance, maintenance, repair, management and operation of the Common Area and all Improvements located in other areas that are owned, managed or maintained by the Association;

5.2.4 An amount to fund adequate reserves for extraordinary operating expenses, contingent risks or liabilities (such as indemnification and defense expenses), capital repairs, capital replacements and any other expenses for which the Board deems prudent to fund a reserve. Without limiting the foregoing, the Regular Assessments shall include an amount sufficient for and the Board shall set aside in a separate reserve account, assuming no return on the reserve account, for: a) irrigation system power and other ongoing maintenance costs to maintain the system as set forth in the Irrigation System Operation and Maintenance (O&M) Manual for Feldspar Subdivision; and b) maintenance and replacement of the Private Street and storm drainage systems in the Community as set forth in the Private Roadway and Stormwater Facility Operation and Maintenance (O&M) Manual for Feldspar Subdivision (collectively, the "**O&M Manuals**").

The Association may, in its discretion or as provided in the Community Documents, require payment of Regular Assessments in monthly, quarterly, semi-annual or annual installments. Each Owner shall be assessed and shall pay an amount computed by multiplying the Association's total advance estimate of Expenses by the fraction produced by dividing the number of Lots owned by such Owner by the total number of Lots not then exempt from Assessment.

5.3 **Special Assessments.** If the Board determines that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses for such calendar year for any reason, the Board may levy a Special Assessment to collect the additional funds needed to meet the Expenses for such calendar year. Special Assessments shall be levied and paid upon the same basis as Regular Assessments; provided, however, the Association shall, in its discretion, set the schedule under which such Special Assessment will be paid, which schedule may be different than Regular Assessments.

5.4 **Limited Assessments.** Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an Owner (a) for any Fines, fees or charges levied against the Owner under the Community Documents; (b) to reimburse the Association for any costs incurred to bring the Owner's Lot or any Improvements thereon into compliance with the Community Documents; (c) to reimburse the Association for any damages caused by an Owner or its tenants, occupants, guests, invitees and contractors to any Common Area or Improvements owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Community Documents that benefit such Owner or Owner's Lot, but less than all Owners or all Owners' Lots.

5.5 **Assessment Procedures.** The policies and procedures for Assessments (such

as notices, payment methods, installment options, late fees, interest charges, collection fees, payments on sale of Lots and other matters) shall be as set forth in the Bylaws or Community Rules; provided, however, the Association shall provide Owners with not less than 15 days and no more than 30 days of prior notice before any Board meeting for the purpose of levying a Special Assessment or increasing the Regular Assessment by more than ten percent. No Fine shall be imposed in violation of Idaho Code § 55-115. Once a Fine is imposed in accordance with Idaho Code § 55-115, the Association may levy a Limited Assessment against the Owner therefor in accordance with this Section 5.5.

5.6 Assessment Liens.

5.6.1 **Creation.** There is hereby created a continuing claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against such Lot pursuant to the Community Documents, together with interest thereon at the legal rate in Idaho and all collection costs and attorneys' fees which may be paid or incurred by the Association in connection therewith. Upon default of any Owner in the payment of any Assessment related to a Lot, the Association may record a claim of lien against such Lot in accordance with applicable law (currently, Idaho Code § 45-810). Each delinquency shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Such claim of lien may be foreclosed in any manner permitted by applicable law. Upon payment of such lien in full, the Association shall prepare and record a release of such claim of lien.

5.6.2 **Subordination to First Trust Deeds.** Upon recordation of a claim of lien for delinquent Assessments in accordance with applicable law, such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the claim of lien except for (a) liens which, by law, would be superior thereto and (b) the lien of a first deed of trust or first mortgage (which shall be defined as any mortgage or deed of trust which is not subordinate to any lien or encumbrance except liens for taxes or other liens which are given priority by statute) given and made in good faith and for value that is of record as an encumbrance against such Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Section 5.6.2, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

5.7 **Exemptions.** All Common Area and any Lots owned by the Association shall be exempt from Assessments. Granter shall be exempt from Assessments as set forth in Section 9.5.

