

Recording Requested By
and When Recorded
Return to:

City of Hailey
Attn. City Clerk
115 S. Main, Ste H
Hailey Idaho 83333

LOCALS ONLY
COMMUNITY HOUSING DEED RESTRICTION COVENANT
(LIMITING HOUSEHOLD OWNERSHIP AND RESIDENCE TO LOCAL ECONOMY PARTICIPANT)

This COMMUNITY HOUSING DEED RESTRICTION COVENANT (“Covenant”) is made and is effective as of the first day of recording of the Covenant (“Effective Date”), by and between the CITY OF HAILEY, an Idaho municipal corporation, (“HAILEY” or “the City of Hailey”), and/or its assigns, and _____, whose current address is _____, (“Declarant” or “Owner”), its successors and assigns (all “Purchaser(s)” of the described real property in perpetuity, also hereinafter referred to as “Home Owner” or “Owner”) and forever affecting title to real property located and commonly referred to as _____, Hailey, more particularly described hereinafter in Exhibit “A.”

Section 1: Background.

1.1 This Community Housing Deed Restriction Covenant is entered into on or about the ____ day of _____ 202__ and to be recorded with the Blaine County Recorder of Deeds and assigned an Instrument number that will thereafter, and forever restrict title to the property herein referenced.

1.2 Pursuant to the terms and conditions of this Covenant, Declarant hereby grants HAILEY an interest in the Real Property herein described. This interest shall allow HAILEY, or its assigns, the authority to administer the terms and conditions of this Covenant but shall not be construed to impair the ability of a mortgagee to remedy a default or foreclose under the terms of a mortgage and/or deed of trust. Notwithstanding HAILEY's interest in the Property, the Declarant, and or its assigns, remain, and are or is the sole owner of a fee simple estate in the Property.

1.3 Declarant and HAILEY hereby agree the Property shall be exclusively and permanently dedicated for use and occupancy by an Owner as outlined in this Covenant.

1.4 Terms not otherwise defined in this Covenant shall have the meaning ascribed to such terms in Section 2.

Section 2: Definitions.

2.1 "HAILEY" is the City of Hailey, an Idaho municipal corporation, and its successors and assigns, which may include any non-profit corporation whose mission is supporting, developing and or administering community housing needs in Blaine County, Idaho. In the event Hailey assigns its rights hereinunder, it shall provide written notice to the Owner and/or any known Qualified Residents together with current contact information to include an email address, a phone number, physical and mailing address.

2.2 An "Owner" is either a Declarant during Declarant's initial ownership of the Property, a Qualified Buyer who acquires fee simple absolute title to the Property or is a Qualified Resident who rents all or any portion of the Property.

2.3 The "Property" is that certain real property described in Exhibit "A" attached hereto and incorporated herein. For purposes of this Covenant, the Property shall include, without limitation, all estates, rights, title, and interest in and to the Property, at law and in equity, and all buildings, structures, appurtenances, improvements, and fixtures associated therewith or attached thereto from time to time.

2.4 "Person" means a natural human being, not any type of entity.

2.5 "Principal Place of Residence" means the home or place in which one's habitation is fixed, and to which one has a present intention of returning after a departure or absence therefrom. To determine a person's Principal Place of Residence, the criteria set forth in I.C. § 34-107 shall apply.

2.6 "Qualified Household" means one Qualified Resident or a group of persons that contains at least one Qualified Resident. A Qualified Household may have occupants that are not Qualified Residents as long as at least one occupant is a Qualified Resident, and household net worth meets Qualified Resident standards provided in paragraph 2.9 hereinbelow.

2.7 "Qualified Resident" means a person who works an average of fifteen hundred (1,500) hours or more per year at a business in Blaine County, Idaho that holds a valid and current business license (as required), pays sales taxes, and is otherwise generally recognized as a legitimate business. Government and non-profit organizations qualify as employment with a business in Blaine County. Exceptions to the employment requirement apply to persons who hold verified, genuine offers of such employment, who otherwise qualify. A person remains a Qualified Resident if after ownership of said property the person retires from or becomes disabled from qualifying

employment.

