

Recording requested by, and
after recording, please return to:

T. Hethe Clark
Clark Wardle LLP
PO Box 639
Boise, ID 83701

[ABOVE THIS LINE FOR RECORDER'S USE ONLY]

**PRIVATE ROAD AND UTILITY EASEMENT
AND MAINTENANCE AGREEMENT**

THIS PRIVATE ROAD AND UTILITY EASEMENT AND MAINTENANCE AGREEMENT (this "**Agreement**") is made and entered into as of the date last written below ("**Effective Date**"), by William Humphries and Koriel Stark-Humphries, husband and wife ("**Declarant**"), and Idaho Estates Owners Association, Inc., an Idaho non-profit corporation (the "**Association**").

RECITALS

A. Declarant is the owner of that certain real property located in Ada County, Idaho, more particularly described on **Exhibit A**, attached hereto and made a part hereof (the "**Property**").

B. The Property is intended to be subdivided and will include three lots (referred to herein as "**Lot 1**," "**Lot 2**," and "**Lot 3**"; each, a "**Lot**"). Lots 1, 2, and 3 are depicted on the preliminary plat of Idaho Estates Subdivision, attached hereto as **Exhibit B** (the "**Plat**").

C. The Association shall be the owners' association for the Property, and is tasked with various rights and responsibilities in connection therewith.

D. As depicted on the Plat, Lots 1, 2, and 3 shall share a private road. Declarant intends, by this Agreement, to declare and grant reciprocal cross-access easements in favor of the present and future owners of Lots 1, 2, and 3 (the "**Owners**") over, across, and to the shared private road (the "**Private Road Easement**"), which is more particularly described on **Exhibit C**, attached hereto and made a part hereof (the "**Easement Area**"), and to memorialize the rights and responsibilities of each of the Parties with regard to the ongoing maintenance, replacement, and repair of the Easement Area, subject to the limitations contained in this Agreement, and each Owner's rights hereunder being further subject to such Party's performance of its obligations hereunder. In addition, Declarant reserves, for the benefit of Lot 3 Owner, the option to further subdivide Lot 3, in which case, the resulting Lot shall become subject to this Agreement, and shall have the same rights and responsibilities of the other Owners as set forth herein.

E. Declarant intends that the Owners of Lot 1, 2, and 3, each of them, their respective successors in interest and their respective lessees, occupants, customers, employees, licensees, tenants, and business invitees (collectively, the "**Permittees**") shall at all times enjoy the benefits of and shall at all times hold their interests subject to, the rights, easements, privileges, and restrictions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the terms of this Agreement, and in consideration of the recitals above, which are incorporated herein by this reference, Declarant declares and grants, as follows:

1. Declaration of Driveway Easement. Declarant hereby declares and grants for the benefit of the present and future owners of Lots 1, 2, and 3 and their Permittees, and the Association, a perpetual, non-exclusive, cross-access easement appurtenant to and for the benefit of Lots 1, 2, and 3, upon, over, and across the Easement Area, solely for Driveway Purposes (as hereinafter defined). In the event that

Lot 3 is subdivided or split administratively, any fee simple owner of real property contained within Lot 3 shall be deemed an Owner pursuant to this Agreement.

2. **“Driveway Purposes” Defined.** For purposes of this Agreement, the term “Driveway Purposes” shall mean a residential (a) driveway or private road; (b) utility lines and related infrastructure, including but not limited to sewer, water, gas, electrical, and internet service below ground (except for infrastructure that must be above ground such as transformers and other electrical or natural gas infrastructure when the lines are below ground) for the sole purposes of serving Lots 1, 2, and 3; (c) reasonable or necessary drainage areas as required or recommended by local governments having jurisdiction or with consent of the Owners at the time of installation; (d) sidewalks if required by local governments having jurisdiction or with the consent of the remaining Owners; and (e) landscaping as initially identified by Declarant and subsequently modified by the Owners by unanimous written consent.

3. **Non-Exclusive; Retained Use Rights.** Use of the Easement Area is not intended, and shall not be interpreted, as being exclusive, but shall be in common with the use thereof by the then-current Owners and the Permittees. Each of the Owners and their respective Permittees shall be entitled to use those portions of the Easement Area that lie in and on such Owner’s property for those uses provided herein and for any other reasonable uses, so long as such other uses do not interfere with or obstruct the reasonable use of the Easement Area by the other benefitted Owners or their Permittees. Each Owner specifically and expressly shall have and retain the right, at their sole cost and expense, to make any use of the subsurface of the Easement Area located in or on such Owner’s property, so long as such use does not interfere with or obstruct the reasonable use of the Easement Area by the benefitted Owner or its Permittees.