**ARTICLE 6
RIGHTS TO COMMON AREAS**

6.1 **Use of Common Area.** Every Owner shall have a right to use the Common Area

as set forth in this Declaration subject to:

6.1.1 The Community Documents;

6.1.2 The right of the Association to suspend the right of an Owner to use the Common Area for any period during which any Assessment or charge against such Owner's Lot remains unpaid and for a period not to exceed 60 days for any infraction of the Community Rules; and

6.1.3 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility or other party for such purposes and subject to such conditions as may be permitted by the Community Documents.

6.2 **Delegation of Right to Use.** An Owner may delegate its right to use the Common Area to the occupants of such Owner's Lot; provided, however, each Owner shall be liable to the Association for any damage to any Common Area sustained by reason of the negligence or willful misconduct of such Occupants. The cost of correcting such damage shall be a Limited Assessment against the Lot.

6.3 **Association's Responsibility.** The Association shall maintain, replace when necessary and keep the Common Area and any other Improvements owned, managed or maintained by the Association in good condition and repair. Without limiting the generality of the foregoing, Association shall maintain the Irrigation System (pursuant to the O&M Manuals), the Private Street (pursuant to the O&M Manuals and at all times consistent with Eagle City Code §9.3.2.5.C), storm drainage systems, street lights, shared driveway providing access to Common Area Lot 8 and all common landscape areas in a competent and attractive manner including, without limitation, the watering, mowing, fertilizing and caring for shrubs and trees in perpetuity. The foregoing obligations of the Association may not be eliminated or modified without the express, written consent of the City of Eagle.

6.4 Without the express approval of the City of Eagle, no part of the Community shall be used to install any road connecting Taylor Street and Cobblestone Lane either directly or indirectly.

ARTICLE 7 EASEMENTS

7.1 **Recorded Easements.** The Community shall be subject to all easements shown and any easements that are established or of record, including easements set forth on the Plat.

7.2 **Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment as between adjacent Lots and between Lots and adjacent portions of the Common Area due to the unwilful placement or settling or shifting of the Improvements constructed, reconstructed or altered in accordance with the Community

Documents. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for encroachment occur due to the willful or bad faith acts of an Owner. If an Improvement is partially or totally destroyed, such Improvement may be repaired or rebuilt within such minor encroachments that existed prior to the encroachment and may be reconstructed pursuant to the easement granted by this Section 7.2.

7.3 Easements of Access. There shall be reciprocal appurtenant easements of ingress and egress for all Owners to and from their respective Lots for installation and repair of utility services and for necessary maintenance and repair of any Improvement, such as fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees and landscaping.

7.4 Improvements in Drainage and Utility Easements. No Owner shall construct or alter any Improvements in any drainage or utility easement areas which would interfere with the easement being used for its intended purpose. Such Owners may install and maintain Improvements on such easement areas as permitted by the Community Documents so long as such Improvements are permitted by the terms of the easement and such Improvements will not interfere with or prevent the easement areas from being used for their intended purposes. No lawful user of the easement shall incur any liability to such Owner for the damage or destruction of such Improvements.

7.5 Sanitary Sewer Easements. There is hereby granted to the Eagle Sewer District a perpetual non-exclusive easement for the purpose of accessing, maintaining, repairing and replacing those portions of the sanitary sewer system for the Community that runs on, over, across, under or through the Community; provided, however, in the event the Eagle Sewer District disturbs such easement area, the Eagle Sewer District shall promptly restore of the surface of the ground and ordinary improvements thereon (such as paving, concrete, grass and ordinary landscaping) to the condition existing immediately before such disturbance. The Association shall restore any improvements or landscaping (if any) that is not the obligation of the Eagle Sewer District to restore.

7.6 Easements Deemed Created. All conveyances of Lots made after the date of the recording of the Declaration, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 7, even though no specific reference to such easements or to this Article 7 appears in the conveyance instrument.

