

RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
AS AN ACCOMMODATION ONLY

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

JOINT CONSENT MINUTES
OF THE BOARD OF DIRECTORS
AND MEMBERS
OF
HELENA CONDOMINIUM ASSOCIATION, INC.

2022-033113
RECORDED
07/01/2022 01:38 PM
CHRIS YAMAMOTO
CANYON COUNTY RECORDER
Pgs=91 SCARDENAS \$280.00
TYPE: MISC
FIRST AMERICAN TITLE AND ESCROW
ELECTRONICALLY RECORDED

The undersigned, constituting all of the Members and Directors of Helena Condominium Association, Inc., an Idaho corporation (the "Association") do hereby consent to, adopt and approve in writing the following corporate action without a meeting in accordance with the provisions of the general nonprofit corporation laws of the State of Idaho.

RATIFICATION OF MEMBERSHIP

Each Member hereby confirms and approves his/its legal name, notice address, and respective ownership and membership interest in the Association, as set forth opposite his/its signature below; and, in the case of each Member which is a legal entity, such Member further confirms that the person named below is an authorized representative of such Member, who is authorized to execute and deliver this Resolution and such other related documents on behalf of the Member.

ELECTION OF MANAGERS:

RESOLVED, that the following persons are each elected by the Members to the office of Director on the Board of Directors, to serve until their successors are elected and qualified, or until their death, resignation or removal, pursuant to the Declaration, Articles, and Bylaws of the Association:

Jake Pederson;

Casey Wilson; and

Amanda Wilson.

The above-listed Directors replace any previously elected managers, and are the sole directors of the Association.

APPROVAL OF FILING OF ARTICLES OF INCORPORATION

RESOLVED, that the actions of the incorporator in executing and filing the Articles of Incorporation of this Association attached as Exhibit A be and hereby are, in all respects approved, ratified and confirmed, effective as of April 13, 2022.

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RESOLVED, that the following persons are each elected by the Members to the office of Director on the Board of Directors, to serve until their successors are elected and qualified, or until their death, resignation or removal, pursuant to the Declaration, Articles, and Bylaws of the Association:

Jake Pederson;

Casey Wilson; and

Amanda Wilson.

The above-listed Directors replace any previously elected managers, and are the sole directors of the Association.

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RESOLVED, that the actions of the incorporator in executing and filing the Articles of Incorporation of this Association attached as Exhibit A be and hereby are, in all respects approved, ratified and confirmed, effective as of April 13, 2022.

APPOINTMENT OF REGISTERED AGENT AND PLACE OF REGISTERED OFFICE

RESOLVED, that the registered office of the Association, to be of record with the Secretary of State of the State of Idaho, shall be at 592 N. Benjamin Lane, Boise, Idaho 83704 and the registered agent at such address shall be Jake Pederson.

APPROVAL OF AMENDED AND RESTATED BYLAWS

RESOLVED, that the Amended and Restated Bylaws, a copy of which are attached hereto as Exhibit B, are hereby approved and adopted as and for the Bylaws of this Association effective as of April 13, 2022.

ELECTION OF OFFICERS

RESOLVED, that the following persons are elected to serve in the office indicated opposite his or her name, to serve until his or her successor is elected and qualified:

President	Casey Wilson;
Secretary	Jake Pedersen; and
Treasurer	Jake Pedersen.

AUTHORIZATION OF PAYMENT

RESOLVED, that the Secretary of this Association is authorized and directed to procure all corporate books, books of account and stock books required by the statutes of the state of Idaho or necessary or appropriate in connection with the business of this Association; and

RESOLVED, that the President of this Association is authorized to pay all charges and expenses incident to or arising out of the organization of this Association, and to reimburse any person who has made any disbursements therefor.

CORPORATE SEAL

RESOLVED, that the Association shall not utilize nor adopt a Corporate Seal and that the validity and enforceability of the Association's documents and agreements shall not as a result be diminished.

FISCAL YEAR

RESOLVED, that the fiscal year of the Association will commence on January 1 and end on December 31 of each year.

BANK ACCOUNTS

RESOLVED, that the bank in which the funds of this Association shall be deposited will be designated by resolution of the Board of Directors; and that the Treasurer of this Association be, and he is hereby authorized and empowered to open and keep an account in the said bank, in

the name of this Association, and to cause to be deposited in said bank to the credit of this Association, any and all moneys, checks, notes, drafts, acceptances, or other evidences of indebtedness belonging to this Association, and that said bank be, and it is hereby authorized to make payments from the funds of this Association according to check or draft signed by the President or Treasurer of the Association, who is hereby authorized to sign, endorse, accept, make and execute any and all checks, notes, drafts and bills of exchange.

ADOPTION OF RATIFYING RESOLUTION

RESOLVED, that all of the acts of the Members of the Association taken and made for the establishment of the Association and prior to this meeting be, and the same hereby are, ratified, confirmed and approved.

Effective as of April 13, 2022.

MEMBERS:

South Fork Capital LLC, an Idaho limited liability company


Percentage of Units owned: 100%

Address: 1607 N. 27th Street
Boise, Idaho 83702

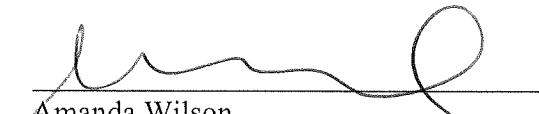
By:

South Fork, Its: Member

DIRECTORS:


Casey Wilson


Jake Pedersen


Amanda Wilson

STATE OF Idaho)
) SS.
COUNTY OF Ada)

On this 21st day of June, 2022, before me, a Notary Public in and for said State, personally appeared Jake Pedersen, known or identified to me to be the Member of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Sarah Harper
Notary Public for the State of _____
Residing at: _____
My Commission Expires: _____

EXHIBIT A
ARTICLES OF INCORPORATION



0004696678



STATE OF IDAHO
Office of the secretary of state, Lawrence Denney
ARTICLES OF INCORPORATION (NONPROFIT)
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$30.00

For Office Use Only
-FILED-
File #: 0004696678
Date Filed: 4/13/2022 10:56:52 AM

B0700-7728 04/13/2022 10:58 AM Received by ID Secretary of State Lawrence Denney

Articles of Incorporation (Nonprofit)		
Select one: Standard, Expedited or Same Day Service (see descriptions below)	Standard (filing fee \$30)	
Article 1: Corporation Name Entity name	Helena Condominium Association, Inc.	
Article 2: Effective Date The corporation shall be effective	when filed with the Secretary of State.	
Article 3: Purpose The purpose for which the corporation is organized is:	Homeowners Association	
Article 4: Voting Members: The corporation	has voting members.	
Article 5: Asset Distribution on Dissolution Upon dissolution the assets shall be distributed:	the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.	
Article 6: IRS Designation Is this nonprofit a 501(c)3?	No	
Article 7: The mailing address of the corporation shall be: Mailing Address	JAKE PEDERSEN 592 N BENJAMIN LN BOISE, ID 83704-8336	
Article 8: Registered Agent Name and Address Registered Agent	Registered Agent JAKE PEDERSEN Physical Address: 592 N BENJAMIN LANE BOISE, ID 83704 Mailing Address: 592 N BENJAMIN LN BOISE, ID 83704-8336	
<input checked="" type="checkbox"/> I affirm that the registered agent appointed has consented to serve as registered agent for this entity.		
Article 9: Incorporator Name(s) and Address(es)		
Name	Incorporator Address	
JAKE PEDERSEN	592 N BENJAMIN LANE BOISE, ID 83704	
Article 10: Director Name(s) and Address(es)		
Name	Title	Director Address
JAKE PEDERSEN	Director	592 N BENJAMIN LANE BOISE, ID 83704



CASEY WILSON	Director	592 N BENJAMIN LANE BOISE, ID 83704
AMANDA WILSON	Director	592 N BENJAMIN LANE BOISE, ID 83704

The Articles of Incorporation must be signed by at least one Incorporator.

JAKE PEDERSEN _____ *04/13/2022*
JAKE PEDERSEN _____ Date

B0700-7729 04/13/2022 10:58 AM Received by ID Secretary of State Lawrence Denney

EXHIBIT B
AMENDED AND RESTATED CONDOMINIUM DECLARATION AND COVENANTS,
CONDITIONS, RESTRICTIONS AND RESERVATIONS
AND
BYLAWS

[see attached]

**AMENDED AND RESTATED BYLAWS OF
HELENA CONDOMINIUM ASSOCIATION, INC.**

By action taken by the Board of Directors and Members of HELENA CONDOMINIUM ASSOCIATION, INC., an Idaho nonprofit corporation (“Association”), dated effective April 13, 2022, the following Amended and Restated Bylaws (“Bylaws”) were duly approved and adopted by the Board of Directors and Members of the Association, which supersede and replace any and all prior Bylaws of the Association, in their entirety:

**ARTICLE 1
PLAN OF CONDOMINIUM OWNERSHIP**

1.1 Name and Location. These are the Bylaws of HELENA CONDOMINIUM ASSOCIATION, INC., an Idaho nonprofit corporation. Helena Condominiums (the “Project”) is located in the City of Caldwell, Canyon County, Idaho, and has been subjected to the Idaho Condominium Property Act by a Declaration recorded with these Bylaws (the “Declaration”). The location of the Project is more specifically described in the Declaration.

1.2 Principal Office. The principal office of the Association shall be located at such address as may be designated by the board of directors from time to time.

1.3 Purposes. This Association is formed under the provisions of the Idaho Condominium Property Act to serve as the means through which the unit owners may take action with regard to the administration, management, and operation of the Project.

1.4 Applicability of Bylaws. The Association, all unit owners, and all persons using the Project property shall be subject to these Bylaws and to all rules and regulations that may be adopted pursuant to these Bylaws.

1.5 Composition of Association. The Association shall be composed of all the unit owners of the Project, including South Fork Capital LLC, an Idaho limited liability company, and its successors and assigns (the “Declarant”), and the Association, itself, to the extent any of these own any unit(s) of the Project.

1.6 Incorporation. The Association has been incorporated under the Idaho Non-Profit Corporation Act. The Articles of Incorporation of the Association shall be consistent with the Declaration. These Bylaws are the current bylaws of the incorporated association.

1.7 Definitions. The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE 2 MEETINGS OF ASSOCIATION

2.1 Place of Meetings. The Association shall hold meetings at such suitable place convenient to the unit owners as may be designated by the board of directors from time to time.

2.2 Turnover Meeting. No later than 30 (thirty) days following the Transition Date (as defined in the Declaration), Declarant shall call the first meeting of the unit owners (the "turnover meeting") to elect regular directors to replace the directors appointed by the Declarant, as more fully described in Article 3 below. If a quorum of the unit owners is present, the unit owners shall elect not fewer than the number of regular directors sufficient to constitute a quorum of the board of directors. Notice of such meeting shall be given to all owners as provided in Section 2.5. If Declarant fails to call the meeting, the meeting may be called and notice given by any unit owner. The expense of giving notice shall be paid or reimbursed by the Association. At the meeting, Declarant shall deliver to the Association such information and documents as may be required by the Idaho Condominium Property Act and the Idaho Nonprofit Corporation Act. Nothing in this Section shall be construed as preventing Declarant from calling the turnover meeting prior to such date, or from calling informal, informational meetings of the unit owners.

2.3 Annual Meetings. Following the turnover meeting, the annual meetings of the Association shall be held on such date each year as may be established by the board of directors from time to time. The annual meetings shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

2.4 Special Meetings. Special meetings of the Association may be called by the president or by a majority of the board of directors and must be called by the president or secretary upon receipt of a written request from unit owners owning at least 30 percent of the voting rights stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

2.5 Notice of Meetings. Notice of the annual meeting and all other meetings of the Association stating the time and place and the purpose or purposes for which the meeting is being called shall be given by the president or secretary. Notice must be given in writing by mail or, to the extent permitted by law, by electronic mail, facsimile or other form of electronic communication acceptable to the board of directors not less than ten days nor more than 50 days prior to the date of the meeting to each unit owner. If mailed, it shall be sent to the owner at his or her address as it appears in the records of the Association. A copy shall be sent to any first Mortgagee requesting such notice. Proof of such notice shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived by any unit owner before or after meetings. Attendance by a unit owner at any meeting shall constitute a waiver of notice by such unit owner. When a meeting is adjourned for less than 30 days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

2.6 Voting. Each owner of a unit shall have a vote equal to the unit's allocation of undivided interest in the common areas of the Project; provided, however, that Declarant shall have three times the voting rights otherwise allocable to each such unit owned by Declarant until the Transition Date. Declarant shall be entitled to vote as the unit owner of any unit(s) owned by Declarant. The board of directors shall be entitled to vote on behalf of any unit(s) that has been acquired by or on behalf of the Association; provided, however, that the board of directors shall not be entitled to vote such units in any election of directors.

2.7 Casting of Votes and Consents. The voting rights or consent of a unit owner may be cast in person at a meeting of the Association or, at the discretion of the board of directors, by proxy in accordance with paragraph (a) of this Section, by absentee ballot in accordance with paragraph (b) of this Section, by written ballot in accordance with paragraph (c) of this Section, or by any other method specified in the Declaration, these Bylaws or the Idaho Nonprofit Corporation Act, except as otherwise provided in Section 2.8 below.

(a) Proxies. A proxy must be dated and signed by the unit owner, is not valid if it is undated or purports to be revocable without notice, and terminates one year after its date unless the proxy specifies a shorter term. The board of directors may not require that a proxy be on a form prescribed by the board of directors. A unit owner may not revoke a proxy given pursuant to this paragraph except by actual notice of revocation to the person presiding over a meeting of the Association or to the board of directors if a vote is being conducted by written ballot in lieu of a meeting. A copy of a proxy in compliance with this paragraph provided to the Association by facsimile, electronic mail or other means of electronic communication utilized by the board of directors is valid.

(b) Absentee ballots. An absentee ballot, if authorized by the board of directors, shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by absentee ballot shall include instructions for delivery of the completed absentee ballot, including the delivery location and instructions about whether the ballot may be canceled if the ballot has been delivered according to the instructions. An absentee ballot shall be counted as a unit owner present for the purpose of establishing a quorum. Even if an absentee ballot has been delivered to a unit owner, the unit owner may vote in person at a meeting if the unit owner has returned the absentee ballot and canceled the absentee ballot, if cancellation is permitted in the instructions given under this paragraph.