2.8 "Qualified Buyer" is a person or group of people meeting and in full compliance with the qualifications and conditions set forth herein, who, upon taking title to the deed restricted unit contemplated herein; by virtue of employment in Blaine County as set forth hereinabove; who owns no other real properties and who can demonstrate a maximum net worth of no more than five hundred thousand dollars (\$500,000.00). (Five Hundred Thousand Dollars buying power may decline or rise over time and shall be calculated using the US Bureau of Labor Statistics "CPS Inflation Calculator" or similar recognized tool in place at the time of calculating qualification compared to the date of adoption hereof). The Qualified Buyer must also have a complete and current application on file with ARCH, its assigns or a then affordable community housing non-profit doing business in Blaine County, at the time a contract for the Sale of the Property is entered into between an Owner and the Qualified Buyer. The City of Hailey, and any non-profit corporation in the business of supplying, maintaining, and administering affordable community housing in Blaine County may also be deemed a Qualified Buyer.

2.9 "Net Worth" is the total value of all assets of the residents of a Qualified Buyer, minus any liabilities.

2.10 "Sale", "Sale of" or "to Sell" the Property shall include, without limitation, any transfer, purchase, sale, conveyance, grant, gift, bequest, or devise, by merger, consolidation, dissolution, operation of law or otherwise, of the Property or any interest therein, in whole or in part. The terms Sale, Sale of or to Sell the Property shall not include any grant of easement or partial conveyance for utility or public right-of-way purposes. The terms Sale, Sale of or to Sell the Property shall not include any grant of a security interest in the Property either by mortgage, deed of trust or otherwise, but shall include a Sale due to foreclosure or acceptance of a deed in lieu of foreclosure.

Section 3: Transfer.

3.1 Except as expressly set forth in this Covenant, the Owner may only Sell the Property to a Qualified Buyer. Any Sale of the Property must comply with this Covenant. Any Sale of the Property not in compliance with this Covenant is void. The City of Hailey retains the first option to purchase the property.

3.2 At such time as an Owner seeks to sell the Property, Owner shall complete, execute, and deliver to HAILEY or its assigns, a Notice of Intent to Sell. Upon receipt of the Notice of Intent to Sell and Owner's compliance with the terms of the Notice of Intent to Sell, HAILEY or its assigns shall notify Owner whether it or its assigns will exercise its first option to purchase and or provide Owner with Qualified Buyers, first right of purchase always residing with an employee of the City of Hailey Qualified Buyer. Owner shall then offer the Property for Sale to any and all the Qualified Buyers including those provided by HAILEY or its assigns, until an agreement is reached with a Qualified Buyer for the Sale of the Property.

3.3 In the event HAILEY becomes the fee owner of the Property, such conveyance of the fee interest to HAILEY shall not work a merger of the interests of HAILEY as to the Property and this Covenant shall continue to be in full force and effect unless an express Declaration of Termination hereof, as otherwise permitted herein, after Notice and Public Hearing by Hailey City Council and majority vote determining the public interest would be thereby served, or alternatively after due process of law by its assigns, signed and acknowledged by HAILEY, or its assigns, is recorded in the official records of Blaine County, Idaho.

3.4 Death of a Community Homeowner. The terms of the deed restriction herein survive the death of a Community Homeowner. The restrictions on purchase, ownership, occupancy, and transfer continue in perpetuity.

Section 4: Use & Occupancy Restrictions, Maintenance and Repair Requirements.