7.7 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies to enter upon the Community in the proper performance of their duties.

7.8 Maintenance Easement. An easement is hereby reserved to the Association upon, across, over, in and under the Lots and a right to make such use of the Lots as it may deem necessary or appropriate to make emergency repairs or to perform the duties and functions which

the Association is obligated or permitted to perform pursuant to the Community Documents, including the right to enter upon any Lot for the purpose of performing maintenance to sidewalks, pathways, landscaping, the Drainage System, the Irrigation System and the exterior of Improvements to such Lot. Nothing herein shall relieve each Owner's obligation to maintain Improvements on such Owner's Lot.

ARTICLES 8 RESOLUTION OF DISPUTES

8.1 **Agreement to Avoid Litigation.** Declarant, the Association and the Owners agree that it is in their best interests to provide a fair, impartial and expeditious procedure for the resolution of disputes related to the Community Documents instead of costly, lengthy and unpredictable litigation. Accordingly, Declarant, the Association (including its officers, directors and committee members), each Owner and any party claiming a right or interest under the Community Documents (each, a "**Bound Party**") agree to encourage the efficient resolution of disputes within the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Community Documents or the rights, obligations and duties of any Bound Party under the Community Documents ("Claims") shall be subject to the provisions of Section 8.3 unless exempt under Section 8.2. All Claims shall be subject to resolution pursuant to this Article 8 as a condition precedent to the institution or continuation of any legal or equitable proceeding; provided, however, any Bound Party may proceed in accordance with applicable law to comply with any notice or filing deadlines prior to resolution of the Claim.

8.2 **Exemptions.** The following Claims shall not be subject to this Article 8 unless all Bound Parties thereto agree to submit such Claim to these dispute resolution procedures:

8.2.1 Any Claim by the Association against any Bound Party to enforce the obligation to pay any Assessment to the Association under the Community Documents;

8.2.2 Any Claim by Declarant or the Association to obtain injunction or equitable relief to enforce any provision of the Community Documents;

8.2.3 Any Claim between Owners where the Declarant or the Association are not a party thereto, which Claim would constitute a cause of action independent of the Community Documents;

8.2.4 Any Claim in which any indispensable party is not a Bound Party;

8.2.5 Any Claim against a Released Party that would be barred by Section 2.8;

8.2.6 Any Claim which otherwise would be barred by any applicable law (such as, for example, the applicable statute of limitations); and

8.2.7 Any Claim arising out of or relating to the interpretation, application

or enforcement of any purchase, sale or construction agreement with Declarant or any builder related to the construction of Improvements within the Community, or the rights, obligations and duties of any Bound Party under such agreements, it being understood that applicable law and the provisions of such agreements shall control the resolution of any claims or disputes related thereto.

8.3 **Dispute Resolution.**

8.3.1 **Direct Discussions.** Any Bound Party having a Claim against any other Bound Party shall notify such party(ies) of the Claim in writing, stating plainly and concisely the following: (a) the nature of the Claim; (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (c) the basic facts supporting the allegations in the Claim; (d) the other persons involved in the Claim or with personal knowledge of the facts alleged; and (e) the claimant's proposed remedy, including the specific monetary amounts (if any) demanded. The Bound Parties to the Claim shall make reasonable efforts to meet in person to resolve the Claim by good faith discussions and negotiations - it being understood that the best opportunity to achieve a fair and satisfactory resolution to a Claim is ordinarily through early discussions and negotiations held in good faith.