(c) Ballot meetings. At the discretion of the board of directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting by written ballot to the extent and in the manner provided in the Idaho Nonprofit Corporation Act.

(d) Electronic ballots. To the extent authorized by the board of directors and permitted by the Idaho Nonprofit Corporation Act, any vote, approval, or consent of a unit owner may be given by electronic ballot.

(e) **Mortgagees.** A unit owner may pledge or assign such owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the unit owner is entitled under these Bylaws and to exercise the unit owner's voting rights from and after the time that the Mortgagee shall give written notice of such pledge or assignment to the board of directors. Any Mortgagee may designate a representative to attend all or any meetings of the Association.

2.8 Votes Involving Major Decisions. For votes of the Association involving a Major Decision, unit owners choosing to vote by proxy or absentee ballot shall be required to vote either in the affirmative or in the negative for the proposed Major Decision. Unit owners shall not be permitted to assign proxy voting discretion to any person or entity that is not a unit owner on matters involving Major Decisions of the Association. The term "Major Decision" shall include the following:

(a) Any vote of the Association to terminate professional management pursuant to Section 3.7 below;

(b) Any vote of the Association to incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$100,000 pursuant to Section 3.6(e) below;

(c) Any vote of the Association proposing to borrow any sum of money in excess of an amount or amounts, aggregated for the calendar year in question, exceeding 15 percent of the estimated budget of the Association pursuant to Section 3.6(h) below; and

(d) Any vote of the Association to approve an amendment to these Bylaws.

2.9 Fiduciaries and Joint Owners. An attorney-in-fact, executor, administrator, guardian, conservator or trustee may vote or grant consent with respect to any unit owned or held in a fiduciary capacity, whether or not the specific right has been transferred to his or her name; provided, that such person shall satisfy the secretary that he or she is the attorney-in-fact, executor, administrator, guardian, conservator or trustee, holding the unit in a fiduciary capacity. Whenever any unit is owned by two or more persons jointly, according to the records of the Association, the vote of such unit may be exercised by any one of the owners, in the absence of protest by a co-owner. In the event of disagreement among the co-owners, the vote of the unit shall be disregarded completely in determining the proportion of votes given with respect to such matter unless a valid court order establishes the authority of a co-owner to vote.

2.10 Tenants. Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a unit shall be exercised by the owner/landlord.

2.11 Quorum of Unit Owners. At any meeting of the Association, members holding 50 percent of the voting rights, present in person, by proxy or by absentee ballot, if permitted by the board of directors, shall constitute a quorum. The subsequent joinder of a unit owner in the action taken at a meeting by signing and concurring in the minutes of the meeting shall constitute

the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a unit owner or owners. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.12 Majority Vote. The vote of the holders of more than 50 percent of the voting rights, present in person or by proxy at a meeting at which a quorum is constituted, shall be binding on all unit owners for all purposes unless a higher percentage vote is required by law, by the Declaration or by these Bylaws.

2.13 Continued Votes. If at a meeting to consider action on a Major Decision, as defined in Section 2.8, insufficient votes are cast to approve the action, then the action shall be deemed rejected. The meeting or vote may not be continued in order to obtain additional votes. Any further voting on such matter must be taken at a new duly called meeting at which new votes must be cast in person or by proxy.

2.14 Order of Business. The order of business at annual meetings of the Association shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees, if any;
- (f) Election of directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

2.15 Rules of Order. Unless other rules of order are adopted by resolution of the Association or the board of directors, all meetings of the Association shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association.

ARTICLE 3 BOARD OF DIRECTORS

3.1 Number and Qualification. The affairs of the Association shall be governed by a board of directors composed of three interim directors or three regular directors, as provided in Section 3.2 and Section 3.3 of this Article. All directors, other than interim directors appointed by Declarant, shall be owners or co-owners of units of the Project. For purposes of this Section, an officer, employee or agent of a corporation, a member, manager, employee or agent of a limited liability company, or a partner, employee or agent of a partnership may serve on the board if such corporation, limited liability company or partnership is an owner or co-owner of a unit. In addition, a trustee may serve on the board if the trustee holds legal title to a unit for the benefit of the owner of the beneficial interest in the unit; and an executor, administrator, guardian, conservator or other individual appointed by a court to serve in a fiduciary capacity for an owner of a unit, or an officer or employee of an entity if an entity is appointed, may serve on the board.

3.2 Interim Directors. Upon the recording of the Declaration, Declarant shall appoint an interim board of three directors, who shall serve until replaced by Declarant or their successors have been elected by the unit owners as provided below.

3.3 Election and Term of Office. At the turnover meeting called by Declarant pursuant to Section 2.2 of these Bylaws, the interim directors shall resign, and three successors shall be elected. Directors shall hold office until their respective successors have been elected by the unit owners. Election shall be by plurality and directors shall be elected to serve at large.

3.4 Vacancies. Vacancies in the director position caused by any reason other than the removal of a director by a vote of the Association shall be filled with a unit owner by vote of the remaining directors. Each person so elected shall be a director until a successor is elected to fill the unexpired term at the next annual meeting of the Association or the next special meeting of the Association called for that purpose. Vacancies in interim directors shall be filled by Declarant.

3.5 Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors, other than interim directors, may be removed with or without cause by a majority vote of the unit owners present in person or by proxy. A successor shall be so elected at that meeting to fill the vacancy thus created. The unit owners must vote on the removal of each director separately. The notice and agenda of any such meeting shall state that such removal is to be considered, and any director whose removal has been proposed shall be given an opportunity to be heard at that meeting and prior to the vote. A removed director shall remain a director until the vacancy has been filled.

3.6 Powers and Duties. The board of directors shall have all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties that by law or by the Declaration, the Articles or by these Bylaws may not be delegated to the board of directors by the unit owners; provided, however, that the board of directors may not

take any action that could interfere with the sale, lease or other disposition of units owned by Declarant or that could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved for Declarant or that would impose any discriminatory charge or fee against Declarant, without the prior written consent of Declarant. The powers and duties to be exercised by the board shall include, but shall not be limited to the following:

(a) Operation, care, upkeep, maintenance, repair and replacement of the general and limited common areas and Association property;

(b) Determination of the amounts required for operation, maintenance, and other affairs of the Association, and the making of such expenditures;

(c) Preparation and adoption of budgets, preparation, review and update of reserve studies and assessment and collection of the common expenses, all in accordance with the provisions of these Bylaws;

(d) Employment and dismissal of such personnel as necessary for the efficient maintenance, upkeep, and repair of the common areas;

(e) Employment of legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$10,000 unless the unit owners have enacted a resolution authorizing the incurring of such fees or contract by a vote of 75 percent of the total voting rights of the Association. These limitations shall not be applicable to legal fees incurred in defending the Association and the board of directors from claims or litigation brought against them. The dollar amounts set forth in this paragraph shall increase by ten percent on each fifth anniversary of the recording of the Declaration;

(f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor;

(g) Preparation and distribution of annual financial statements in accordance with these Bylaws and annual preparation and filing of all required income tax returns or forms for the Association;

(h) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the common areas and Association property; provided, however, that (i) the consent of 75 percent of the voting rights shall be required for the borrowing of any sum in excess of an amount or amounts, aggregated for the calendar year in question, exceeding 15 percent of the estimated budget of the Association for that calendar year to cover the operation, care upkeep and maintenance of the common areas, and (ii) no lien to secure repayment of any sum borrowed may be created on any

unit or its appurtenant interest in the common areas without the consent of the owner of such unit. The Association may pledge Association income to secure such borrowing;

(i) Purchasing units of the Project at foreclosure or other judicial sales in the name of the Association, or its designee, on behalf of all the unit owners as provided in these Bylaws, and selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of directors), or otherwise dealing with units of the Project acquired by the Association or its designee on behalf of all the unit owners;

(j) Obtaining insurance pursuant to the provisions of these Bylaws and at least annually reviewing the insurance coverage of the Association;

(k) Making additions and improvements to, or alterations of, the common areas; provided, however, that no such project may be undertaken by the board of directors if the total cost will exceed 15 percent of the estimated budget of the Association for that calendar year to cover the operation, care, upkeep and maintenance of the common areas unless the unit owners have enacted a resolution authorizing the project by a majority vote of the members, except that no such vote shall be required for work that is urgently needed for reasons of life, safety or structural integrity. This limitation shall not be applicable to maintenance, repairs or replacement undertaken pursuant to paragraph (a) above;

(l) Modify, close, remove, eliminate, or discontinue the use of a general common area facility or improvement or portion of the common area landscaping;

(m) Designating one or more committees that, to the extent provided in the resolution designating the committee, shall have the powers of the board of directors in the management of the affairs of the Association. At least one member of each committee shall be a member of the board;

(n) Enforcement by legal means of the provisions of the Idaho Condominium Property Act, the Declaration, the Articles, these Bylaws and any rules and regulations adopted hereunder. Nothing in these Bylaws shall be construed as requiring the Association to take any specific action to enforce violations;

(o) Maintain a current mailing address for the Association, file an annual report, and maintain and keep current the information required to enable the Association to comply with the Idaho Nonprofit Corporation Act; and

(p) Subject to the restrictions in subsection (e) above, initiate or intervene in litigation or administrative proceedings (including mediation under these Bylaws) in the name of the Association, and without joining the individual unit owners, as permitted by the Idaho Condominium Property Act; provided that no litigation or administrative proceeding may be initiated on a matter relating to or affecting the unit of a unit owner unless the unit owner has consented in writing to such action after full disclosure of the potential cost, duration and possible outcomes of the proposed litigation or administrative proceeding. Except for litigation

or administrative proceedings relating to the collection of unpaid assessments, the board shall notify all unit owners prior to instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association the board of directors shall periodically report to the unit owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the board of directors to disclose any privileged communication between the Association and its counsel. The provisions of Idaho Code § 55-1513, concerning actions or litigation by the management body on behalf of two (2) or more of the condominium owners, as the same may be amended, are waived to the extent they may be inconsistent with the express provisions of these Bylaws.

3.7 Managing Agent. On behalf of the Association, the board of directors may employ or contract for a managing agent at a compensation to be established by the board. The board may delegate to the managing agent such duties and powers as the board may authorize. In the absence of such appointment, the board shall act as manager; provided, however, that the board may not discontinue professional management and assume self-management, other than on a temporary basis while diligently seeking to retain a new professional manager, unless the decision to do so is approved by at least 75 percent of the total voting rights of the Association. The managing agent shall have the right to contract with any unit owner, individually or collectively with other unit owners, for personal services for a particular unit or units.

3.8 Contracts Entered into by Declarant or Interim Board. Notwithstanding any other provision of these Bylaws, any management contracts, service contracts or employment contracts entered into by Declarant or the interim board on behalf of the Association shall have a term not in excess of three years.

3.9 Organizational Meeting. Unless otherwise agreed by the board of directors, within 14 days following the annual meeting of the Association or following any meeting at which an election of directors has been held, the board shall hold an organizational meeting at such place and time as shall have been fixed by the directors at the meeting at which the election was held.

3.10 Regular and Special Meetings. Regular meetings of the board of directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Special meetings of the board may be called by the president and must be called by the secretary at the written request of at least two directors. Notice of any special meeting shall be given to each director, personally or by mail, telephone or, to the extent permitted by the Idaho Nonprofit Corporations Act, by electronic mail, facsimile or other form of electronic communication acceptable to the board at least seven days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. For a period of ten years following closing of the sale of the last unit by Declarant to a person other than a successor Declarant, notices of meetings (including agendas) shall also be given to Declarant in the same manner as given to the directors. Unless other rules of order are adopted by resolution of the Association or the board, all meetings of the board shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association.

3.11 Open Meetings.

(a) All meetings of the board of directors shall be open to unit owners and, for a period of ten years following closing of the sale of the last unit by Declarant to a person other than a successor Declarant, to Declarant or a representative of Declarant, except that, in the discretion of the board, the board may close the meeting to owners other than board members and meet in executive session to consult with legal counsel or to consider personnel matters, including salary negotiations and employee discipline, negotiation of contracts with third parties or collection of unpaid assessments. Except in the case of an emergency, the board shall vote in an open meeting whether to meet in executive session. If the board votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in the executive session shall be included in the minutes of the meeting, and any contract or action considered in executive session shall not become effective unless the board, following the executive session, reconvenes in open meeting and votes on the contract or action, which shall be reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the board of directors may be conducted by telephonic communication or by other means of communication that allows all members of the board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting, except that: (i) for other than emergency meetings, notice of each board's meeting shall be posted at a place or places on the property at least three days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the unit owners of such meeting; and (ii) only emergency meetings of the board may be conducted by telephonic communication or such other means. The meeting and notice requirements of this Section may not be circumvented by chance or social meetings or by any other means.

3.12 Waiver of Notice. Any director may, at any time, waive notice of any meeting of the board of directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board shall constitute a waiver of notice by such director. If all of the directors are present at any meeting of the board, no notice to directors shall be required and any business may be transacted at such meeting.

3.13 Quorum of Board of Directors. At all meetings of the board of directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the board. If at any meeting of the board less than a quorum is present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice to the directors.

3.14 Voting. A director who is present at a meeting of the board of directors at which action is taken on any Association matter is presumed to have assented to the action unless the director votes against the action or abstains from voting on the action because the director claims

a conflict of interest. When action is taken on any matter at a meeting of the board, the vote or abstention of each director present must be recorded in the minutes of the meeting. Directors may not vote by proxy or by secret ballot at meetings of the board, except that officers may be elected by secret ballot.

3.15 Compensation. No director shall receive any compensation from the Association for acting as director.

3.16 Deadlock Resolution. If the board of directors is deadlocked on any matter properly before the board in accordance with these Bylaws, and the matter cannot be settled through direct discussions, the board shall resolve the matter by mediation within ten business days following the date of the meeting. If the board cannot agree upon a mediator, then one shall be selected through the process provided by a recognized mediation service designated by the first director who notifies the others of the mediation service selected. Thereafter, if the matter cannot be resolved by mediation, the matter may be resolved by litigation.