4. **Rights of Relocation and/or Reconfiguration.** The Owners may only reconfigure or relocate the Easement Area on their respective properties with the consent of each of the Owners.

5. **No Obstructions.** No fences, barriers, or other obstructions, of any kind or type, shall be constructed, erected, or installed, or be permitted to remain within or across the Easement Area, or any part thereof, that would prevent or obstruct the authorized use thereof, as provided herein

6. **Maintenance.**

a. The Association shall be responsible for ongoing maintenance and repair of the Private Road Easement, as further described in this Section. Each Owner shall pay one-third (1/3) of all Maintenance Costs, as that term is defined herein. Maintenance Costs shall be included in assessments levied on the Owners, pursuant to the restrictive covenants to be recorded against the Property.

b. The term “**Maintenance Costs**” shall be defined as and include all costs and expenses reasonably required for maintenance, repair, improvement, and/or replacement of the subsurface and surface of the Easement Area in the condition of the Easement Area as of the date of the recording of this Agreement, subject to the right of Association (by unanimous decision of the Owners) to modify the condition of the Easement Area by, without limitation, paving the Easement Area and/or adding or modifying landscaping on either side of the Easement Area (the “**Maintenance**”).

d. Failure of an Owner to timely pay or reimburse its Maintenance Costs shall subject such non-paying Owner to interest at a rate of twelve percent (12%) per annum and shall entitle the other maintaining Owner(s) and/or the Association to commence an action in any court of competent jurisdiction to obtain judgment against such non-paying Owner in the amount of such unpaid amount, plus such interest. Further, the non-paying Owner shall be required to reimburse the other Owner(s) or Association, as applicable, for the costs of such action and its actual attorneys’ fees expended to obtain such judgment.

e. The Owners shall be jointly responsible for timely removing snow, ice, and any other hazards from the surface of the Easement Area.

f. In the event either Owner exercises any of its rights in this Agreement and such

activities modify the surface of the Driveway Easement, such Owner, immediately upon the completion of such activity, shall restore the Easement Area to the condition in which it existed immediately prior to such activity.

g. Notwithstanding anything else to the contrary, each Owner shall be solely responsible for paying all costs of maintenance and repairs occasioned or made necessary by damage caused by or resulting from the acts or omissions of such Owner or its Permittees.

7. **Insurance.** Each of the Owners shall procure and maintain homeowner's liability insurance that includes coverage for incidents, injuries, and damages that occur or arise on or in the Easement Area, and such other policies of insurance as such Owner deems reasonably necessary or desirable. An Owner may request proof of such insurance from the other Owner(s), which proof shall be provided within three (3) business days of such request.

8. **Indemnification.**

a. Except as otherwise expressly provided herein, each Owner (an "Indemnifying Owner") shall indemnify, save, hold harmless, and defend the other Owner(s) from, for, and against any and all incidents, injuries, and damages involving or incurred by the Indemnifying Owner and/or its Permittees within or related to such Indemnifying Owner's, and/or its Permittees' use of the Easement Area.

b. The provisions, requirements, and obligations in **Subsection 8.a.**, immediately above, shall not apply to incidences, injuries, and/or damages involving or incurred by an Owner that result from or are related to the negligent acts, negligent omissions, non-performance of an Owner's obligations under this Agreement, or violations of this Agreement by the other Owner or such other Owner's Permittees.

9. **Perpetual, Appurtenant Easements.** The easements herein granted shall be perpetual and shall be appurtenant to the respective properties benefitted thereby. The covenants, agreements, easements, and restrictions contained herein shall be covenants running with, and for the benefit of, Lots 1, 2, and 3, and shall be binding upon and inure to the benefit of the Owners and their respective heirs, successors, and assigns.

10. **Non-Merger.** The easement rights created herein shall not merge with the fee ownership interest of any of the properties benefitted or burdened by such easements. The Association is a benefitted party and shall have the right to make use of the Private Road Easement in accordance with this Agreement. In the event of any common ownership at the time of this Agreement, the easements created herein shall be deemed to spring into place concurrently with the conveyance of Lots 1, 2, or 3 to a third party other than Declarant.