8.3.2 **Dispute Resolution.** If the Bound Parties to a Claim are unable to resolve the Claim through direct discussions within a reasonable time, either Bound Party may submit the Claim to the Board for assistance in resolving the Claim. In such event, the Board may, by notice to each Bound Party to the Claim within 30 days of its receipt of a request for assistance:

8.3.2.1 Order the Bound Parties to continue direct discussions and negotiations for a period of up to 30 days. If the Claim is not resolved in such period, any Bound Party may request the Board's assistance to resolve the Claim;

8.3.2.2 Order the Bound Parties to mediate the Claim with an independent real estate attorney, real estate professional or judge selected by the Association. The mediator shall set the rules of the mediation. Any party to the mediation can invite additional parties to the mediation if the presence of such additional party is required for a complete resolution of any Claim. The parties shall share the mediator's fee and any filing fees equally. Unless otherwise agreed, the mediation shall be held within 30 days of the order for mediation and shall be held in a neutral location near the Community selected by the mediator. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the mediation does not resolve the Claim, the Bound Parties may proceed to litigation of the Claim in any court of competent jurisdiction;

8.3.2.3 Order the Bound Parties to settle the Claim through

arbitration by a single arbitrator conducted in accordance with the Idaho Uniform Arbitration Act (Idaho Code, Title 7, Chapter 9) except as otherwise provided herein. The arbitrator shall be any independent real estate attorney or judge appointed by the Association. The arbitrator shall set the rules of the arbitration. The arbitrator may, in its discretion, order parties to produce documents relevant to the dispute and may order written discovery and depositions (but with care to avoid burdensome discovery or depositions). The arbitrator shall endeavor to hold the arbitration at mutually convenient times and locations; provided, however, the arbitrator shall endeavor to complete the arbitration within 45 days after appointment of the arbitrator. The parties shall bear their own attorneys' fees (if any) and share the arbitrator's fees equally; provided, however, the arbitrator may award costs, arbitrator's fees and attorneys' fees to the substantially prevailing party. The arbitrator's award shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof;

8.3.2.4 If the Claim is within the jurisdiction of the Small Claims Department of the Magistrate Division (currently, monetary claims for \$5,000 or less), order a Bound Parties to file such Claim exclusively therein; or

8.3.2.5 Elect to exempt the Claim from this Article 8, at which time the Bound Parties are free to exercise any right or remedy in accordance with applicable law.

If the Board fails to notify the Bound Parties within 30 days of its receipt of a request for assistance, the Board shall be deemed to have elected to exempt the Claim from this Article 8.

8.3.3 If the Bound Parties resolve any Claim through mediation or arbitration pursuant to this Article 8 and any Bound Party thereafter fails to abide by the terms of such resolution (i.e., settlement agreement or arbitrator's award), then any other Bound Party may take any legal or other action to enforce such settlement agreement or arbitrator's award without the need to comply again with the procedures set forth in this Article 8. In such event, the Bound Party taking action to enforce the resolution shall be entitled to recover from any non-complying Bound Party all costs and attorneys' fees reasonably incurred in such enforcement.

ARTICLE 9 INITIAL DEVELOPMENT PERIOD

9.1 **Initial Development Period.** The "**Initial Development Period**" shall commence on effective date of this Declaration and terminate on the day Declarant (or the assignee of Declarant's rights hereunder) no longer owns any Lots (including Lots annexed

into the Community in the future) or on the day Declarant terminates its rights by notice to the Association.

9.2 **Community Management.** Each Owner recognizes that the Community will require a high level of knowledge, effort, judgment, diligence and attention during the Initial Development Period, and that level is beyond what can reasonably be expected from Community volunteers. Accordingly, each Owner agrees that it is in the best interest of the Community for Declarant to have full management authority for the Community during the Initial Development Period, including the sole and exclusive right to appoint, remove and replace directors of the Board and members of the Committee at any time and from time-to-time in Declarant's sole discretion. In furtherance thereof, each Owner hereby appoints Declarant as its proxy with respect to its membership interest in the Association (including voting rights), which proxy shall be coupled with Declarant's interest in the Community and irrevocable during the Initial Development Period.