3.17 Liability and Indemnification of Directors, Officers, and Managing Agent. A member of the board of directors or an officer of the Association shall not be liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties as long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. A director appointed under Section 3.2 of these Bylaws shall not be liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act that represents the exercise of authority established in the Declaration, including any action or failure to act requested by Declarant or resulting from any prior or concurrent duty or loyalty owed by such director to Declarant; provided that nothing in this Section limits the liability of Declarant for such actions or failure to act by a director. If any member of the board or any officer of the Association is threatened with or made a party to any proceeding because the individual was or is a director or officer of the Association, the Association shall defend the individual against such claims and indemnify the individual against liability and expenses incurred to the maximum extent permitted by law. Unless a higher standard is set forth in any contract between the Association and any managing agent of the Association, any managing agent of the Association, and its officers and employees, shall not be liable to the Association, the unit owners or any third party on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional misconduct. Prior to the turnover meeting described in Section 2.2, the managing agent shall not be liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act that represents the exercise of authority established in the Declaration, including any action or failure to act requested by Declarant or resulting from any prior or concurrent duty or loyalty owed by such director to Declarant; provided that nothing in this Section limits the liability of Declarant for such actions or failure to act by the managing agent. Unless otherwise provided in any contract between the Association

and any managing agent of the Association, if the managing agent is threatened with or made a party to any proceeding, the Association shall defend the managing agent and its officers and employees against such claims and indemnify the managing agent and its officers and employees from any such claims to the maximum extent permitted by law, unless arising out of gross negligence or intentional misconduct.

3.18 Insurance. The board of directors shall obtain the insurance required in these Bylaws. In addition, the board of directors, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association or unit owners. The board shall conduct an annual insurance review that, if appropriate, shall include an appraisal of all improvements contained in the Project.

ARTICLE 4 OFFICERS

4.1 Designation. The principal officers of the Association shall be the president, the secretary, and the treasurer, all of whom shall be elected by the board of directors. The directors may appoint a vice president, an assistant treasurer, an assistant secretary, and such other officers as in their judgment may be necessary. The president shall be a member of the board of directors, but the other officers need not be directors or unit owners.

4.2 Election of Officers. The officers of the Association shall be elected annually by the board of directors at the organizational meeting of each new board and shall hold office at the pleasure of the board. If any office shall become vacant, the board shall elect a successor to fill the unexpired term at any regular meeting of the board, or at any special meeting of the board called for such purpose.

4.3 Removal of Officers. Upon the affirmative vote of a majority of the directors, any officer may be removed either with or without cause, and a successor may be elected at any regular meeting of the board of directors, or at any special meeting of the board called for such purpose.

4.4 President. The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the board of directors. The president shall have all of the general powers and duties that are usually vested in the chief executive officer of an association, including but not limited to the power to appoint committees from among the unit owners from time to time as the president may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.5 Secretary. The secretary shall keep or supervise the keeping of the minutes of all proceedings of the board of directors and the minutes of all meetings of the Association. He or she shall attend to the giving and serving of all notices to the unit owners and directors and other notices required by law. The secretary shall keep the records of the Association, except for those of the treasurer, and shall perform all other duties that are incidental to the office of secretary of an association and as may be required by the directors or the president. In addition, the secretary

shall act as vice president, taking the place of the president and performing the president's duties whenever the president is absent or unable to act, unless the directors have appointed another vice president.

4.6 Treasurer. The treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial and account records showing all receipts and disbursements, and for the preparation of required financial statements. He or she shall be responsible for overseeing the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the board of directors, and shall disburse or cause to be disbursed funds of the Association upon properly authorized vouchers. The treasurer shall perform all other duties incident to the office of treasurer of an association and such other duties as may be assigned to him or her by the board of directors.

4.7 Execution of Instruments. All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the board of directors and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the president. All checks shall be signed by the managing agent or by the treasurer, or in the absence or disability of the treasurer, by the president or any duly elected assistant treasurer.

4.8 Compensation of Officers. No officer who is a member of the board of directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the unit owners. The board may fix any compensation to be paid to any officers who are not also directors.

ARTICLE 5 BUDGET, EXPENSES, AND ASSESSMENTS

5.1 Budget. The board of directors shall from time to time, and at least annually, prepare a budget for the Association, estimate the common expenses expected to be incurred, less any previous over-assessment and plus any under-assessment, and assess the common expenses to each unit owner in the proportion set forth in the Declaration. The budget shall provide for a reserve fund in accordance with Section **Error! Reference source not found.** below and shall take into account the maintenance required by this Declaration. Within 30 days after adopting the annual budget, the board of directors shall provide a summary of the budget to all owners. If the board fails to adopt an annual budget, the last adopted budget shall continue in effect.

5.2 Determination of Common Expenses. Common expenses shall include:

- (a) Expenses of administration, including management fees.

(b) Expenses of operation, maintenance, repair or replacement of common areas, any other portions of the Project required to be maintained by the Association pursuant to the Declaration or these Bylaws, and any Association property.

(c) Cost of insurance or bonds obtained in accordance with these Bylaws.

(d) A general operating reserve, including an amount sufficient to cover the deductible under the property damage insurance policy.

(e) Reserve for replacements, repairs, and maintenance.

(f) Any deficit in common expenses for any prior period.

(g) Utilities and services for the common areas and other utilities and services with a common meter or commonly billed, such as trash collection, water, and sewer. If the board of directors determines that a particular unit's use of such services is greater than the average of other unit owners, the board may assess to such owner the cost attributable to such extra use.

(h) Any other items properly chargeable as an expense of the Association.

5.3 Assessment of Common Expenses.

(a) **Obligation to pay.** All unit owners shall be obligated to pay common expenses assessed to them by the board of directors on behalf of the Association pursuant to these Bylaws and the Declaration. No unit owner by the owner's own action may claim exemption from liability for contribution toward common expenses by waiver by the owner of use or enjoyment of any of the common areas or by abandonment by the owner of the owner's unit. A unit owner may not claim an offset against an assessment for failure of the Association to perform its obligations and no unit owner may offset amounts owing or claimed to be owing by the Association or Declarant to the unit owner. If the board determines that any loss or cost incurred by the Association is the fault of one or more unit owners, the Association may assess the amount of the loss or cost exclusively against the units of the responsible owners. Declarant shall be assessed as the unit owner of any unsold unit, but such assessments shall be prorated to the date of sale of the unit. The board, on behalf of the Association, shall assess the common expenses against the unit owners from time to time, and at least annually, and shall take prompt action to collect from a unit owner any common expense due that remains unpaid for more than 30 days from the due date for its payment. The board may elect to round assessments to the nearest dollar.

(b) **Working capital fund.** At the time of closing of the initial sale of each Unit to a person other than a successor Declarant, and thereafter on any subsequent sale of a Unit, the purchaser shall make a contribution to the working capital of the Association equal to one (1) months' regular association assessments for the unit, which sums shall be held in a segregated working capital fund established in the name of the Association. Such contribution

shall be in addition to the regular monthly common expense assessment and shall not be considered as an advance payment of regular assessments. Declarant may not use the working capital fund to defray any of Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association. After the turnover meeting, the board of directors, at its discretion, may use working capital funds for unexpected operating expenses, extraordinary items of maintenance, repair or replacement or capital additions, or may deposit all or a portion of such funds into the reserve account.

(c) **Commencement of regular operating expense assessments.** Regular monthly assessments for common operating expenses for units in the first stage of the Project shall commence upon closing of the first sale of a unit in such stage of the Project and for subsequent stages, if any, shall commence for all units in such stage upon recording of the applicable Supplemental Declaration.

(d) **Annexation of additional stages.** If additional units are annexed to the Project, the board of directors shall promptly prepare a new budget reflecting the addition to the Project and shall re-compute any previous assessment covering any period after the closing of the sale of the first unit in the new stage.

5.4 Special or Extraordinary Assessments.

(a) **Special assessments for capital improvements.** In the case of any duly authorized capital improvement to the common areas, the board of directors may by resolution establish separate assessments for the same, which may be treated as capital contributions by the unit owners, and the proceeds of which shall be used only for the specific capital improvements described in the resolution. The Association shall not assess units owned by Declarant for additional capital improvements to the Project without the written consent of Declarant as long as Declarant owns more than three units then annexed to the Project or as long as the time specified in the Declaration for annexing additional stages has not expired.

(b) **Other special or extraordinary assessments.** If the board of directors determines that the assessments established upon adoption of the budget as provided in Section 5.3 above will be insufficient to pay the common expenses, or the board determines that additional funds will be needed to meet unexpected or unbudgeted common expenses, the board may levy an additional special or extraordinary assessment. Such assessment shall be allocated to each unit in the same proportion set forth in the Declaration and may be payable in installments over a specified period, in a lump sum, or in a lump sum with option to pay in installments with interest, as determined by the board.

5.5 Default in Payment of Assessments.

(a) **Interest.** In the event of default by any unit owner in paying any assessments to the Association, including assessed common expenses and any other charge imposed or levied by the Association pursuant to the provisions of the Declaration, the Articles, these Bylaws or the Idaho Condominium Property Act, such unit owner shall be obligated to pay

interest at the rate of 12 percent per annum on such assessment from the due date thereof, or at such greater rate as may be established by the board of directors from time to time, not to exceed the maximum lawful rate, if any.

(b) Late Charges and Expenses. The defaulting unit owner shall pay a late charge for any assessment not paid within ten days of its due date in the amount of five percent of the delinquent payment, or such other reasonable late charge or administrative fee, or both, as may be established by the board of directors from time to time by resolution that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing address designated by the unit owner in writing, together with all expenses incurred by the Association in collecting such unpaid assessments, including attorneys' fees (whether or not suit is instituted, and at trial or any appeal or petition for review therefrom).

(c) Acceleration; Suspension of Services. If the assessment is not paid within 30 days of its due date, to the extent permitted by applicable law, the board of directors may declare any remaining installments of assessments for the balance of the fiscal year immediately due and payable and may terminate the right to receive utility and communication services paid for out of assessments or the right of access to and use of recreational and service facilities of the Project until assessments have been brought current.

(d) Enforcement. The board of directors shall have the right to recover for the Association such assessments, together with such charges, interest and expense of the proceeding, including attorneys' fees, by an action brought against such unit owner or by foreclosure of the lien upon the unit provided for in the Idaho Condominium Property Act. As security for the payment of all such obligations, each unit owner hereby grants to the Association a lien with power of sale upon such owner's unit and the right to collect the rents, issues and profits of such owner's unit provided, however, that the unit owner shall retain the right, prior to any default by the unit owner in performance of the unit owner's obligations under the Declaration and these Bylaws, to collect and retain the rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten days written notice to the unit owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply them, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of the indebtedness to the Association, and in such order as the Association may determine. Such action shall not cure nor waive any such default or invalidate any act done pursuant to these Bylaws. This assignment of rents shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first or second Mortgage on any unit to do the same or similar acts.

(e) Notices to First Mortgagees. The board of directors shall notify Mortgagees of a unit of any default in the payment of assessments or charges as may be required in the Declaration.

5.6 Foreclosure of Liens for Unpaid Assessments. In any suit brought by the Association to foreclose a lien on a unit because of unpaid assessments, the unit owner shall be required to pay a reasonable rental for the use of the unit during the pendency of the suit, and the plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect such rental. The board of directors, acting on behalf of the Association, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the unit. A suit or action to recover a money judgment for unpaid assessments shall be maintainable without foreclosing the liens securing them and without waiving such liens.

5.7 Statement of Assessments. The board of directors shall advise each unit owner in writing of the amount of assessments payable by such owner, and furnish copies of each budget on which such assessments are based to all unit owners and, if requested in writing, to their Mortgagees. The board shall promptly provide any unit owner who makes a request in writing with a written statement of the owner's unpaid assessments.

5.8 Priority of Lien; Mortgages. To the extent provided by the Idaho Condominium Property Act, any lien of the Association against a unit for assessments shall be subordinate to tax and assessment liens, Mortgages of record when the applicable notice of assessment was recorded, and labor or materialmen's liens. Unless otherwise provided by applicable law, if the purchaser or Mortgagee of a unit obtains title to the unit as a result of foreclosure of such a Mortgage of record, such purchaser or Mortgagee, its successors and assigns, shall not be liable for assessments that are chargeable to such unit and that became due prior to the acquisition of title to the unit by such purchaser or Mortgagee. Any unpaid share of assessments shall be a common expense and be reallocated on a pro rata basis for all units, including such Mortgaged unit. The purchaser or Mortgagee of such Mortgaged unit shall not be relieved of the obligation to pay further assessments.

5.9 Voluntary Conveyance. In a voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the unit up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of an owner or an owner's agent, for the benefit of a prospective purchaser, the board of directors shall make and deliver a statement of the unpaid assessments against the prospective grantor or the unit effective through a date specified in the statement, and the grantee in that case shall not be liable for any unpaid assessments against the grantor not included in the written statement.

ARTICLE 6 RECORDS AND AUDITS

6.1 General Records. The board of directors and the managing agent, if any, shall keep detailed records of the actions of the board and the managing agent, minutes of the meetings of the board and minutes of the meetings of the Association. The board shall maintain a Book of Resolutions containing the rules, regulations and policies adopted by the Association,

board, and the managing agent. The board shall maintain a list of owners entitled to vote at meetings of the Association and a list of all Mortgagees of units.

6.2 Financial Records and Accounts. The board of directors or its designee shall keep within the State of Idaho financial records sufficient for proper accounting purposes and as required by applicable law. All assessments shall be deposited and maintained in the name of the Association in one or more separate federally insured accounts, including certificates of deposit, at a national bank or other bank licensed to do business in the State of Idaho. Such funds may be used to purchase obligations of the United States government. All expenses of the Association shall be paid from the Association's bank account.

6.3 Assessment Roll. The assessment roll shall be maintained in a set of accounting records in which there shall be an account for each unit. The account shall designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessment comes due, the amounts paid on the account and the balance due on the assessments.

6.4 Payment of Invoices. The treasurer or managing agent shall pay all invoices for all budgeted items and for any nonbudgeted items up to \$1,000 signed by the president, managing agent, or other person authorized by the board of directors. Any invoices for nonbudgeted items in excess of \$1,000 (or such other amount as may be established by the board) shall require the authorization of the president. Any checks written on reserve accounts must be signed by a member of the board.