4.1 Owner shall use the Property as the Owner's Principal Place of Residence. At least one Qualified Resident shall continuously occupy the property as his or her principal place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner's or Resident's Principal Place of Residence if the Owner/Resident: (a) occupies and is physically present on and residing in the Property for not less than nine (9) months in every twelve (12) month period, (b) has not accepted employment outside of Blaine County (distinct and isolated projects outside of Blaine County not exceeding ninety (90) days in duration shall not constitute a violation of this section), (c) may rent a portion of the property to a qualified resident, provided that the primary Qualified Resident still occupies the property as his or her principal place of residence, and Further, Federal Occupancy rules apply, and no portion of the property may ever be used for short-term or vacation rental purposes.

4.2 Owner/Resident shall not use or allow the Property to be used for any business or commercial operation without first obtaining a home occupation permit or otherwise complying with all laws, rules, regulations and permits pertaining to such activities. The Owner shall not seek consent to change the zoning designation of the Property without the prior written consent of HAILEY, which consent may be granted, conditioned, or withheld in HAILEY's sole and absolute discretion. Furthermore, no business or commercial operation shall be conducted on the Property which materially interferes with or precludes the Property's use and occupancy as a residence. The property shall not be used as a "recreational" or "second home".

Owner shall at all times, and at its own cost and expense, maintain, repair and/or replace in good, clean and habitable condition the Property and every part thereof, in compliance with the homeowner association, if any, including, without limitation, any home, building or improvement on the Property, the roof, foundation, walls, siding, trim, floors, doors and windows, all electrical, plumbing, sewer, septic and HVAC components, lines and fixtures, all appliances, equipment and systems on the Property, all paved surfaces, all landscaped areas, and any sprinkler systems and water lines, reasonable wear and tear excepted. Such work must be performed in a good and workmanlike manner. The Owner shall maintain the landscaped areas of the Property in a neat, clean, and healthy

condition. Owner shall replace all dead, dying, or diseased plants, shrubs, and trees. Owner shall provide adequate watering for the landscaped areas, shall mow, trim, and prune the landscaped areas as needed for a neat and presentable appearance, and shall otherwise keep the Property free of harmful pests, insects and noxious weeds and plants. If Owner refuses or neglects to maintain, repair or replace the Property, or any part thereof, in accordance with this Section, according to the provisions of Sections 11 and 12, HAILEY shall have the right, but not the obligation, to perform such maintenance, repair or replacement obligations on behalf of and for the account of Owner. In such an event, any costs incurred by HAILEY shall be immediately due and payable upon receipt of an invoice according to the terms of Section 12.5.

4.3 Owner shall make or cause to be made all repairs to the Property and perform or cause to be performed all work thereon so as not to permit any waste or deterioration of the Property. Upon the Sale of the Property, Owner shall remove all of Owner's belongings not sold to the Qualified Buyer and leave the Property in a good and clean condition, reasonable wear and tear excepted.

4.4 Owner shall comply with all laws, rules, regulations, and ordinances pertaining to the Property or the use or occupancy of the Property. The Owner shall comply with any covenants, restrictions, rules, or regulations encumbering the Property, including, without limitation, any covenants, conditions, or restrictions imposed by any homeowner's association of which the Property is a part.

4.5 Any post-purchase construction on, substantial alteration of, or change to the existing state of the Property, including the addition of a new structure, expansion of an existing structure, or the substantial alteration of existing interior or exterior improvements, including landscaping, is subject to the following conditions: (a) all costs shall be borne and paid for by the Owner; (b) all work shall be performed in a manner consistent with the highest construction standards and shall comply with all applicable laws and regulations; (c) all work shall be consistent with the permitted uses set forth in this section.

Section 5: Maximum Sales Price & Maximum Rental Amount.

5.1 There is no maximum sales price or rental amount imposed by this deed restriction apart from limiting the market of Qualified Buyers, Qualified Households, and Qualified Residents.

Section 6: Closing.