11. **Remedies.** In the event of a breach of this Agreement by any Owner, the non-breaching Owner(s) shall have all remedies at law or in equity, including (without intending to limit such remedies) the availability of immediate injunctive relief.

12. **Attorneys' Fees.** In any suit, action, or appeal to enforce or interpret this Agreement, the easements herein granted, or the rights or obligations of any Owner, the prevailing Owner shall be entitled to recover all costs and attorneys' fees incurred therein.

13. **Notices.** All notices, demands, requests, and other communications required or desired to be given under this Agreement must be in writing, sent via U.S.P.S. First Class Mail or by hand-delivery to a person 21 years or older residing at the Owner's residence, and shall be deemed to have been given as of the date such writing is (i) delivered to the recipient Party, (ii) delivered to the then-current address of the recipient Party, or (iii) rejected by the recipient Party at the then-current address of such Party.

14. **Amendments.** To be effective, any amendments to this Agreement shall be in writing, signed by the Owners of all properties benefitted or burdened by the easement granted herein, and recorded in the official records of Ada County, Idaho.

15. **Severability.** If any term or provision of this Agreement is deemed invalid or unenforceable, such term or provision shall be stricken, but all other terms and provisions of this Agreement shall remain intact, in full force and effect, unaffected by the striking of the offending term or provision.

16. **Applicable Law; Jurisdiction; Venue.**

a. This Agreement shall be construed and enforced in accordance with the laws of the state of Idaho, without regard for where it was executed or any state's conflict of laws principles.

b. Proper jurisdiction for any suits occasioned by or related to this Agreement, enforcement of the same, and/or the easement granted herein, shall be in the district courts of the state of Idaho.

c. Venue shall be proper in the Idaho district courts, in and for Ada County, Idaho.

17. **Recording.** When fully executed, this Agreement shall be recorded in the official records of Ada County, Idaho.

[end of text; signatures on following page]

This Agreement is hereby entered into and effective as of the Effective Date.

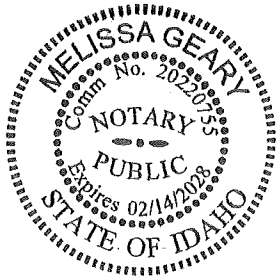
DECLARANT:

William Humphries
WILLIAM HUMPHRIES
Dated: 2/17/2023

Koriel Stark-Humphries
KORIEL STARK-HUMPHRIES
Dated: 2/17/2023

STATE OF IDAHO)
) ss.
County of Ada)

The within record was acknowledged before me on 2/17/23 by William Humphries and Koriel Stark-Humphries, husband and wife.



Melissa Geary
SIGNATURE OF NOTARY PUBLIC
My Commission expires: 2/14/2028

ASSOCIATION:

IDAHOME ESTATES OWNERS ASSOCIATION, INC.,
an Idaho nonprofit corporation

By: William Humphreys
Name: William Humphreys
Its: President

STATE OF IDAHO)
) ss.
County of Ada)

This record was acknowledged before me on 2/17/23 (date), by William Humphreys
As President of Idahome Estates Owners Association, Inc.

Melissa Geary
Signature of Notary Public
My Commission expires: 2/14/2028

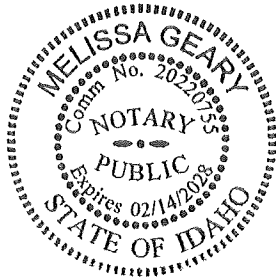


EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Description for
Parcel 1
November 30, 2022

A parcel of land located in the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 2 North, Range 1 East of the Boise Meridian, Ada County, Idaho more particularly described as follows:

Commencing at the Center 1/4 corner of said Section 9, from which the 1/4 corner common to said Sections 4 and 9, T.2N., R.1E, B.M. bears North 0°25'41" East, 2675.85 feet; thence on the north-south centerline of said Section 9, North 00°25'41" East, 26.33 feet to a line parallel with and 32.00 feet northeasterly of the centerline of the Rawson Canal and the **POINT OF BEGINNING**;

thence on said parallel line the following two (2) courses and distances:

47.33 feet along the arc of a non-tangent curve to the left, said curve having a radius of 604.96 feet, a central angle of 04°28'59" and a long chord which bears North 54°11'31" West, 47.32 feet;

North 56°26'00" West, 390.03 feet;

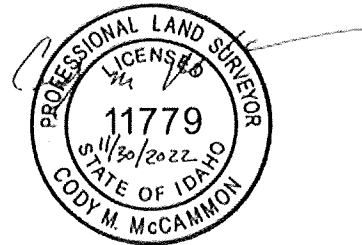
thence leaving said parallel line, North 00°25'41" East, 476.13 feet;

thence South 89°59'08" East, 365.18 feet to the north-south centerline of said Section 9;

thence on said north-south centerline South 00°25'41" West, 719.38 feet to the **POINT OF BEGINNING**.