6.5 Reports and Audits. An annual financial statement consisting of a balance sheet and income and expense statement for the preceding fiscal year shall be rendered by the board of directors to all unit owners and to all Mortgagees of units who have requested it within 90 days after the end of each fiscal year.

6.6 Notice of Sale, Mortgage, Rental or Lease. Upon the sale, mortgage, rental or lease of any unit, such unit owner shall promptly inform the secretary or managing agent, if any, of the name and address of the vendee, Mortgagee, lessee, or tenant.

6.7 Availability of Records. During normal business hours or under other reasonable circumstances, the Association shall make reasonably available for examination and, upon written request, available for duplication, by unit owners, lenders and holders, insurers or guarantors of any first Mortgage that make the request in good faith for a proper purpose, current copies of the Declaration, Articles, Bylaws, other rules concerning the Project, amendments or supplements to such documents, and the books, records, financial statements and current operating budget of the Association. The Association, within ten business days after receipt of a written request by a unit owner, shall furnish copies of such documents to the requesting unit owner. Upon written request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The board of directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a

reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs incurred to furnish the information.

6.8 Statement of Assessments Due. The Association shall provide, within ten business days of receipt of a written request from an owner, a written statement that provides: (a) the amount of assessments due from the owner and unpaid at the time the request was received, including regular and special assessments, fines and other charges, accrued interest, and late payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed rate charge for late payment. The Association is not required to comply with this Section if the Association has commenced litigation by filing a complaint against the owner and the litigation is pending when the statement would otherwise be due.

ARTICLE 7 AMENDMENTS TO BYLAWS

7.1 How Proposed. Amendments to the Bylaws shall be proposed by either a majority of the board of directors or by unit owners holding 30 percent of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

7.2 Adoption. A resolution adopting a proposed amendment may be proposed by either the board of directors or by the unit owners and may be approved by the unit owners at a meeting called for this purpose or by ballot vote. Unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. To be effective, any amendment must be approved by unit owners holding more than 50 percent of the voting rights in the Association (not merely 50 percent of the voting rights present in person or by proxy at a meeting at which a quorum is constituted), and by Mortgagees to the extent Mortgagee approval is required by the Declaration, except that (a) any amendment of any provision of these Bylaws that is also contained in the Declaration must be approved by the same voting requirement for amendment of such provision of the Declaration, (b) any amendment relating to age restrictions, pet restrictions, limitations on the number of persons who may occupy units, or limitations on the rental or leasing of units must be approved by unit owners holding 75 percent of the voting rights in the Association; and (c) any amendment to a requirement in these Bylaws for a vote of more than 50 percent of the total voting rights of the Association must be approved by such higher percentage of the total voting rights of the Association. Until ten years from the date of closing of the sale of the last unit by Declarant to a person other than a successor Declarant, to be effective, any amendment to these Bylaws must also be approved in writing by Declarant. Following the turnover meeting, to be effective, any amendment to these Bylaws adversely and materially affecting the Commercial Units must also be approved in writing by the Commercial Director.

7.3 Regulatory Amendments. Notwithstanding the provisions of Section 7.2 above, until the turnover meeting as described in Section 2.2 has occurred, Declarant shall have the right

(but not the obligation) to amend these Bylaws in order to comply with the requirements of the Federal Housing Administration; the United States Department of Veterans Affairs; the Rural Development or the Farm Service Agency of the United States Department of Agriculture; the Federal National Mortgage Association; the Government National Mortgage Association; the Federal Home Mortgage Loan Corporation; any department, bureau, board, commission or agency of the United States or the State of Idaho; the City of Caldwell and the Canyon County, Idaho; or any corporation wholly owned, directly or indirectly by the United States or the State of Idaho that insures, guarantees or provides financing for a condominium project or units in a condominium project.

7.4 Execution and Recording. An amendment shall not be effective until certified by the president and secretary of the Association as being adopted in accordance with these Bylaws and the provisions of the Idaho Condominium Property Act and recorded in the office of the Recorder of Canyon County, Idaho.

ARTICLE 8 MISCELLANEOUS

8.1 Notices. All notices to the Association or to the board of directors shall be sent in care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the board of directors may designate from time to time. All notices to any unit owner shall be sent to such address as may have been designated by such owner from time to time, in writing, to the board, or, if no address has been designated, then to the owner's unit. Unless otherwise required by law, in the discretion of the board, any notice, information or other written material required to be given to a unit owner or director under the Declaration or these Bylaws or pursuant to the Idaho Condominium Property Act, may be given by electronic mail, facsimile or other form of electronic communication acceptable to the board.

8.2 Waiver. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.


8.3 Action Without a Meeting. Any action that the Idaho Condominium Property Act, the Idaho Nonprofit Corporation Act, the Declaration or these Bylaws require or permit the owners or directors to take at a meeting or by ballot may be taken without a meeting or ballot if a consent in writing setting forth the action so taken is signed by all the owners or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the owners or directors, shall be filed in the records of minutes of the Association.


8.4 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

8.5 Conflicts. These Bylaws are intended to comply with the Idaho Condominium Property Act and the Declaration. In case of any irreconcilable conflict, such statute and the Declaration shall control over these Bylaws or any rules and regulations adopted hereunder.

IN WITNESS WHEREOF, the Association, through its President and Secretary, hereby certify that the foregoing Bylaws, consisting of 21 pages including this page, was duly adopted as of April 13, 2022, as the Bylaws of the Association, by the vote or written consent of Members representing 100 percent of the total voting power in the Association.

HELENA CONDOMINIUM
ASSOCIATION, INC., an Idaho nonprofit
corporation:

By: 
Casey Wilson, President

By: 
Jake Pedersen, Secretary

Recording Requested By:
Amy M. J. Knight
Hawley Troxell Ennis & Hawley LLP
P.O. Box 1617
Boise, Idaho 83701

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

AMENDED AND RESTATED
CONDOMINIUM DECLARATION
AND
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS
FOR
HELENA CONDOMINIUM ASSOCIATION, INC.

THIS AMENDED AND RESTATED CONDOMINIUM DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS FOR HELENA CONDOMINIUM ASSOCIATION, INC. ("**Declaration**") is made as of the 13th day of April, 2022, by South Fork Capital LLC, an Idaho limited liability company ("**Declarant**").

RECITALS AND CERTAIN DEFINITIONS.

(a) Helena Condominium Association, Inc., an Idaho non-profit corporation, recorded that certain Condominium Declaration and Covenants, Conditions, Restrictions and Reservations for Helena Condominium Association, Inc. dated October 1, 2007, and recorded on October 4, 2007, as Instrument No. 2007066699, in the Official Records of Canyon County, State of Idaho ("**Original Declaration**").

(b) This Declaration amends and restates the Original Declaration in its entirety. Upon the recording of this Declaration, the Original Declaration will no longer be of any force or effect, and this Declaration shall bind and control the Project (defined below).

(c) Declarant is the owner of all of the Units and undivided Common Area (defined below) comprising all of the Property within the Project. The utility and enjoyment of each Unit and the Common Area within the Project requires the establishment of easements and covenants for the use and operation of the Property as integral parts of a common plan for the Project. Accordingly, pursuant to Section 26.1 of the Original Declaration, the Declarant desires to amend and restate the Original Declaration in order to (i) reestablish and redefine the parcels as Units (defined below) and Common Area subject to this Declaration, and (ii) reestablish and

confirm certain easements, covenants and restrictions to provide for joint use, management, and operation of the Units and Common Area as integral parts of a common plan for the Project.

NOW, THEREFORE, incorporating the foregoing Recitals, the Declarant hereby amends and restates the easements, covenants, and restrictions which shall run with the land and be binding upon and inure to the benefit of the successors and assigns of the Owners (defined below) of the Lots (defined below), and every part thereof and every interest therein, as part of a common plan to regulate and govern the joint use and occupancy of the Project, to enhance the value thereof, and for other beneficial purposes.

ARTICLE 1. DEFINITIONS.

Section 1.1 Words Defined.

For the purposes of this Declaration and any amendments hereto, the definitions set forth in the Recitals above are incorporated herein, and together therewith, the following definitions shall apply:

Section 1.1.1 “Articles” shall mean the Articles of Incorporation of the Association defined below, as filed with the Secretary of State of the State of Idaho on April 13, 2022, and attached hereto as Exhibit B.

Section 1.1.2 “Association” is defined in Article 13 below.

Section 1.1.3 “Board” shall mean the Board of Directors of the Association.

Section 1.1.4 “By-Laws” shall mean the By-Laws of the Association attached hereto as Exhibit C, as adopted, amended and restated, from time to time.

Section 1.1.5 “Common Area(s)” is defined in Article 6 below.

Section 1.1.6 “Condominium” shall mean a separate interest in a Unit, together with its undivided interest in the Common Areas (expressed as a percentage of the ownership interest in the Common Areas, as set forth in Article 8 below and on Exhibit A attached hereto), together with all appurtenances.

Section 1.1.7 “Condominium Statute” shall mean the Condominium Property Act of the State of Idaho (S.L. 1965, Chapter 225), presently codified in Chapter 15, Title 55, Idaho Code as I.C. §55-1501 through I.C. §55-1528, and amendments thereto.

Section 1.1.8 “Management” shall mean the person or entity designated by Declarant under Section 15.2 or by the Board under Section 16.4.

Section 1.1.9 “Mortgagee” is defined in Section 14.2.

Section 1.1.10 "Owner" shall mean the legal owner of a fee interest in a Unit.

Section 1.1.11 "Person" shall mean an individual, corporation, partnership, association, trustee or other legal entity.

Section 1.1.12 "Plat" shall mean the Plat of Helena Condominiums, a resubdivision of Lot 1 Block 4 of the Montana Manor Subdivision, filed in Book 40 at Page 29 of Plats and recorded as Instrument No. 200706698 on October 4, 2007, in the Official Records of Canyon County, Idaho, and any amendments, corrections and addenda thereto subsequently recorded.

Section 1.1.13 "Project" shall mean the Property covered by this Declaration.

Section 1.1.14 "Property" is defined in Article 3 below.

Section 1.1.15 "Transition Date" is defined in Article 15 below.

Section 1.1.16 "Unit" shall mean the interior of a parcel shown on the Plat that is a residential dwelling unit, together with the interior of its designated garage (if a garage has been designated to it). Each Unit is more particularly described on Exhibit A attached hereto. The boundaries of a Unit are the finished interior surfaces of its perimeter walls, floors, ceilings, windows and doors, and the Unit includes both the portions of the building (and any designated garage) so described and the air space so encompassed.

Section 1.2 Form of Words.

The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine and neuter pronouns shall be used interchangeably.

Section 1.3 Statutory Definitions.

Some of the terms defined above are also defined in the Condominium Statute. The definitions in this Declaration are not intended to limit or contradict the definitions in the Condominium Statute insofar as it might apply in a particular situation. If there is any inconsistency or conflict in a situation where the Condominium Statute is intended to apply and govern, the statutory definitions will prevail over those set forth herein to the extent necessary to give full force and effect to the Statute.

ARTICLE 2. SUBMISSION OF THE PROPERTY TO THE CONDOMINIUM STATUTE.

Declarant makes this Declaration for the purpose of confirming the submittal of the Property to the condominium form of use and ownership and to the provisions of the Condominium Statute. Declarant declares that the Property shall be held, used, conveyed,

encumbered, leased, occupied, rented and improved subject to the covenants, conditions, restrictions, reservations and easements stated in this Declaration, all of which are in furtherance of the division of the Property into condominium units and common areas and facilities, and shall be deemed to run with the land and be a burden and benefit to Declarant and all persons who own or acquire an interest in the Property or any part thereof, and their grantees, successors, heirs, executors, administrators and assigns.

ARTICLE 3. DESCRIPTION OF LAND.

The land on which the buildings and improvements provided for in this Declaration are located consists of that certain real property described in the Plat of Helena Condominiums, a resubdivision of Lot 1 Block 4 of the Montana Manor Subdivision, filed in Book 40 at Page 29 of Plats and recorded as Instrument No. 200706698 on October 4, 2007, in the Official Records of Canyon County, Idaho, and any amendments, corrections and addenda thereto subsequently recorded.

ARTICLE 4. DESCRIPTION OF BUILDINGS.

There are three buildings in the Project. The buildings are further described and their locations shown on the Plat.

ARTICLE 5. UNIT NUMBERS, LOCATION AND DESCRIPTION.

Each Unit is identified by an assigned number corresponding with its street address as shown on Exhibit A to this Declaration.

ARTICLE 6. ARTICLE 6. COMMON AREAS AND FACILITIES.

Section 6.1 Description.

The Common Area and facilities consist of those areas shown and designated on the Plat and Exhibit A as "common area", including the grounds, trees, gardens, landscaped areas, exterior fixtures, mailbox bank, walkways and driveways. Common Area includes, as a subset, Limited Common Area.

Limited Common Area(s) are those certain designated parking spaces and fenced outdoor areas appurtenant to Units, as more fully described and approximately depicted in Exhibit A attached hereto. The Limited Common Area shall be owned and maintained by the Association as Common Area; however, each Limited Common Area is reserved for the private use and enjoyment of the Owner of the Unit for whose use it is designated on Exhibit A attached hereto, and no other Owners or third persons shall have the right of use or access thereto. Nothing contained herein shall be deemed to permit any such Owner to construct or install any structures or improvements on the Limited Common Area, including, without limitation to, decks, patios, fences, landscaping and the like, except to the extent, if any, that the Declarant or Board shall specifically approve in writing.

Section 6.2 Use.

Each Owner shall have the right to use the Common Areas and facilities (except for Limited Common Area(s), which is reserved for use by specific Owner(s) as designated to their Units) in common with all other Owners, and such right shall extend to each Owner's agents, servants, tenants, family members, invitees and licensees, business invitees and business licensees. The right to use the Common Areas and facilities shall be governed by the provisions of the Condominium Statute, this Declaration, the By-Laws and the rules and regulations of the Association. The Owners shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and facilities, and no other person shall have the right to have them partitioned or divided. The granting of easements for utilities or for other purposes consistent with the intended use of the Common Areas and facilities by the Owners and occupants shall not be deemed a partition or division.

ARTICLE 7. ACCESS.

Each Unit has direct access to the Common Area adjacent to the Unit entrance and thence across the Common Areas to the public streets and sidewalks. There shall be no restriction upon the right of ingress to and egress from each Unit, which right shall be perpetual and appurtenant to the respective Units.