6.1 Except in the event of a foreclosure sale, at the closing of any Sale of the Property, subsequent to the initial sale from Declarant to a Qualified Buyer, the Owner and the Qualified Buyer shall each pay one-half of all escrow fees. Ad valorem taxes and assessments, homeowner association assessments and fees, rents, and utilities shall be prorated as of the date of closing. The Owner shall pay the cost to release any monetary liens or encumbrances granted or caused by Owner and all premiums for a standard owner's policy of title insurance in the amount of the purchase price.

6.2 The selling Owner shall, at closing, pay an administrative fee to HAILEY, or its assigns, in an amount equal to three percent (3%) of the actual sales price, which HAILEY may waive at its discretion. The administrative fee is earned by HAILEY during the term of Owner's ownership of the Property and helps to support HAILEY's activities in monitoring, development, and oversight of the Community Housing program in Blaine County. This fee is independent of any fees required to be paid to licensed real estate brokers or attorneys who may be engaged by the Owner or the Qualified Buyer in the Sale of the Property. HAILEY may instruct the escrow company to pay the administrative fee directly to HAILEY from the selling Owner's proceeds. If FNMA or FHA financing is used, there may be an additional fee charged by HAILEY based on the amount financed. The amount of the administrative fee to be paid by the subsequent Owner shall be distributed to HAILEY for its operating account, or as otherwise agreed by HAILEY, its assigns, the owner, and Qualified Buyer.

6.3 At Closing, the Qualified Buyer shall execute and deliver to HAILEY or its assigns, an Acknowledgment of Covenant indicating Owner has read and is aware of the terms of this Covenant and agrees to be bound thereby. A Qualified Buyer's failure to execute or deliver to HAILEY or its assigns, an Acknowledgment of Covenant shall not compromise, minimize or in any way affect the terms, covenants, or conditions of this Covenant or HAILEY's interest herein and the Qualified Buyer shall nonetheless be bound by and subject to this Covenant.

Section 7: Insurance & Casualty.

7.0 Owner shall at all times during Owner's ownership of the Property cause the Property to be insured with Causes of Loss – Special Form (formerly known as “All Risk”) property insurance in an amount not less than the full replacement cost of all improvements on the Property at the time of loss with like kind and quality. Such insurance shall be provided by a carrier admitted to engage in the business of insurance in the State of Idaho. No policy will contain a deductible or self-insured retention in excess of three percent (3%) of the Previous Sales Price unless otherwise approved by HAILEY. If requested by HAILEY, Owner shall cause HAILEY to be named as an additional insured as its interests may appear by endorsement acceptable to HAILEY and shall promptly deliver to HAILEY a copy of Owner's insurance policy in conformance with this section. If the forms of policies required by this section are superseded or no longer available, HAILEY will have the right to require other equivalent or better forms.

7.1 If the Property is damaged or destroyed, the Owner shall promptly notify HAILEY in writing. The Owner shall thereafter promptly make a claim on any insurance policy covering such damage or destruction. The mortgagee shall have first claim on such proceeds to the extent necessary to pay mortgage principal and any accrued interest. Owner shall thereafter have the option to either a) utilize the remaining proceeds of any insurance settlement, together with a new mortgage not to exceed the balance (except with written approval of HAILEY) of any mortgages paid from said settlement to repair or restore the Property to its condition prior to such damage or destruction, unless Owner obtains HAILEY's prior written approval to repair or restore the Property to some other

condition or state, or b) to take such proceeds from the insurance settlement as would have been generated from a Sale per the terms of Section 5 of this Covenant (net of mortgages or other obligations paid from the proceeds from the proceeds of the insurance settlement), and assign the balance of the insurance proceeds, together with title to the Property, to HAILEY.

Section 8: Encumbrances.

8.1 Owner shall promptly pay when due all monetary liens, taxes, assessments, and encumbrances on the Property and otherwise comply with the terms and provisions of any deed of trust, mortgage or other loan documents pertaining to the Property. Owner shall instruct all lenders and their assigns to copy HAILEY on all communications relating to any loan on the Property and within five (5) days after Owner's receipt, Owner shall provide HAILEY with copies of any written communications from any lender not delivered to HAILEY. In the event that HAILEY initiates any enforcement or default action against the Owner, HAILEY shall, within five (5) days after commencement of such action, notify the mortgage holder of such action.