Containing 217,910 square feet or 5.00 acres, more or less.

End of Description.



Description for
Parcel 2
November 30, 2022

A parcel of land located in the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 2 North, Range 1 East of the Boise Meridian, Ada County, Idaho more particularly described as follows:

Commencing at the Center 1/4 corner of said Section 9, from which the 1/4 corner common to said Sections 4 and 9, T.2N., R.1E, B.M. bears North 0°25'41" East, 2675.85 feet; thence on the north-south centerline of said Section 9, North 00°25'41" East, 745.71 feet to the **POINT OF BEGINNING**;

thence North 89°59'08" West, 365.18 feet;

thence South 00°25'41" West, 476.13 feet to a line parallel with and 32.00 feet northeasterly of the centerline of the Rawson Canal;

thence on said parallel line the following two (2) courses and distances:

North 56°26'00" West, 879.40 feet;

92.82 feet along the arc of curve to the right having a radius of 197.18 feet, a central angle of 26°58'17" and a long chord which bears North 42°56'52" West, 91.97 feet;

thence leaving said parallel line, South 85°58'28" East, 746.62 feet;

thence South 89°59'08" East, 419.56 feet to the north-south centerline of said Section 9;

thence on said north-south centerline, South 00°25'41" West, 25.00 feet to the **POINT OF BEGINNING**.

Containing 217,807 square feet or 5.00 acres, more or less.

End of Description.



Description for
Parcel 3
November 30, 2022

A parcel of land located in the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 2 North, Range 1 East of the Boise Meridian, Ada County, Idaho more particularly described as follows:

Commencing at the Center 1/4 corner of said Section 9, from which the 1/4 corner common to said Sections 4 and 9, T.2N., R.1E, B.M. bears North 0°25'41" East, 2675.85 feet; thence on the north-south centerline of said Section 9, North 00°25'41" East, 770.71 feet; thence leaving said north-south centerline, North 89°59'08" West, 419.56 feet to the **POINT OF BEGINNING**;

thence North 85°58'28" West, 746.62 feet to a line parallel with and 32.00 feet northeasterly of the centerline of the Rawson Canal;

thence on said parallel line the following three (3) courses and distances:

182.49 feet along the arc of a non-tangent curve to the right having a radius of 197.18 feet, a central angle of 53°01'43" and a long chord which bears North 02°56'52" West, 176.05 feet;

North 23°34'00" East, 16.70 feet;

332.43 feet along the arc of a non-tangent curve to the left having a radius of 748.20 feet, a central angle of 25°27'24" and a long chord which bears North 10°50'17" East, 329.70 feet to the north boundary line of the Southeast 1/4 of the Northwest 1/4 of said Section 9;

thence on said north boundary line, South 89°59'08" East, 689.14 feet;

thence leaving said north boundary line, South 00°24'09" West, 567.20 feet to the **POINT OF BEGINNING**.

Containing 394,133 square feet or 9.05 acres, more or less.

End of Description.