ARTICLE 8. PERCENTAGE OF OWNERSHIP INTEREST IN COMMON AREAS AND FACILITIES.

For the purpose of meeting certain requirements of the Condominium Statute, the percentage of ownership interest in the Common Areas and facilities appertaining to each Unit and its Owner for all purposes, including voting, tax assessment and liability, is set forth in Exhibit A attached hereto.

ARTICLE 9. PARKING.

Section 9.1 Use of Parking Spaces.

Parking spaces are designated as Limited Common Area(s) as described and approximately depicted in Exhibit A attached hereto. All other parking spaces (if any) are for use of the Owners and their guests on an unreserved, first-come basis. All parking spaces, whether or not being Limited Common Area(s), may be used only for the parking of operable passenger motor vehicles and the temporary parking of delivery vehicles. Improperly parked vehicles may be removed by the Association at the risk and expense of the Owner thereof.

ARTICLE 10. PERMITTED USES; MAINTENANCE OF UNITS, CONVEYANCES.

Section 10.1 Use of Units.

The buildings and Units are intended for and restricted to use as single-family residences, on an ownership, rental or lease basis and other reasonable activities normally incident to such use, and for the purposes of operating the Association and managing the Project, if required. Except for the condominiums contemplated hereby, the construction of separate principal buildings shall be prohibited on any lot within the Project. Each Unit may be rented by the Owner of the Unit to others for single family residential purposes only in strict compliance with the following rental requirements: (i) a written document shall be executed between the Owner and the person(s) occupying the Unit as renters that authorizes such rental activity (a "Lease"); (ii) the form of the Lease shall have been reviewed and approved in advance in writing by the Board; (iii) the Board shall not give approval to any Lease with the duration or term of less than twelve (12) months; (iv) no Lease shall allow for subleasing; and (v) the Owner of the Unit shall, upon request, provide current and updated contact information to the Board of both the Owner and the person(s) occupying the Building Lot as renters. Any Lease that does not conform with the foregoing requirements is subject to being rendered null and void at the written election of the Board.

Section 10.2 Maintenance of Units and Common Areas.

Each Owner shall, at the Owner's sole expense, keep the exterior and interior of its Unit and its equipment, appliances and appurtenances in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair, and shall do all exterior and interior redecorating and painting at any time necessary to maintain the good appearance and condition of its Unit. Each Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, fans, heating equipment, electrical fixtures or appliances which are within the Unit or portions thereof that serve that Unit only, and shall replace any glass in the windows and in the exterior doors of the Unit that becomes cracked or broken. The Association shall be responsible for the care and maintenance of all Common Areas.

Section 10.3 Exterior Appearance.

In order to preserve a uniform exterior appearance of the buildings, the Board shall prescribe the quality, type and color of all exterior finishes, paints and/or stains. No Owner may modify or decorate the exterior of the buildings or screens, doors, awnings or other portions of any Unit visible from outside the Unit without the prior written consent of the Board, or in accordance with rules or regulations of the Board. No exterior radio or television antennae or satellite dishes may be installed without the prior written consent of the Board.

Section 10.4 Maintenance by Association.

Except where the Owners are responsible for maintenance and repair under Section 10.2, the Association shall be responsible for the maintenance and repair of the following: utility lines through the Common Area to the point where utility companies assume maintenance responsibility; water system, lines and facilities serving the Project (unless accepted for maintenance by a governmental entity or water district); sewer lines, manholes and other sewer facilities (unless accepted for maintenance by a governmental entity or sewer district); drainage

sumps and other drainage facilities; lights in the Common Area and electricity lines serving the same; parking areas and road accesses; and all other improvements or materials located within or used in connection with the Common Area. The Association shall maintain all landscaping and natural vegetation constituting part of the Common Area, including assuring the preservation of good visual continuity between landscaped areas and natural vegetation, including in the Limited Common Area(s) within fenced outdoor spaces appurtenant to Units, and the Owner of such Units shall keep such Limited Common Area clean, open and accessible to the Association for such periodic maintenance at the Association's requested schedule.

The specification of duties of the Association with respect to the foregoing items shall not be construed to limit its duties with respect to maintenance and control of the Common Area. The Association may delegate and contract for all or any part of its obligations for such maintenance to third party(ies). The cost of such management, maintenance and repair by the Association shall be borne as provided in Article 17.

Section 10.5 Effect on Insurance.

Nothing shall be done or kept in any Unit or in any Common Area that will increase the rate of insurance on the Property without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in any Common Area that will result in the cancellation of insurance on any part of the Property, or that would be in violation of any laws.

Section 10.6 Alteration of Common Area and Limited Common Area.

Nothing shall be altered or constructed in or removed from any Common Area or facility except upon the prior written consent of the Board. Specifically with regard to Limited Common Area(s) within fenced outdoor spaces appurtenant to Units, no Owner may install any structure or improvement (including, but not limited to, dog houses/runs, swing sets/play units, spas/pools, hardscape, decks, pergolas, or sheds) in such Limited Common Area without the prior written consent of the Board.

Section 10.7 Conveyances; Notice Required.

The right of an Owner to sell, transfer or otherwise convey a Unit shall not be subject to any right of approval, disapproval, first refusal or similar restriction by the Association or the Board, or anyone acting on their behalf. Notwithstanding the foregoing, an Owner intending to sell a Unit shall deliver a written notice to the Board at least two (2) weeks before closing, specifying: the Unit being sold; the name and address of the purchaser, of the closing agent and of the title insurance company insuring the purchaser's interest; and the estimated closing date. The Board shall have the right to notify the purchaser, the title insurance company and the closing agent of the amount of unpaid assessments and charges outstanding against the Unit, whether or not such information is requested.

ARTICLE 11. ENTRY FOR REPAIRS.

Section 13.4 Transfer of Membership.

The Association membership of each Owner shall be appurtenant to the Unit giving rise to such membership, and shall not be transferred in any way except upon the transfer of title to the Unit, and then only to the transferee of title to the Unit. Any attempt to make a prohibited transfer shall be null and void ab initio. Any transfer of title to a Unit shall operate automatically to transfer the membership in the Association to the new Owner.

Section 13.5 Number of Votes.

A person (including Declarant) who owns more than one Unit shall have the votes appertaining to each Unit owned.

Section 13.6 Voting Representative.

An Owner may, by written notice to the Board, designate a voting representative for that Unit. The voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a person having an ownership interest in a Unit, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the Unit, except in cases in which the person designated is a Mortgagee of the Unit. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact for the Owner under a durable power of attorney, and the administrators, executors or personal representatives of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each Unit shall be the group composed of all of its Owners. If a Unit is owned by spouses as community property, and only one of them is at a meeting, the one who is present will represent the marital community.

Section 13.7 Joint Owner Disputes.

The vote for a Unit must be cast as a single vote; and in no event shall the vote assigned to a particular Unit be further fractionalized or split. If joint Owners are unable to agree on how their vote shall be cast, they shall lose their right to vote on the matter in question.

Section 13.8 Books and Records.

The Board shall cause to be kept complete, detailed and accurate books and records of the receipts and expenditures of the Association in a form that complies with generally accepted accounting principles.

Section 13.9 Inspection of Project Documents, Books and Records.

During normal business hours and at other reasonable times, current copies of this Declaration, the Articles, the By-Laws and other rules governing the operation of the Project shall be available for inspection by the Owners, Mortgagees, prospective purchasers and their

The Association and its agents or employees may enter any Unit and Common Areas appurtenant thereto to effect repairs, improvements, replacements or maintenance deemed by the Board to be necessary in the performance of its duties, to do necessary work that an Owner has failed to perform, or to prevent damage to the Common Areas and facilities or to another Unit. Except in cases of great emergency that preclude advance notice, the Board shall cause the Unit occupant to be given notice and an explanation of the need for entry as far in advance of entry as is reasonably practicable. Such entry shall be made with as little inconvenience to the Owners and occupants as practicable. Any damage caused by such entry shall be repaired by the Association as a common expense unless the repairs or maintenance were necessitated by the acts or default of the Owner or occupant of the Unit entered, in which event the costs of the repairs or maintenance shall be specially assessed to that Unit.

ARTICLE 12. SERVICE OF PROCESS.

The registered agent for the Association as filed with the Secretary of State of the State of Idaho is hereby designated to receive service of process for the purposes provided in the Condominium Statute. The Board may at any time designate a different agent for such purpose by filing an notice of change of its registered agent with the Secretary of State of the State of Idaho, according to the filing requirements then in effect in such office.

ARTICLE 13. ASSOCIATION OF OWNERS.

Section 13.1 Form of Association.

Helena Condominium Association, Inc. (the “**Association**”), a non-profit corporation formed under the laws of the State of Idaho, is hereby designated the “**Management Body**” within the meaning of the Condominium Statute. The rights and duties of the members and of the non-profit corporation shall be governed by the provisions of the Condominium Statute and of this Declaration.

Section 13.2 Articles and By-Laws.

A copy of the Association's Articles of Incorporation and a copy of its By-Laws are attached hereto as Exhibits B and C, respectively. Declarant may amend the Association's By-Laws from time to time until the Transition Date. After the Transition Date, the Articles or By-Laws may be amended by the affirmative vote of two-thirds (2/3) of the voting power at any duly called regular or special meeting of the Association (including two-thirds (2/3) of Mortgagees).

Section 13.3 Qualification for Membership.

Each fee Owner of a Unit shall be a member of the Association and shall be entitled to one membership interest for each Unit owned. Ownership of a Unit shall be the sole qualification for membership in the Association.

prospective Mortgagees, and the agents or attorneys of any of them; and, in addition, at such times the books and records, authorizations for payment of expenditures, and all contracts, documents, papers, and other records of the Association shall be available for inspection by the Owners, Mortgagees and the agents or attorneys of either of them.

Section 13.10 Appointment of Association as Attorney-in-Fact.

Each Owner, by acceptance of title subject to this Declaration, hereby appoints the Association as said Owners attorney-in-fact for the purpose of handling any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Project, or from the termination of the Project, and for the purpose of representing the Owners in any proceedings, negotiations, settlements or agreements relating thereto.

ARTICLE 14. NOTICES.

Section 14.1 Form and Delivery of Notice.

All notices given under the provisions of this Declaration or the By-Laws or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered on the day it has been deposited in the United States mail, first class, postage prepaid, addressed to the person entitled to such notice at the most recent address known to the Board. Notice to the Owner of any Unit shall be sufficient if mailed to the Unit unless another mailing address has been given to the Board. Mailing addresses may be changed by notice in writing to the Board. Notices to the Board shall be given to Declarant until the Transition Date and thereafter shall be given to the President or Secretary of the Association.

Section 14.2 Notices to Mortgagees.

Any holder of a first position mortgage lien of record on a Unit ("**Mortgagee**") may file with the Association a written request that it be given copies of notices, which request shall specify the name and address of such Mortgagee and the Unit number or address of the Unit encumbered by its mortgage. Until such time thereafter as such Mortgagee withdraws the request or satisfies its mortgage of record, the Association shall send to the requesting Mortgagee timely written notice of:

- (a) any condemnation loss or any casualty loss which affects either a material portion of the Project or any Unit on which there is a mortgage held, insured or guaranteed by such requesting Mortgagee;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a mortgage held, insured or guaranteed by such requesting Mortgagee (or any other default in the performance of said Owner's obligations under any of the documents that create or govern the

Project, or its rules or regulations), which delinquency or default remains uncured for a period of sixty (60) days;

- (c) Any lapse, cancellation or material alteration of any insurance policy maintained by the Association;
- (d) any proposed action which requires the consent of a specified percentage of Mortgagees or the consent of the Mortgagee of a particular Unit, as specified in this Declaration;
- (e) if expressly requested by such Mortgagee, all notices of meetings of the Association; and
- (f) if expressly requested by such Mortgagee, all other notices sent to the Owner of the Unit covered by the requesting Mortgagee's mortgage.

The provisions of this Section 14.2 shall prevail over any inconsistent or contrary provisions in this Declaration or in the Articles or By-Laws.

ARTICLE 15. ADMINISTRATION OF PROPERTY; RIGHTS RETAINED BY DECLARANT.

Section 15.1 Transition Date.

The "Transition Date" shall be the date designated by Declarant in a written notice to the Owners, which date may, at Declarant's election be any date after this Declaration has been recorded.

Section 15.2 Declarant's Powers Until Transition Date.

Until the Transition Date, Declarant shall have the full power and authority to exercise all of the rights, duties and functions of the Board of Directors and the officers of the Association, including but not limited to the adoption of rules and regulations, contracting for the purchase of goods and services, buying insurance, establishing reasonable reserves, and collecting and expending all assessments and other Association funds. Declarant shall have the power to contract with an experienced professional managing agent and delegate to the managing agent all of the powers and duties of the Board that the Board is authorized to delegate under Section 16.4. All such management contracts made by Declarant shall be subject to the same requirements as are set forth in Section 16.4 for management contracts made by the Board. Any contract or lease made by Declarant or its managing agent (including management contracts) that would otherwise extend beyond the Transition Date shall be terminable by the Board without penalty after the Transition Date upon ninety (90) days notice to the other party thereto.

ARTICLE 16. AUTHORITY OF THE BOARD.

Section 16.1 Adoption of Rules and Regulations.

The Board is empowered, on behalf of the Association, to adopt, amend and revoke detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration and to promote the comfortable use and enjoyment of the Property. The rules and regulations of the Association shall be binding upon all Owners and occupants and all other persons claiming any interest in any condominium.

Section 16.2 Enforcement of Declaration and Fines; Attorney's Fees.

The failure of any Owner to comply with the provisions of the Declaration, Articles of Incorporation or By-Laws shall give rise to a cause of action in favor of the Association and any aggrieved Owner for the recovery of damages, or for injunctive relief, or both. The Board (or Declarant or Declarant's managing agent) shall have the power to enforce the provisions of this Declaration, the Articles, the By-Laws and the rules and regulations of the Association, as the same may be lawfully amended from time to time, for the benefit of the Association. If legal action is brought to interpret or enforce compliance with the provisions of this Declaration, the Articles, the By-Laws or the rules and regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs and attorney's fees in the amount awarded by the court.