8.2 After any default, late payment, or missed payment on any loan or encumbrance on the Property, or if a nonconsensual lien is filed upon the Property, Owner shall, upon the request of HAILEY, participate in loan counseling, budgeting, financing or distressed loan services, classes, or programs.

8.3 Any breach of this Covenant shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but except as otherwise provided in Sections 8.4 and 8.5, this Covenant shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

- (a) In the event of any foreclosure of a purchase money mortgage or deed of trust in a first priority position on the Property (but subject to this Covenant), such foreclosing party ("Foreclosing Party") may sell the Property through a duly called and noticed foreclosure sale to any person or entity that the foreclosing party strictly adheres to the provisions of this Section 8.4 and Section 8.5. The Foreclosing Party shall notify HAILEY in writing of any pending foreclosure concurrent with the date the trustee or beneficiary files for record the notice of default as required by Idaho Code Section 45-1505, as may be amended, or the mortgagee serves upon the mortgagor an action for foreclosure and thereafter the Foreclosing Party shall send a copy of all notices sent to the Owner to HAILEY; and
- (b) Within 90 days of receiving notification of the borrower default or the property foreclosure, and upon request of HAILEY or its assigns, the Foreclosing Party shall agree to sell, transfer and convey to HAILEY the entire debt obligation owed to the Foreclosing Party and take full assignment of the debt obligation, promissory note, and other loan documentation, including foreclosure rights, for

the lesser of the Foreclosing Party's gross investment or the estimated net recovery value of the security property. Notwithstanding the aforesaid, and in order to safeguard the Community Housing program, the Owner, and HAILEY from predatory lending practices, no obligation of mortgage principal which exceeded 100% of the Market Value, as encumbered by this Deed Restriction Covenant, of the property at the date said principal obligation was incurred shall be recoverable by any foreclosing party. HAILEY, or its assigns may, but shall not be obligated to, purchase the debt obligation for less than the amount calculated if HAILEY and the Foreclosing Party agree.

8.4 In the event HAILEY, or its assigns, does not elect to purchase the debt obligation pursuant to Section 8.3(b) and the Foreclosing Party has strictly adhered to Section 8.4, or in the event HAILEY has taken assignment of the debt obligation and is the Foreclosing Party, the Foreclosing Party may proceed with the foreclosure action and the Property may be sold to a person who is a Qualified Buyer. Proceeds, if any, from the foreclosure sale shall be distributed in accordance with this paragraph. Costs of foreclosure, including trustee services, sheriff's fees, and similar costs, and all amounts due the Foreclosing Party shall have first priority to the sale proceeds. Next, HAILEY shall be entitled to all proceeds in excess of those due to the foreclosing party amount.

8.5 If the Property is financed under the Mortgage Revenue Bond program administered by the Idaho Housing and Finance Association, the parties to this Covenant understand that various requirements of that program may be more stringent than those set forth in this Covenant and, in such case; the parties agree that those more stringent requirements shall prevail. In the event that the Buyer purchased or refinanced the property using certified United States Department of Agriculture—Rural Development (hereinafter cited as USDA RD) funds, subsidies, vouchers or other mortgage assistance products created by USDA RD, that constitute an addition to the principal amount of the original loan, then the foreclosing party may recover up to 100% of the original loan and also the additions of principal created by said USDA-RD products.

8.6 Any encumbrance other than a First Mortgage must have the prior written approval of HAILEY or its assigns.

Section 9: Condemnation.

9.1 Within ten (10) days after the Owner receives any notice that all or any portion of the Property is sought by condemnation, Owner shall notify HAILEY. If all or any portion of the Property is taken by eminent domain or conveyed by Owner under threat of condemnation, the then owner shall be entitled to the market value, as allowed by law, recognizing this Community Housing Deed Restriction Covenant, and the limited market of qualified households, buyers, residents, and other commercial limitations created by this Deed Restriction Covenant.