**EXHIBIT B
PRELIMINARY PLAT OF THE PROPERTY**

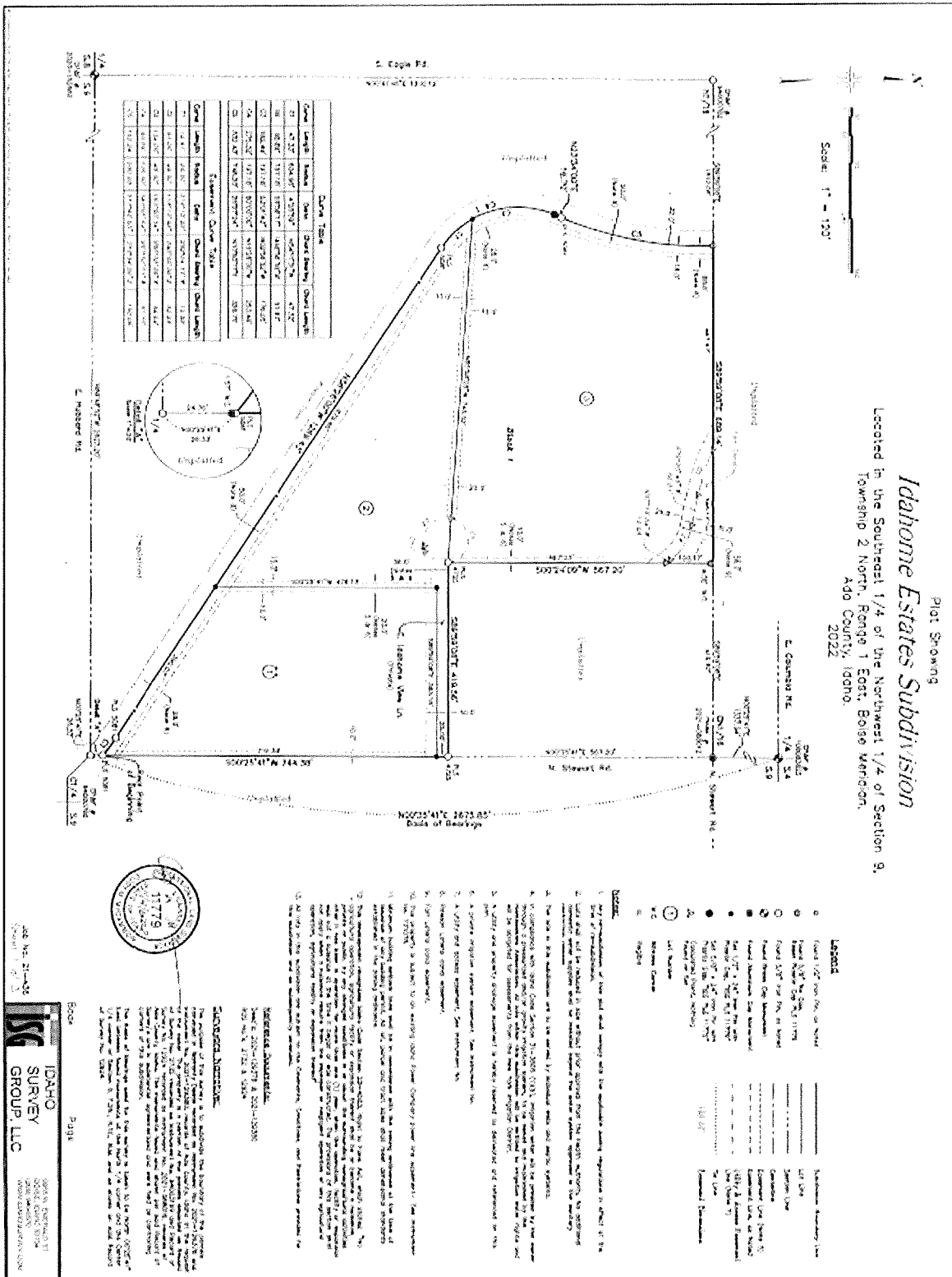


EXHIBIT C
LEGAL DESCRIPTION OF THE EASEMENT AREA

Description for
Utility and Access Easement
Idahome Estates Subdivision
November 30, 2022

A portion of the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 2 North, Range 1 East of the Boise Meridian, Ada County, Idaho more particularly described as follows:

Commencing at the Center 1/4 corner of said Section 9, from which the 1/4 corner common to said Sections 4 and 9, T.2N., R.1E, B.M. bears North 0°25'41" East, 2675.85 feet; thence on the north-south centerline of said Section 9, North 00°25'41" East, 720.71 feet to the **POINT OF BEGINNING**;

thence North 89°59'08" West, 442.86 feet;

thence 12.41 feet on the arc of a curve to the left having a radius of 50.00 feet, a central angle of 14°13'25", and a long chord which bears South 82°54'10" West, 12.38 feet;

thence 233.10 feet on the arc of a curve to the right having a radius of 48.00 feet, a central angle of 278°14'21", and a long chord which bears North 34°54'38" East, 62.83 feet;

thence South 89°59'08" East, 419.56 feet to the north-south centerline of said Section 9;

thence on said north-south centerline, South 00°25'41" West, 50.00 feet to the **POINT OF BEGINNING**.

Containing 28,581 square feet or 0.66 acres, more or less.

End of Description.