To discourage violations of this Declaration, the Board shall have the authority to set and impose fines on any Owner who violates provisions of this Declaration regarding its use, access, parking, maintenance and repair, and insurance in the Property, or any similar rule or regulation promulgated by the Board. Such fines shall be in addition to, and not in lieu of liquidated damages. Such fines shall not exceed \$100 per day for any advertising violation and \$300 per day for any other violation. Before such fines are imposed, the Board will act in conformance with all statutory requirements for a homeowners association to impose fines as set forth in Chapter 1, Title 55, Idaho Code. When liquidated damages or fines are appropriate under the provisions of this Section, the Board has the authority to lien the real property of the Owner in violation, and record and enforce the same.

Section 16.3 Goods and Services.

The Board shall acquire and pay for, as common expenses of the Association, all goods and services reasonably necessary or convenient for the efficient and orderly functioning of the Project. The goods and services shall include (by way of illustration and not limitation) utility services for the Common Areas and facilities; policies of insurance, legal and accounting services; maintenance, repair, landscaping, gardening and general upkeep of the Common Areas and facilities (except where the Owners have such responsibility under the provisions hereof); and all supplies, materials, fixtures and equipment that are in the Board's judgment necessary or desirable for the operation of the Project and enjoyment of it by the Owners. The Board may hire such full-time or part-time employees as it considers necessary.

Section 16.4 Managing Agent.

The Board may contract with an experienced professional managing agent to assist the Board in the management and operation of the Project and may delegate such of its powers and duties to the managing agent as it deems to be appropriate, except as limited herein. The managing agent shall not enter any Unit (directly or through agents) without the consent of the occupant unless entry has been directed by the Board. Only the Board can approve an annual budget or a supplemental budget, and only the Board can impose a special assessment on a Unit or authorize foreclosure of an assessment lien. Any contract with a managing agent shall have a term no longer than three (3) years and during such term shall be terminable by the Board without payment of a termination fee, either (1) for cause, on thirty (30) days written notice, or (2) without cause, on not more than ninety (90) days written notice.

Section 16.5 Protection of Property.

The Board may spend such funds and take such action as it may from time to time deem necessary to preserve the Property, settle claims or otherwise act in what it considers to be the best interests of the Project or the Association.

ARTICLE 17. BUDGET AND ASSESSMENT FOR COMMON EXPENSES.

Section 17.1 Fiscal Year.

The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year.

Section 17.2 Preparation of Budget.

Not less than thirty (30) days before the end of the fiscal year, the Board shall prepare a budget for the Association for the coming year. In preparing its budget, the Board shall estimate the common expenses of the Association to be paid during the year, make suitable provision for accumulation of reserves, and shall take into account any surplus or deficit carried over from the precedent year and any expected income to the Association. The Declarant may prepare a budget for the remainder of the fiscal year in which this Declaration is recorded and for subsequent years until the Transition Date. If, during the year the budget proves to be inadequate for any reason, including nonpayment of any Owner's assessment, the Board may prepare a supplemental budget for the remainder of the year.

Section 17.3 Monthly Assessments for Common Expenses.

The sums required by the Association for common expenses as reflected by the annual budget and any supplemental budgets shall be divided into equal installments to be paid each month over the period of time covered by the budget or supplemental budget. The monthly installments shall be assessed in each Unit and their respective Owners in proportion to the Unit's square footage as a percentage of the undivided interest in the Common Areas and facilities (see Exhibit A). Assessments begin accruing with respect to each Unit upon the closing of the initial sale of that Unit by Declarant or upon its initial occupancy, whichever occurs first; and in any

Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any year for the ensuing year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the monthly assessment amount established for the preceding year shall continue until a new assessment is established.

Section 17.10 Certificate of Unpaid Assessments.

Upon the request of any Owner or Mortgagee of a particular Unit, the Board will furnish a certificate in recordable form stating the amount, if any, of unpaid assessments charged to that Unit. The certificate shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the certificate in favor of all purchasers and Mortgagees of such Unit who rely on the certificate in good faith. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the certificate.

Section 17.11 Reserves and Initial Capital Payment.

The Board shall build up and maintain reasonable reserves for working capital, operations, contingencies, and periodic maintenance repair and replacement of improvements which the Association is obligated to maintain. Upon the initial sale of Units by Declarant, the Association shall collect from each initial purchaser an "initial capital payment" equivalent to twice the estimated monthly assessments for such purchaser's Unit. The Declarant may collect such initial capital payments at the closing of each sale, in which event the funds so collected shall be delivered to the Treasurer of the Association to provide it with necessary working capital. Such funds may be used for certain prepaid items, organizational equipment and supply costs, and for such other purposes as the Board may determine. Such initial capital payments shall be in addition to and not a prepayment of the regular monthly assessments due and payable under Section 17.3 above. The initial capital payment for each completed Unit (including unsold Units owned by Declarant) shall be paid to the Association within sixty (60) days after the date of the conveyance of the first Unit in the Project (or the first Unit in that particular phase, if an expandable project); in the event Declarant pays such initial capital payments for any Unit or Units, Declarant shall be entitled to reimbursement therefor at the time of closing of the sale thereof.

ARTICLE 18. LIEN AND COLLECTION OF ASSESSMENTS.

Section 18.1 Assessments are a Lien; Priority.

All unpaid sums assessed by the Association for the share of the common expenses chargeable to any Unit and any sums specially assessed to any Unit under the authority of this Declaration or the By-Laws (together with interest, late charges, costs and attorney's fees in the event of delinquency) shall constitute a continuing lien on such Unit and all its appurtenances from the date the assessment became due until fully paid. The lien for such unpaid assessments shall be subordinate to tax liens on the Unit in favor of any assessing agency and/or special

district, and to all sums unpaid on all mortgages of record, but shall have priority over all other liens against the Unit. A Mortgagee that obtains possession through a mortgage foreclosure or deed of trust sale, or by taking a deed in lieu of foreclosure or sale, or a purchaser at a foreclosure sale, shall take the Unit free of any claims for the share of common expenses or assessments by the Association chargeable to the Unit that became due before such possession, but will be liable for the common expenses and assessments that accrue after the taking of possession; in such event, the Unit's past due share of common expenses or assessments shall become new common expenses chargeable to all of the Owners, including the mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to their respective percentages of undivided interest in the Common Areas and facilities; provided, however, that the Owner and any contract purchaser shall continue to be personally liable for such past due assessments, as provided in Section 18.3. For the purpose of this Section, the terms "mortgages" and "mortgagee" shall not mean real estate contracts or a vendor or a designee or assignee of a vendor under a real estate contract.

Section 18.2 Lien May be Foreclosed.

The lien for delinquent assessments may be foreclosed by suit by the managing agent or the Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The managing agent or the Board, acting on behalf of the Association, shall have the power to bid in the amount owing at the foreclosure sale, and to acquire the Unit in question and hold, lease, mortgage and convey the same.

Section 18.3 Assessments are Personal Obligations.

In addition to constituting a lien on the Unit and all its appurtenances, all sums assessed by the Association chargeable to any Unit (together with interest, late charges, costs and attorney's fees in the event of delinquency) shall be the joint and several personal obligations of the Owner and any contract purchaser of the Unit when the assessment is made. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them.

Section 18.4 Late Charges and Interest on Delinquent Assessments.

The Board may from time to time establish late charges and a rate of interest to be charged on assessments that may thereafter become delinquent. In the absence of another established non-usurious rate, delinquent assessments shall bear interest at the rate of twelve percent (12%) per annum. If a monthly assessment against a Unit is not paid when due, the Board may elect to declare all monthly assessments against that Unit for the remainder of the fiscal year to be immediately due and payable.

Section 18.5 Recovery of Attorney's Fees and Costs.

In any action to collect delinquent assessments, the prevailing party shall be entitled to recover as a part of its judgment a reasonable sum for attorney fees and expenses reasonably incurred in connection with the action, in addition to taxable costs permitted by law.

Section 18.6 Termination of Utility Service.

If an assessment becomes delinquent, the Board may give notice to the delinquent Owner to the effect that unless the delinquent assessment is paid within ten (10) days (or such longer time as is specified in the notice), any or all utility services furnished to the Unit in question by the Association or under the Association's control will be severed and shall remain severed until the delinquent assessment has been paid. If the delinquency is not cured in the time specified, the Board may take the action described in the notice.

Section 18.7 Remedies Cumulative.

The remedies provided herein are cumulative, and the Board may pursue them and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

Section 18.8 Security Deposit.

An Owner who has been delinquent in paying his monthly assessments for three of the five preceding months may be required by the Board, from time to time, to make and maintain a security deposit not in excess of three months estimated monthly assessments, which shall be collected and shall be subject to penalties for nonpayment, as are other assessments. The deposit shall be held in a separate fund, credited to such Owner, and may be resorted to at any time when such Owner is ten (10) days or more delinquent in paying his assessments.

ARTICLE 19. FAILURE TO INSIST ON STRICT PERFORMANCE; NO WAIVER.

The failure of any interested party in any instance to insist upon the strict compliance with this Declaration or the By-Laws or rules and regulations of the Association, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition or restriction. The receipt by the Board of payment of an assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver of any requirement shall be effective unless expressed in writing and signed for the party waiving such requirement.

ARTICLE 20. LIMITATION OF LIABILITY.

Section 20.1 Liability for Utility Failure, etc.

Except to the extent covered by insurance obtained by the Board, neither the Association nor the Board (nor the Declarant or Declarant's managing agent) shall be liable for: the failure of

event, with respect to all completed Units (including unsold Units owned by Declarant), sixty (60) days after the conveyance by Declarant of the first Unit in the Project (or phase, if expandable). During such time as garbage collection charges and any other utility or service charges are based on the number of occupied Units, any Units owned by Declarant and not occupied shall be exempt from assessment for such charges.

Section 17.4 Special Assessments.

If a special assessment becomes chargeable against a Unit under the authority of this Declaration or the By-Laws, the Board shall determine the amount of such special assessment and fix the month or months in which it is to be paid. The special assessment shall be added to the Unit's monthly installment of common expenses and be included in the assessment against such Unit.

Section 17.5 Notice of Assessment.

The Board shall notify each Owner in writing of the amount of the monthly assessments to be paid for his Unit and shall furnish copies of each budget on which the assessments are based to all Owners and, if so requested, to their respective Mortgagees.

Section 17.6 Payment of Monthly Assessments.

On or before the first day of each calendar month, each Owner shall pay or cause to be paid to the Treasurer of the Association the assessment against its Unit for that month. Any assessment not paid by the first day of the calendar month for which it is due shall be delinquent and subject to late charges, interest charges and collection procedures as provided in Article 18 herein.

Section 17.7 Proceeds Belong to Association.

All assessments and other receipts received by the Association pursuant to the provisions hereof shall belong to the Association.

Section 17.8 Limitation on Assessments.

During such time as Declarant continues to be the original Owner of a Unit and is offering it for sale, no budget shall be adopted or special assessment imposed that will cause the total assessments against any Unit in any month to be more than ten percent (10%) greater than the total assessments against the Unit for the same month of the preceding calendar year. This limitation may be waived in writing, by Declarant only, for any one or more assessments. No person other than Declarant shall have the power either to assert or waive the limitation stated in this Section.

Section 17.9 Failure to Assess.

any utility or other service to be obtained and paid for by the Board; or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust or sand which may lead or flow from outside or from any parts of the buildings, or from any of their pipes, drains, conduits, appliances or equipment, or from any other place; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of common expense assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

Section 20.2 No Personal Liability.

So long as a Board member, or Association committee member, or Association officer, or Declarant, or the managing agent has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such person, no such person shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error or negligence of such person; provided, however, that this Section shall not apply where the consequences of such act, omission, error or negligence is covered by insurance obtained by the Board.

ARTICLE 21. INDEMNIFICATION.

Each Board member and the Association committee member and Association officer, and Declarant and the managing agent, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which he or she may be a party, or in which he may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he or she holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by any type of insurance and except in such cases wherein such person is adjudged guilty of willful misfeasance in the performance of his or her duties; provided, however, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.

ARTICLE 22. INSURANCE.

Section 22.1 General Requirements.

The Board shall cause the Association to purchase and maintain at all times as a common expense a policy or policies and bonds necessary to provide casualty insurance; comprehensive liability insurance; worker's compensation insurance to the extent required by applicable laws; insurance against loss of personal property of the Association by fire, theft or other causes with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Association's Directors, officers and representatives from personal liability in the management of the Association's affairs; and such other insurance as the Board deems

advisable. The Board shall review at least annually the adequacy of the Association's insurance coverage. All insurance shall be obtained from (or covered by reinsurance of) an insurance carrier which is licensed to do business in the State of Idaho. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect casualty and liability insurance. All such insurance policies shall be of a type commonly acceptable to lenders generally.

Section 22.2 Property Insurance: Master or Blanket Policy.

The Association shall obtain, maintain and pay the premiums, as a common expense, upon a "master or "blanket" type policy of property insurance covering all of the general common elements (except land, foundation, excavation and other items normally excluded from coverage), including fixtures and building service equipment to the extent that they are part of the Common Area and facilities of the Project, as well as common personal property belonging to the Association. All references herein to as "master' or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. In addition, all fixtures, equipment and other personal property within the Units (whether or not such property is a part of the common elements) must be covered in such "blanket" or 'master policy.

Section 22.3 Perils Covered.

The insurance policy referred to in Section 22.2 shall afford, as a minimum, protection against the following:

- (a) or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement; and
- (b) all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement.

Section 22.4 Amount of Insurance; Deductible.

The policy referred to in Section 22.2 shall cover one hundred percent (100%) of the current replacement cost of the Project facilities, including the individual Units in the Project. However, coverage does not need to include land, foundations, excavations or other items that are usually excluded from insurance coverage.

Section 22.5 Named Insured and Loss Payable.