9.3 **General Exemptions.** Declarant may, from time-to-time in Declarant's discretion and without first seeking or obtaining the approval of Association or Committee:

9.3.1 Make modifications or Improvements on any Lot or the Common Area as Declarant deems appropriate;

9.3.2 Place or authorize signs of such size, design and number as Declarant deems appropriate for the initial development of the Community, including signs to identify the Community, display information pertaining to the Community, display information or instructions to builders, to advertise Lots and homes for sale (including sale events and open houses), and to advertise of Community elements or events;

9.3.3 Authorize any developer or contractor to use any Lot as a model home, sales office, construction office or construction storage yard;

9.3.4 Place or authorize portable or temporary structures upon any Lot or the Common Area; and

9.3.5 Establish or reserve such additional covenants, conditions, restrictions, licenses or easements on any Lot prior to conveyance thereof as Declarant deems necessary or convenient for the development of the Lot or the Community.

9.4 **Water Rights Appurtenant to Community Lands.** Declarant owns certain water rights which are appurtenant to the Community and which may be utilized in the Irrigation System. Declarant hereby reserves unto itself any and all water rights appurtenant to the Community, and Owners of any and all Lots accordingly shall have no right, title or interest in any of said water or water rights.

9.5 **Declarant's Exception from Assessments.** If Declarant owns any Lots during the first two years following the date assessments are first assessed against the Owners of Lots, Declarant shall not be assessed any Regular Assessments or Special Assessments for any Lots owned by Declarant. If Declarant owns at least one Lot during such period, Declarant shall pay the shortfall, if any, in the Operating Expenses of the Association; provided, however, such obligation shall not exceed the amount that the Regular Assessments and Special Assessments that Declarant would otherwise be assessed as an Owner multiplied by the total number of Lots owned by Declarant on the date Regular Assessments or Special Assessments are assessed against the Owners of Lots. After the foregoing period, Declarant shall be assessed Regular Assessments and Special Assessments for each Lot owned by Declarant.

9.6 **Assignment of Declarant's Rights.** Declarant may assign any or all of its rights under the Community Documents to any person or entity in a written instrument that contains the assignee's acceptance of such assignment and agreement to assume any of Declarant's obligations pertaining to the rights assigned, which acceptance and assumption shall be effective upon the recordation of such written instrument recorded in the real property records of Ada County, Idaho. Declarant shall promptly provide a copy of the recorded instrument to the Association and, thereupon, be released from Declarant's obligations pertaining to the rights assigned.

ARTICLE 10 TERM

The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The remainder of this Declaration shall run until December 31, 2040 and thereafter shall be automatically extended for successive periods of ten years each, unless amended or extinguished by a written instrument signed and acknowledged by the president and secretary of the Association certifying and attesting that such instrument has been approved by the vote or written consent of Owners representing sixty-five percent or more of the total voting power in the Association and such written instrument is recorded with the Ada County Recorder's Office.

ARTICLE 11 ANNEXATION AND DEANNEXATION

Declarant may annex additional lands into the Community from time-to-time by recording a supplement to this Declaration declaring such additional lands to be part of the Community and subject to this Declaration. Such supplement may add or delete covenants, conditions, restrictions and easements applicable to the annexed lands as Declarant may deem appropriate, so long as such additions or deletions do not place an undue burden on the Association or the Community. Upon annexation, Owners within the annexed lands shall become Owners in the Community on equal footing with the then current Owners in the Community, and shall have the same rights, privileges and obligations (except as may otherwise

be set forth in the annexing supplement). Granter shall have the right to de-annex any property owned by Granter from the Community upon Declarant's recordation of a supplement identifying the de-annexed lands and declaring that such lands shall no longer be subject to this Declaration.

ARTICLE 12 AMENDMENTS

12.1 **Prior to First Deed.** Except as otherwise provided in this Article 12, until the recordation of Declarant's first deed to a Lot, Declarant may amend or terminate this Declaration by recording a written instrument setting forth such amendment or termination.