9.2 Any assessment of damages paid by the condemning authority for the value of or damages to the Property shall be first utilized to pay the full amount of any existing mortgages,

together with any accrued interest thereon. The balance of damage payment proceeds shall be shared between Owner (and secured mortgagees) and HAILEY. The amount of the assessment payable to Owner shall be ninety seven percent (97%) and three (3%) shall be paid to HAILEY.

Section 10: Indemnity, Waiver and Release.

10.1 Owner acknowledges and agrees that HAILEY, its agents, employees and contractors, are not making, have not made and expressly disclaim any representations or warranties, express or implied, with respect to any Qualified Buyer or Qualified Resident and/or with respect to any aspect, feature or condition of the property including, without limitation, the existence of hazardous waste, the suitability of the property for owner's intended use, owner's ability to sell the property or in a timely fashion or to rent the property to a Qualified Resident at the maximum rental amount, for any length of time or in a timely fashion. Owner, Qualified Buyer, and Qualified Resident shall independently verify all information and reports regarding any aspect or feature of the property. HAILEY does not guarantee the accuracy of any information or reports provided by HAILEY, its agents, employees, or contractors. To the fullest extent permitted by law, Owner, and Qualified Buyer release HAILEY from any and all liability relating to any aspect or condition of the property, known or unknown, foreseeable, or unforeseeable, actual, or contingent, arising by statute, common law or otherwise. As used herein "hazardous waste" shall mean any hazardous waste or pollutants, contaminants or hazardous waste as defined by the federal water pollution control act, the comprehensive environmental response, compensation and liability act of 1990 and any amendments thereto, the resource conservation and recovery act and any amendments thereto or any similar state, local or federal law, rule or regulation, including, without limitation, asbestos or asbestos containing materials, PCB's, petroleum and petroleum products and urea-formaldehyde.

10.2 Owner hereby releases and shall indemnify, defend and hold harmless HAILEY, its Council, employees, and assigns from and against any and all claims, damages, liability, causes of action, judgments, expenses (including attorney fees and attorney fees on any appeal) (collectively "claims") arising from owner's use or occupancy of the property, and shall further indemnify, defend and hold HAILEY, its Council, employees and assigns harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under the terms of this Covenant, or arising from any act, omission or negligence of Owner, or any of its agents, contractors, tenants, occupants or invitees, and from and against all claims or any action or proceeding brought thereon; and in case any action or proceeding be brought against HAILEY by reason of any such claim, owner, upon notice from HAILEY, shall defend the same at Owner's expense by counsel reasonably satisfactory to HAILEY. Owner, as a material part of the consideration to HAILEY, hereby assumes all risk of damage to property or injury to persons in, upon or about the property from any cause and owner hereby waives all claims in respect thereof against HAILEY, its Council, employees and assigns except those claims solely caused by HAILEY's negligence or willful misconduct.

10.3 HAILEY shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise or property of owner, or any occupants or invitees to the property, or any

other person in or about the property caused by or resulting from fire, steam, electricity, gas, water or rain, freezing, or leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air condition, lighting fixtures or other aspect or features of the property.

Section 11: Compliance & Default.

11.1 Annual Verification. No later than February 1st of each year, the Owner shall submit a written statement to Hailey or its assigns, including the following information and stating that such information is true and correct to the best of the owner's knowledge and belief, (a) evidence to establish that the property was occupied by a Qualified Household during the prior calendar year, (b) if applicable, a copy of the lease used for the property, and list of tenants who occupied any portion of the property and evidence supporting each tenant was a Qualified Resident.

11.2 Consensual Lien; Right to Redeem. For purposes of securing the Owner's performance under this Agreement and creating in favor of the City of Hailey a right to redeem, Owner hereby grants to Hailey a consensual lien on the property. Such lien shall not have a lien amount.