The name of the insured under policies required by this Article 22 must be set forth therein substantially as follows: "Helena Condominium Association, Inc. for the use and benefit of the individual Owners of Units in the Project". The policies may also be issued in the name of an authorized representative of the Association, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association

- (a) General. The Association shall obtain and maintain comprehensive general liability insurance coverage covering all of the Common Areas, public ways of the Project, and any other areas that are under the Association's supervision, including commercial spaces owned by the Association (even if leased to other parties).
- (b) Amount of Insurance. The amount of liability insurance coverage shall be at least equal to the greater of:
 - (1) \$1,000,000.00 for bodily injury and property damage for any single occurrence; or
 - (2) the coverage limits usually required by mortgage investors in other similar projects in the area.
- (c) Scope of Coverage. The Association's liability insurance shall provide coverage for
 - (1) bodily injury and property damage that results from the operation, maintenance or use of the Project's Common Areas; and
 - (2) any legal liability that results from lawsuits or other claims related to employment contracts to which the Association is a party.
- (d) Notice of Cancellation or Modification. Liability policies must provide that they may not be canceled or substantially modified, by any party, without at least ten (10) days prior written notice to the Association, to each Owner, and to each Mortgagee listed in the insurance policy as a scheduled holder of a mortgage, including designated servicers of mortgages.
- (e) Supplemental Coverage. Additional coverages shall be obtained as necessary to protect against such other risks as are customarily covered with respect to projects similar in construction, location and use, including but not limited to host liquor liability, contractual and all-written contract insurance, employers liability (workers compensation) insurance and comprehensive automobile liability insurance.

Section 22.10 Insurance Trustee; Power of Attorney.

- (a) Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom such Association may enter into any insurance trust agreement or any successor to such trustee (each of whom

(or insurance trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of the policy in the percentage of common ownership appurtenant to the respective Unit, as set forth in this Declaration. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

Section 22.6 Mortgage Clause.

All policies required by this Article 22 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the Property is located and which appropriately names Mortgagees and their successors and assigns.

Section 22.7 Notice of Cancellation or Modification.

Policies required hereunder may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association, to each Owner, and to each Mortgagee which is listed as a scheduled holder of a mortgage in the insurance policy, including any designated servicers of Mortgagees.

Section 22.8 Property Insurance — Special Endorsements.

The following endorsements shall be obtained on all policies required by this Article 22:

- (a) A Special Condominium Endorsement, or its equivalent, shall be obtained which shall provide that: any insurance trust agreement will be recognized; the right of subrogation against Owners will be waived; the insurance will not be prejudiced by any acts or omissions of individual Owners that are not under the control of the Association; and the policy will be primary, even if an Owner has other insurance that covers the same loss.
- (b) Agreed Amount and Inflation Guard Endorsement shall be obtained, if available.
- (c) Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement) shall be obtained if the Project is subject to a construction code provision which would become operative and require changes to undamaged portions of the building(s), even when only part of the Project is destroyed by an insured hazard.

Section 22.9 Liability Insurance.

shall be referred to herein as the "insurance trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance.

- (b) By acceptance of title to a Unit, each Owner appoints the Association, or any insurance trustee or substitute insurance trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining the insurance required by this Article, and for the purpose of negotiating amounts payable thereunder, including the collection and appropriate disposition of the proceeds thereof, the execution of all documents, and the performance of all other acts necessary to accomplish such purchases. The Association or any insurance trustee shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their Mortgagees, as their interests may appear.

Section 22.11 Owner's Individual Insurance.

Each Owner may obtain additional insurance on its Unit and its contents at its own expense but only if the Owner's insurance does not decrease the amount that the Board, or any trustee for the Board, on behalf of all of the Owners, will recover under any insurance policy that the Board may have in force on the Property. Each Owner shall notify the Board of all improvements by the Owner to its Unit, the value of which is in excess of One Thousand Dollars (\$1,000.00). Any Owner who obtains individual insurance policies covering any portion of the property other than personal property belonging to him shall file a copy of his individual policy or policies with the Board within thirty (30) days after he buys it, and the Board shall immediately review its effect with the Board's insurance broker, agent or carrier.

ARTICLE 23. DAMAGE AND REPAIR OF DAMAGE TO PROPERTY.

Section 23.1 Initial Board Determination.

In the event of damage to any part of the Property, the Board shall promptly, and in all events within thirty (30) days after the date of damage, make the following determinations with respect thereto, employing such advice as the Board deems advisable:

- (a) the nature and extent of the damage, together with an inventory of the improvements and property directly affected thereby;
- (b) a reasonably reliable estimate of the cost to repair the damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors;
- (c) the expected insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer;

- (d) the amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds, and the amount of the assessments that would have to be made against each Unit if the excess cost were to be paid as a maintenance expense and specially assessed against all the Units in proportion to their percentages of undivided interest in the Common Areas and facilities; and
- (e) the Board's recommendation whether the damage should be repaired.

Section 23.2 Notice of Damage.

The Board shall promptly, and in all events within thirty (30) days after the date of damage, provide each Owner and each Mortgagee with a written notice describing the damage and summarizing the initial Board determinations made under Section 23.1. If the Board fails to do so within said thirty (30) days, any Owner or Mortgagee may make the determinations required under Section 23.1 and give the notice required under this Section 23.2.

Section 23.3 Damage; Substantial Damage; Repair; Emergency Work.

As used in this Article 23:

Section 23.3.1 "Damage" shall mean all kinds of damage, whether of slight degree or total destruction.

Section 23.3.2 "Substantial damage" shall mean that in the judgment of a majority of the Board the estimated special assessment determined under Section 23.1(d) for any one Unit exceeds ten percent (10%) of the full, fair market value of the Unit before the damage occurred, as determined by a majority of the Board or, in case of their inability to agree, by an MAI or SRPA appraisal.

Section 23.3.3 "Repair" shall mean restoring the improvements to substantially the condition they were in before they were damaged, with each Unit and the Common Areas and facilities having substantially the same vertical and horizontal boundaries as before. Modifications to conform to applicable governmental rules and regulations or available means of construction may be made.

Section 23.3.4 "Emergency work" shall mean work that the Board deems reasonably necessary to avoid further damage or substantial diminution in value to the improvements and to protect the Owners from liability from the condition of the site.

Section 23.4 Execution of Repairs.

Section 23.4.1 The Board shall promptly repair the damage and use the available insurance proceeds therefor unless, before the repairs (other than emergency work) are begun, the Owners decide in accordance with this Article not to repair. If the cost of repair exceeds the available insurance proceeds, the Board shall impose a special assessment against all Units in proportion to their percentages of undivided interest in the Common Areas in an amount sufficient to pay the excess costs.

Section 23.4.2 The Board shall have the authority to employ architects and engineers, advertise for bids, let contracts to contractors and others, and take such other action as is reasonably necessary to make the repairs. Contracts for the repair work shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has provided for paying the cost. The Board may authorize the insurance carrier to make the repairs if the Board is satisfied that the work will be done satisfactorily, and if such authorization does not contravene any insurance trust agreement or requirement of law.

Section 23.5 Damage Not Substantial.

If the damage, as determined under Section 23.3.2 is not substantial, the following provisions shall apply:

Section 23.5.1 Either the Board or the requisite number of Owners, within fifteen (15) days after the notice required under Section 23.2 has been given, may, but shall not be required to, call a special Owners' meeting in accordance with the By-Laws to decide whether to repair the damage.

Section 23.5.2 Except for emergency work, no repairs shall be commenced until after the fifteen (15) day period and until after the conclusion of the special meeting, if such a special meeting is called within the fifteen (15) days.

Section 23.5.3 A unanimous decision of the Owners and their Mortgagees will be required to elect not to repair the damage. The failure of the Board and the Owners to call a special meeting within the fifteen (15) day period shall be deemed a decision to repair the damage.

Section 23.6 Substantial Damage.

If the damage determined under Section 23.3.2 is substantial, the following provisions shall apply:

Section 23.6.1 The Board shall promptly, and in all events within thirty (30) days after the date of damage, call a special Owners' meeting to consider repairing the damage. If the Board fails to do so within said thirty (30) days, then

notwithstanding the provisions of the By-Laws, any Owner or its Mortgagee may call and conduct the meeting.

Section 23.6.2 Except for emergency work, no repairs shall be commenced until the conclusion of the special Owners' meeting.

Section 23.6.3 A concurring vote of more than two-thirds (2/3) of the total voting power will be required to elect not to repair the damage. Failure of the Board, the Owners and Mortgagees to conduct the special meeting provided for under Section 23.6.1 within ninety (90) days after the date of damage shall be deemed a unanimous decision not to repair the damage.

Section 23.7 Effect of Decision Not to Repair.

In the event of a decision under Section 23.5.3 or Section 23.6.3 not to repair the damage, the Board may nevertheless expend so much of the insurance proceeds and common funds as the Board deems reasonably necessary for emergency work (which emergency work may include, but is not necessarily limited to, removal of the damaged improvements and clearing, filling and grading the land), and the remaining funds, if any, and the Property shall thereafter be held and distributed as follows:

Section 23.7.1 The Property shall be owned in common by the Owners and shall no longer be subject to this Declaration or to condominium ownership.

Section 23.7.2 Each Owner's percentage of undivided interest in the Property shall be the same as the percentage of undivided interest he previously owned in the Common Areas and facilities.

Section 23.7.3 Any mortgages or liens affecting any of the Units shall be deemed transferred in accordance with the existing priorities to the Owners percentage of the undivided interest in the Property.

ARTICLE 24. CONDEMNATION.

Section 24.1 Consequences of Condemnation; Notices.

If any Unit or portion thereof or the Common Areas and facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority (referred to herein as a "taking"), notice of the proceeding or proposed acquisition shall promptly be given to each Owner and its Mortgagee and the provisions of this Article 24 shall apply.

Section 24.2 Proceeds.

All compensation, damages or other proceeds of the taking, the sum of which is hereinafter called the "condemnation award", shall be payable to the Association.

Section 24.3 Complete Taking.

If the entire Property is taken, the condominium ownership shall terminate. The condemnation award shall be apportioned among the Owners in proportion to their respective percentages of undivided interest in the Common Areas and facilities; provided, however, that if a standard different from the value of the Property as a whole is employed to measure the condemnation award in the taking, then, in determining such shares, the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principle, the Board shall, as soon as practicable, determine the share of the condemnation award to which each Owner is entitled. Each Owner's share shall be applied first to the payment of all mortgages and liens on the Owner's interest in accordance with the existing priorities, and the balance of each share shall be distributed to the Owner.

Section 24.4 Partial Taking.

If less than the entire Property is taken, the condominium ownership shall not terminate. Each Owner shall be entitled to a share of the condemnation award determined in the following manner:

Section 24.4.1 As soon as practicable the Board shall, reasonably and in good faith, allocate the condemnation award among compensation for property taxes, severance damages or other proceeds.

Section 24.4.2 The Board shall apportion the amounts so allocated to taking of or injury to the Common Areas and facilities, which in turn shall be apportioned among Owners in proportion to their respective undivided interests in the Common Areas and facilities.

Section 24.4.3 total amount allocated to severance damages apportioned to the Units that were not taken.

Section 24.4.4 The amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner had made within the Unit shall be apportioned to the Unit.

Section 24.4.5 The amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board determines to be equitable in the circumstances.

Section 24.4.6 If an allocation of the condemnation award has already been established in negotiation, judicial decree, or otherwise, then in apportioning the

condemnation award the Board shall employ that allocation to the extent it is relevant and applicable.

Section 24.4.7 Distribution of apportioned proceeds shall be made to the Owners and their respective Mortgagees in the manner provided in Section 24.3.

Section 24.5 Reconstruction and Repair.

Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 23 for repair of damage, provided that the Board may retain and apply such portion of each Owner's share of the condemnation award as is necessary to discharge the Owner's liability for any special assessment arising from the operation of Article 23.

ARTICLE 25. EASEMENTS.

Section 25.1 In General.

Each Owner shall have the unrestricted right of ingress and egress to its Unit, which right shall be perpetual and appurtenant to such Unit. Each Unit has an easement in and through each other Unit and the Common Areas and facilities for all support elements and utility, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Project. In addition, each Unit and all the Common Areas and facilities are specifically subject to easements as required for the electrical wiring and plumbing for each Unit. The specific mention or reservation of any easement in this Declaration does not limit or negate any easement incident to a condominium grant under the provisions of the Condominium Statute.

Section 25.2 Encroachments.

Each Unit and all Common Areas and facilities are hereby declared to have an easement over all adjoining Units and Common Areas and facilities for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting or movement of any portion of the Property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching Units, areas and facilities so long as the encroachments shall exist, and the rights and obligation of Owners shall not be altered in any way by the encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of a Unit if the encroachment was caused by the willful act with full knowledge of the Owner of said Unit. The encroachments described in this Section 25.2 shall not be construed to be encumbrances affecting the marketability of title to any Unit.

Section 25.3 Easement Specifically Reserved by Declarant.

Declarant reserves an access easement over, across and through the Common Areas and facilities of the Project for the purpose of completing any unfinished Units or other,

improvements and exhibiting and preparing Units for sale and for the purposes of developing any contiguous land owned by Declarant.

Section 25.4 Power of Association to Grant Easements.

The Association shall have the right to grant permits, licenses and easements over, upon, across, under or through any portion of the Common Area for utilities, roads or other purposes reasonably necessary or useful for the proper maintenance or operation of the Project; and each Owner hereby irrevocably appoints the Association as Attorney-in-Fact for such purpose.

Section 25.5 Easement for Private Drive.

Each Unit has the perpetual right of ingress and egress over that portion of the Common Area which consists of entries, parking facilities and other driveways; such perpetual easement shall run with the land, and shall be perpetually maintained by the Association as provided in Section 10.4 above, or by the Owners in the event of dissolution of the Association or termination of the condominium status of the Property; this covenant shall run with the land.

ARTICLE 26. AMENDMENTS OF DECLARATION OR PLAT.

Section 26.1 Amendments by the Association.

An Owner may propose amendments to this Declaration or the Plat to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of twenty percent (20%) or more of the Units in the Project, then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of persons entitled to vote, after notice has been given to all persons (including Mortgagees) entitled to receive notice of a meeting of the Association. The unanimous consent of all Owners shall be required for adoption of either (1) an amendment altering the value of the Property and of each Unit or the percentages of undivided interest in the Common Areas and facilities, or (2) a decision that the Property be removed from condominium status pursuant to Article 27, or (3) an amendment of this Article 26. All other amendments shall be adopted if approved by a sixty percent (60%) vote of the Owners.

Section 26.2 Amendment at Request of Mortgagee.