12.2 **Lender Requirements.** Because the availability of government supported financing is key to the success of the Community and to the ability of Owners to finance and refinance their homes, Declarant shall have the right, power and authority during the Initial Development Period and the Association shall have the right thereafter, to amend or supplement this Declaration or any of the Community Documents by written instrument, at any time and at its sole discretion, as may be reasonably necessary to comply with any requirements or conditions necessary to take full advantage of, or secure the full availability of, any financing programs offered or supported by the organizations identified in Section 2.6.13; provided, however, nothing herein shall authorize an amendment in violation of Section 12.6 as otherwise provided in this Article 12.

12.3 **Governmental Requirements.** Because compliance with governmental requirements, as they change from time-to-time, is key to the success of the Community, Declarant shall have the right, power and authority during the Initial Development Period and the Association shall have the right thereafter, to amend this Declaration or any of the Community Documents by written instrument, at any time and at its sole discretion, as it may deem reasonably necessary to comply with any governmental requirement that is or may become applicable to the Community; provided, however, nothing herein shall authorize an amendment in violation of Section 12.6.

12.4 **By Association.** Except as otherwise provided in Article 11 or this Article 12, any amendment or supplement to this Declaration shall be by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment or supplement has been approved by the vote or written consent of Owners representing more than 51% of the total voting power in the Association.

12.5 **Effect of Amendment; Mortgage Protection.** Any supplement, amendment or termination of this Declaration shall be effective upon its recordation with the Ada County Recorder's Office and shall be binding on and effective as to all Owners, whether or not such Owners voted for or consented to such supplement, amendment or termination. Any supplement or amendment may add to and increase the covenants, conditions, restrictions and easements applicable to the Community; provided, however, notwithstanding any other provision of this Declaration, no supplement or amendment shall operate to defeat or render invalid the rights of the beneficiary under any Mortgage made in good faith and for value, and recorded prior to the

recording of such amendment or supplement, provided that after foreclosure of any such Mortgage, such Lot shall remain subject to this Declaration as supplemented or amended.

12.6 **No Amendment of Required Provisions.** Unless the express written and recorded consent of the City of Eagle has been obtained, this Declaration may not be amended, deleted, added or terminated, with respect to the following: (i) any provision of this Declaration which has been required by the City of Eagle in its approval of this Subdivision, or which affects, recognizes, conveys and/or confers upon the City of Eagle any easement, right or power, or requirement; (ii) any material provisions on easements, access, and/or the operation, repair, maintenance, repair and replacement of Common Area, infrastructure and/or public works systems; and/or (iii) any dissolution or termination of the Association.

ARTICLE 13 NOTICES

Any notices, consents, approvals or other communications required or permitted by this Declaration shall be in writing and may be delivered personally, by electronic mail or by U.S. mail. Each Owner shall be responsible for ensuring that the Association has such Owner's then current mailing address, physical address, electronic mail address and telephone numbers. Each Owner shall be deemed to have received any notice when such notice is actually received by such Owner (regardless of the method of delivery) or when such notice is delivered to any of the addresses then currently on file with the Association. Notices delivered by U.S. Mail shall not be deemed received until three (3) business after posting. The Association shall provide the notices addresses of all Owners to Declarant or any other Owner promptly upon request.

ARTICLE 14 MISCELLANEOUS

14.1 **Interpretation.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Community. As used herein, the word "including" shall be deemed to be followed by "but not limited to" unless otherwise indicated. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof. *In the event any provision of this Declaration is deemed ambiguous on any matter, the Board's interpretation such provision shall be given deference so long as the interpretation is a permissible construction of such provision.*

14.2 **Governing Law.** This Declaration shall be governed by the laws of the State of Idaho without regard to its conflicts of law principles. Any legal action to interpret or enforce this Declaration shall be filed exclusively in the state or federal courts situated in Ada County, Idaho. In the event any of the Community Documents are less restrictive than any government rules, regulations or ordinances, then the more restrictive government rule, regulation or ordinance shall apply. The Community Documents are subject to all rules, regulations, laws and ordinances of all applicable government bodies. In the event a governmental rule,

regulation, law or ordinance would render a part of the Community Documents unlawful, then in such event that portion shall be deemed to be amended to comply with the applicable rule, regulation, law or ordinance.