11.3 Breach. Upon the expiration of thirty (30) days' (ten [10] days' for the failure to pay money) written notice from any party bound or benefited by this Covenant stating the other party has failed to perform its obligations hereunder, such party shall be deemed to be in default unless such failure to perform is cured within the thirty (30) days (ten [10] days' for the failure to pay money) period, in which case no default shall be deemed to have occurred. Notwithstanding the foregoing sentence, if such default (other than the failure to pay money) cannot be cured within the thirty (30) day period and the defaulting party is diligently working to remedy the default, the cure period shall be extended for such time as is reasonably necessary to cure the default.

11.4 Inspection. In order to ensure compliance with the provisions of this Covenant, HAILEY, by its authorized representative, may inspect the Property between the hours of 8:00 AM and 5:00 PM, Monday through Friday, or at such other time as may be agreed to by Owner and HAILEY, after providing the Owner with not less than twenty-four (24) hours' prior written notice.

11.5 Administrative Procedure. Upon receipt of a notice of default and prior to the expiration of the applicable cure period, an Owner may request in writing a hearing before the HAILEY City Council, or if assigned to the appropriate governing board, to determine the merits of the allegations. Upon HAILEY's receipt of a hearing request, the remainder of the applicable cure period shall be tolled pending the outcome of the hearing, and a hearing shall be held at the next regularly scheduled meeting of the Council or Board. If no hearing is requested in writing during such time period and the violation is not cured within the applicable period, the Owner shall be in default of this Covenant. If a hearing is held, the decision shall be final for the purposes of determining if a violation has occurred.

11.6 Non-termination of Covenant. It is expressly agreed that no breach of this Covenant shall entitle any Owner, Qualified Buyer, Qualified Resident, HAILEY, or any other party affected

by this Covenant to terminate this Covenant, but such limitation shall not affect in any manner any other rights or remedies which such persons or entities may have hereunder by reason of any breach of this Covenant.

Section 12: Remedies.

12.1 In the event of a default or breach of any term, covenant, warranty or provision of this Covenant, the non-defaulting party may at any time thereafter without limiting the exercise of any right or remedy at law or in equity which the non-defaulting party may have by reason of such default or breach;

- a) Seek specific performance of this Covenant;
- b) Perform any work, pay any amounts due, or complete any duties or obligations of Owner and otherwise exercise any self-help remedies;
- c) Enjoin any Sale of or proposed Sale of the Property; and
- d) Require the immediate Sale of the Property to a Qualified Buyer in accordance with section 3.2.

12.2 In the event HAILEY pays any amount payable by Owner or incurs any expense due to the default of Owner, such amount shall be immediately due and payable by Owner upon receipt of an invoice from HAILEY. Interest shall accrue from the date the invoice is received by Owner to and including the date HAILEY receives payment in full at a rate equal to the lesser of (i) the highest rate allowed by law, and (ii) twelve percent (12%) per annum. Furthermore, in the event the Owner does not pay the invoice in full within ten (10) days after receipt, HAILEY may file a lien on the Property for the amount of said expenses plus accrued interest as set forth above and such lien shall be effective upon recording in the county in which the Property is located. Upon any Sale of the Property, if the Owner has not previously paid all amounts due HAILEY, HAILEY shall be paid the amounts it is due from the sale proceeds and any escrow company or closing agent handling the transaction shall be bound to pay such amounts due as though specifically instructed by Owner and Owner agrees to and acknowledges the same. Notwithstanding the foregoing sentence, HAILEY's right to the sale proceeds shall not have priority over any lien on the Property recorded prior to any lien filed by HAILEY. In the event HAILEY does not file a lien for the amounts it is due, HAILEY's claim shall be subordinate to any recorded lien on the Property.

Section 13: Notices.