14.3 **Severability.** Each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

14.4 **Entire Agreement.** This Declaration is the sole agreement between the parties with respect to the subject matter herein and supersedes all prior understandings and agreements with respect to the subject matter hereof.

14.5 **No Third-Party Beneficiaries.** Except as otherwise set forth herein, this Declaration and each and every provision herein is for the exclusive benefit of Declarant, the Association and the Owners and not for the benefit of any third party.

14.6 **No Waiver.** No waiver by the Association hereunder may be oral. No waiver, forbearance, delay, indulgence or failure by the Association to enforce any of the provisions of this Declaration shall in any way prejudice or limit the Association's right thereafter to enforce or compel strict compliance with the provision hereof, any course of dealing or custom of the trade notwithstanding. No delay or omission on the part of the Association shall operate as a waiver thereof, nor shall any waiver by the Association of any breach of this Declaration operate as a waiver of any subsequent or continuing breach of this Declaration.

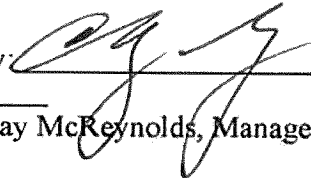
14.7 **Enforcement; Remedies.** The failure of any Owner or Occupant to comply with applicable law pertaining to the ownership, use or occupancy of any Lot or the Community, or to comply with any provision of the Community Documents, is hereby declared a nuisance and gives rise to a cause of action (subject to Article 8) in Declarant, the Association (on its own and/or on behalf of any consenting Owners) and any affected Owner for recovery of damages or for negative or affirmative injunctive relief or both enforce the provisions hereof only as set forth in this Declaration. Each remedy provided herein is cumulative and not exclusive. If any party initiates or defends any legal action or proceeding to interpret or enforce any of the terms of this Declaration, the substantially prevailing party shall be entitled to recover any costs and attorneys' fees reasonably incurred therein.

14.8 **Consents and Approvals.** Any consents or approvals required or contemplated herein must be in a writing executed by the party whose consent or approval is required or contemplated. No Owner unreasonably withhold, condition or delay its consent or approval of any matter requested by Declarant, the Association, the Committee or another Owner.

SIGNATURES ON FOLLOWING PAGE

DATED effective as of the year and day first written above.

EAGLE SINGLE FAMILY, LLC,
an Idaho limited liability company

By: 
Clay McReynolds, Manager

STATE OF IDAHO)
 : ss.
County of Ada)

On this 5th day of DECEMBER, before me, a Notary Public in and for said State, personally, known or identified to me to be a **Manager of Eagle Single Family, LLC**, an Idaho limited liability company, the person who subscribed said limited liability company's name to the foregoing instrument, and acknowledged to me that she/he executed the same in said limited liability company's name.

NICOLE PERRY
Notary Public - State of Idaho
Commission Number 20181774
My Commission Expires 09-17-2024

Notary Public for Idaho
Residing at: EAGLE, ID
My commission expires: 09/17/24

Feldspar Subdivision
Approved Tree List

<i>Tree Common Name (Botanical Name)</i>	<i>Planting Size</i>
Autumn Blaze Maple (Acer x freemanii 'Jeffersred')	2" B&B
Deborah Maple (Acer platanoides 'Deborah')	2" B&B
Easy Street Maple (Acer platanoides 'Ezestre')	2" B&B
River Birch (Betula Nigra)	2" B&B
Summit Ash (fraxinus pennsylvanica 'summit')	2" B&B
Columnar Sargent Cherry (prunus sargentii 'columnaris')	2" B&B
Black Hills Spruce (Pica glauca 'Densata')	6' B&B
Colorado Blue Spruce (picea pungens glauca 'Colorado')	6' B&B