13.1 All notices given pursuant to this Covenant shall be in writing and shall be given by personal service, by United States certified mail or by United States express mail or other established express delivery service (such as Federal Express) with signature confirmation required, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below. If a notice is delivered to Owner by personal service or by United States express mail or other established express delivery service (such as Federal Express), such notice may be delivered to the Property. If a notice must be given to a person other than one designated below or otherwise sent to Owner, such notice shall be sent to the person and address shown on the then current real property tax rolls of the

county in which the Property is located. All notices given to the appropriate party shall be sent to the address set forth below:

To Declarant: _____

To HAILEY: City of Hailey
Attn: City Clerk
115 S. Main St., STE H
Hailey, Idaho 83333

The person and address to which notices are to be given may be changed at any time by such party upon written notice to the other party. All notices given pursuant to this Covenant shall be deemed given upon receipt.

13.2 For the purpose of this Covenant , the term “receipt” shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to Section 13.1 as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to 13.1, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (a) the date of the attempted delivery or refusal to accept delivery, (b) the date of the postmark on the return receipt, or (c) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

Section 14: General Provisions.

14.1 Runs with the Land, Termination. The covenants, conditions and restrictions of this Covenant shall run with and bind the Property and shall inure to the benefit of and shall be enforceable by HAILEY, its legal representatives, successors and assigns until January 1, 2123 after which time, these covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing (Notice of Termination of Covenant), signed by then Owners of the Property and has been recorded certifying that there is no successor in interest to HAILEY or any successor in interest. The termination shall be effective upon recordation of the Notice of Termination of Covenant.

14.2 In the event any party bound or affected by this Covenant initiates or defends any legal action or proceeding in any way connected with this Covenant, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its reasonable costs and attorneys’ fees (including, without limitation, its reasonable costs and attorneys’ fees on any appeal). All such costs and attorneys’ fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to

judgment.

14.3 Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Covenant or related document.

14.4 The laws of Idaho, without giving effect to its choice of law principles, govern all matters with respect to this Covenant, including all tort claims.

14.5 This Covenant shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person or entity acquiring the Property, or any portion thereof, or any interest therein, whether by merger, consolidation, dissolution, operation of law or otherwise; provided, however, that if any Owner Sells all or any portion of the Property in accordance with this Covenant, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Property arising under this Covenant after the Sale but shall remain liable for all obligations arising under this Covenant prior to the Sale. The new Owner of the Property or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Covenant with respect to the Property or portion thereof after the date of Sale.

14.6 This Covenant may only be amended by a written agreement signed by Declarant and HAILEY that identifies itself as an amendment to this Covenant, unless at such time as Declarant is fully divested of its ownership of this unit, may be amended only at the sole and subjective discretion of the City of Hailey, without limitation as to the terms of said amendment up to and including termination.

14.7 Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit, or aid in the construction of any terms or provisions contained herein.

The parties to this Covenant, and Owners, agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

14.8 The failure of HAILEY to insist upon strict performance of any terms, covenants or conditions of this Covenant shall not be deemed a waiver of any rights or remedies HAILEY may have and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants, or conditions of this Covenant by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

By: _____
Martha Burke, Mayor

Attest: _____
Mary Cone, City Clerk

DECLARANT:

By: _____

By: _____

STATE OF IDAHO)
)
ss County of Blaine)

This record was acknowledged before me on this ____ day of December, 2023, by Martha Burke, as Mayor of City of Hailey, an Idaho Municipal corporation, on behalf of the City.

Signature of Notary Public
My Commission expires: _____

STATE OF IDAHO)
)
ss County of Blaine)

This record was acknowledged before me on this ____ day of December, 2023 by _____, Declarant.

Signature of Notary Public
My Commission expires: _____

STATE OF IDAHO)
)
ss County of Blaine)

This record was acknowledged before me on this ____ day of December, 2023 by _____, Declarant.

Signature of Notary Public

My Commission expires: _____

Exhibit "A"

Legal Description of Property