Declarant may amend this Declaration from time to time for the purpose of adopting any amendment which may reasonably be requested by any proposed Mortgagee or by an institutional holder intending to purchase a mortgage, in order to assure such Mortgagee or institutional holder that its interests are adequately protected. Such an amendment need be signed and acknowledged only by Declarant, notwithstanding the provisions of Section 26.1 above.

ARTICLE 27. ABANDONMENT OR TERMINATION OF CONDOMINIUM STATUS.

Except in cases of substantial damage to the Property as provided in Article 23 or condemnation of the entire Property as provided in Section 24.3, the condominium status of the Property shall not be abandoned or terminated by reason of any act or omission of the Owners or the Association except with the requisite consent of Owners and Mortgagees as provided in Article 26 above. Upon recordation of instruments evidencing such consent, the Project shall be deemed removed from the provisions of the Condominium Statute within the meaning of Idaho Code §55-1510, in which event all mortgages shall be deemed forthwith, and without change in seniority, transferred to the mortgagor's undivided interest in the Property as provided in said §55-1510.

ARTICLE 28. SEVERABILITY.

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remainder complies with the Condominium Statute or, as covenants, effect the common plan.

ARTICLE 29. EFFECTIVE DATE.

This Declaration shall take effect upon recording.

ARTICLE 30. ASSIGNMENT BY DECLARANT.

Declarant reserves the right to assign, transfer, sell, lease or rent all or a portion of the Property then owned by it and reserves the right to assign all or any of its rights, duties and obligations created under this Declaration.

THIS DECLARATION is effective as of the date set forth above.

DECLARANT:

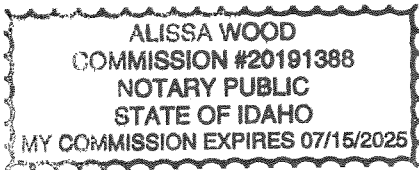
South Fork Capital LLC, an Idaho limited liability company

By: [Signature]
Its: _____

STATE OF IDAHO)
) ss.
County of Ada)

On this 21st day of June, 2022, before me, Alissa Wood, a Notary Public in and for said State, personally appeared Casey Wilson, known or identified to me to be the Owner/Member [title] of South Fork Capital LLC, an Idaho limited liability company, the limited liability company that executed the within instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

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



Alissa Wood
Notary Public for Idaho
Residing at Idaho/Ada
My commission expires 07/15/2025

EXHIBIT A

The percentage of ownership interests in the Common Area appertaining to each Unit and its Owner for all purposes, including tax assessment and liability, shall be based upon the square footage of each Unit. The square footage of each Unit will be divided into the entire square footage of the Common Area to determine the percentage that each Unit shall pay for all purposes, including tax assessment and liability, maintenance, repair, and all other matters pertinent to the Association.

Parcel Designation on Plat:	Corresponding Limited Common Area(s):	Postal Street Address and Assessor Parcel Number:	Approximate Square Footage and Percentage of Undivided Ownership Interest in Common Area(s) (including garage):	Special Terms:
1314	Marked parking spaces 1314-P1 and 1314-P2, and the fenced outdoor area contiguous to 1314	1314 Helena Drive 03355100_0	750 sf (approx.) 13% (approx.)	No garage space included in this Unit; sprinkler timers used for Association maintenance are permitted to draw electrical power supplied by this Unit
1316	Marked parking spaces 1316-P1 and 1316-P2, and the fenced outdoor area contiguous to 1316	1316 Helena Drive 03355101_0	750 sf (approx.) 13% (approx.)	No garage space included in this Unit
1318 "A" and Garage B ¹	Marked parking spaces 1318A-P1 and 1318A-P2, and the fenced outdoor area contiguous to 1318 "A"	1318 Helena Drive, Unit A 03355102_0	1000 sf (approx.) 17% (approx.)	Garage B is included in this Unit
1318 "B" and Garage A ¹	Marked parking spaces 1318B-P1, and the fenced outdoor area contiguous to 1318 "B"	1318 Helena Drive, Unit B 03355103_0	1000 sf (approx.) 17% (approx.)	Garage A is included in this Unit

¹ Garage B is intentionally paired with residential Unit A; Garage A is intentionally paired with residential Unit B

Parcel Designation on Plat:	Corresponding Limited Common Area(s):	Postal Street Address and Assessor Parcel Number:	Approximate Square Footage and Percentage of Undivided Ownership Interest in Common Area(s) (including garage):	Special Terms:
1318 "C" and Garage C	Marked parking spaces 1318C-P1 and 1318C-P2, and the fenced outdoor area contiguous to 1318 "C"	1318 Helena Drive, Unit C 03355104_0	1000 sf (approx.) 17% (approx.)	Garage C is included in this Unit
1320	Marked parking spaces 1320-P1, and the fenced outdoor area contiguous to 1320	1320 Helena Drive 03355105_0	750 sf (approx.) 13% (approx.)	No garage space included in this Unit
1322	Marked parking spaces 1322-P1 and 1322-P2, and the fenced outdoor area contiguous to 1322	1322 Helena Drive 03355106_0	750 sf (approx.) 13% (approx.)	No garage space included in this Unit; sprinkler timers used for Association maintenance are permitted to draw electrical power supplied by this Unit

A depiction of the approximate location of the Limited Common Area (not to scale) follows. Declarant reserves the right to make changes to the Limited Common Area and to update this depiction at any time prior to the Transition Date.

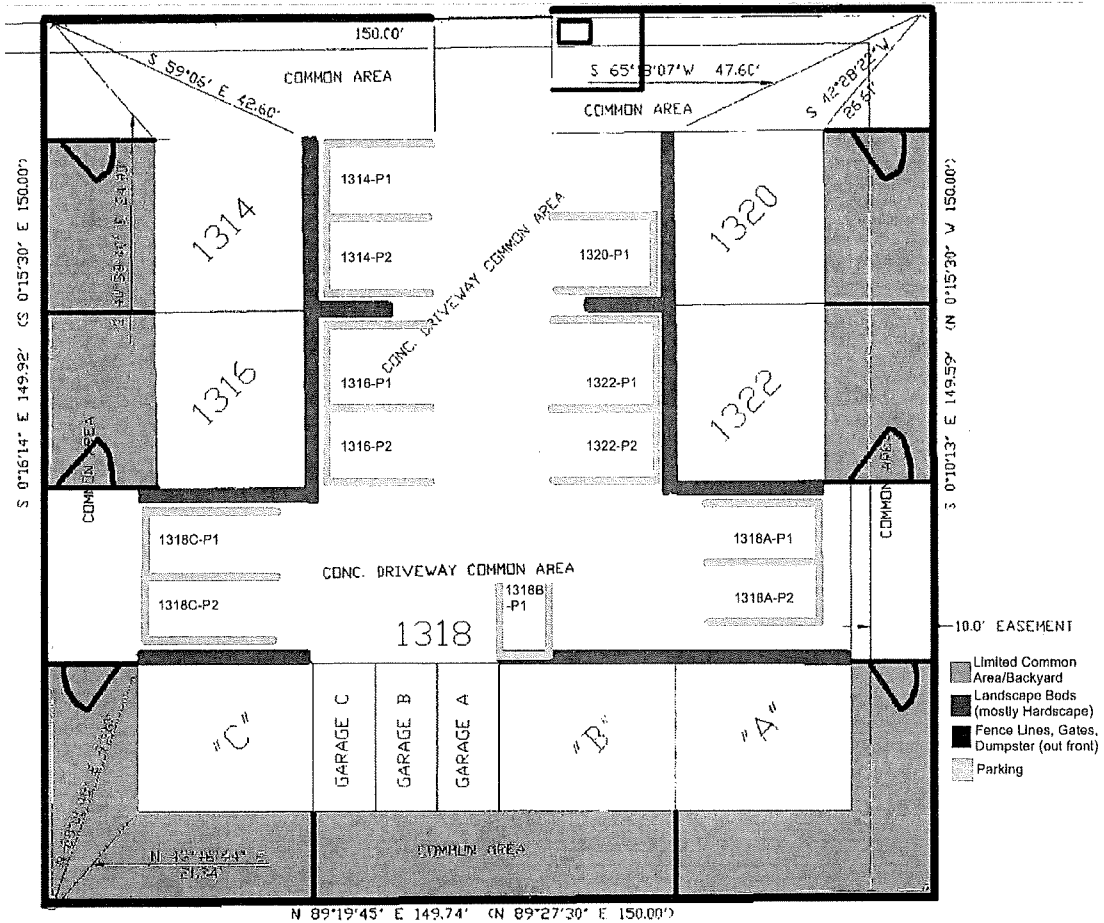


EXHIBIT B
Articles of Incorporation



0004696678



STATE OF IDAHO
Office of the secretary of state, Lawrence Denney
ARTICLES OF INCORPORATION (NONPROFIT)
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$30.00

For Office Use Only
-FILED-
File #: 0004696678
Date Filed: 4/13/2022 10:56:52 AM

B0700-7728 04/13/2022 10:58 AM Received by ID Secretary of State Lawrence Denney

Articles of Incorporation (Nonprofit)		
Select one: Standard, Expedited or Same Day Service (see descriptions below)	Standard (filing fee \$30)	
Article 1: Corporation Name Entity name	Helena Condominium Association, Inc.	
Article 2: Effective Date The corporation shall be effective	when filed with the Secretary of State.	
Article 3: Purpose The purpose for which the corporation is organized is:	Homeowners Association	
Article 4: Voting Members: The corporation	has voting members.	
Article 5: Asset Distribution on Dissolution Upon dissolution the assets shall be distributed:	the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.	
Article 6: IRS Designation Is this nonprofit a 501(c)3?	No	
Article 7: The mailing address of the corporation shall be: Mailing Address	JAKE PEDERSEN 592 N BENJAMIN LN BOISE, ID 83704-8336	
Article 8: Registered Agent Name and Address Registered Agent	Registered Agent JAKE PEDERSEN Physical Address: 592 N BENJAMIN LANE BOISE, ID 83704 Mailing Address: 592 N BENJAMIN LN BOISE, ID 83704-8336	
<input checked="" type="checkbox"/> I affirm that the registered agent appointed has consented to serve as registered agent for this entity.		
Article 9: Incorporator Name(s) and Address(es)		
Name	Incorporator Address	
JAKE PEDERSEN	592 N BENJAMIN LANE BOISE, ID 83704	
Article 10: Director Name(s) and Address(es)		
Name	Title	Director Address
JAKE PEDERSEN	Director	592 N BENJAMIN LANE BOISE, ID 83704



CASEY WILSON	Director	592 N BENJAMIN LANE BOISE, ID 83704
AMANDA WILSON	Director	592 N BENJAMIN LANE BOISE, ID 83704

The Articles of Incorporation must be signed by at least one Incorporator.

<u>JAKE PEDERSEN</u>	<u>04/13/2022</u>
JAKE PEDERSEN	Date

B0700-7729 04/13/2022 10:58 AM Received by ID Secretary of State Lawrence Denney

EXHIBIT C

[SEE BYLAWS ATTACHED]

**AMENDED AND RESTATED BYLAWS OF
HELENA CONDOMINIUM ASSOCIATION, INC.**

By action taken by the Board of Directors and Members of HELENA CONDOMINIUM ASSOCIATION, INC., an Idaho nonprofit corporation (“Association”), dated effective April 13, 2022, the following Amended and Restated Bylaws (“Bylaws”) were duly approved and adopted by the Board of Directors and Members of the Association, which supersede and replace any and all prior Bylaws of the Association, in their entirety:

**ARTICLE 1
PLAN OF CONDOMINIUM OWNERSHIP**

1.1 Name and Location. These are the Bylaws of HELENA CONDOMINIUM ASSOCIATION, INC., an Idaho nonprofit corporation. Helena Condominiums (the “Project”) is located in the City of Caldwell, Canyon County, Idaho, and has been subjected to the Idaho Condominium Property Act by a Declaration recorded with these Bylaws (the “Declaration”). The location of the Project is more specifically described in the Declaration.

1.2 Principal Office. The principal office of the Association shall be located at such address as may be designated by the board of directors from time to time.

1.3 Purposes. This Association is formed under the provisions of the Idaho Condominium Property Act to serve as the means through which the unit owners may take action with regard to the administration, management, and operation of the Project.

1.4 Applicability of Bylaws. The Association, all unit owners, and all persons using the Project property shall be subject to these Bylaws and to all rules and regulations that may be adopted pursuant to these Bylaws.

1.5 Composition of Association. The Association shall be composed of all the unit owners of the Project, including South Fork Capital LLC, an Idaho limited liability company, and its successors and assigns (the “Declarant”), and the Association, itself, to the extent any of these own any unit(s) of the Project.

1.6 Incorporation. The Association has been incorporated under the Idaho Non-Profit Corporation Act. The Articles of Incorporation of the Association shall be consistent with the Declaration. These Bylaws are the current bylaws of the incorporated association.

1.7 Definitions. The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE 2 MEETINGS OF ASSOCIATION

2.1 Place of Meetings. The Association shall hold meetings at such suitable place convenient to the unit owners as may be designated by the board of directors from time to time.

2.2 Turnover Meeting. No later than 30 (thirty) days following the Transition Date (as defined in the Declaration), Declarant shall call the first meeting of the unit owners (the "turnover meeting") to elect regular directors to replace the directors appointed by the Declarant, as more fully described in Article 3 below. If a quorum of the unit owners is present, the unit owners shall elect not fewer than the number of regular directors sufficient to constitute a quorum of the board of directors. Notice of such meeting shall be given to all owners as provided in Section 2.5. If Declarant fails to call the meeting, the meeting may be called and notice given by any unit owner. The expense of giving notice shall be paid or reimbursed by the Association. At the meeting, Declarant shall deliver to the Association such information and documents as may be required by the Idaho Condominium Property Act and the Idaho Nonprofit Corporation Act. Nothing in this Section shall be construed as preventing Declarant from calling the turnover meeting prior to such date, or from calling informal, informational meetings of the unit owners.

2.3 Annual Meetings. Following the turnover meeting, the annual meetings of the Association shall be held on such date each year as may be established by the board of directors from time to time. The annual meetings shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

2.4 Special Meetings. Special meetings of the Association may be called by the president or by a majority of the board of directors and must be called by the president or secretary upon receipt of a written request from unit owners owning at least 30 percent of the voting rights stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

2.5 Notice of Meetings. Notice of the annual meeting and all other meetings of the Association stating the time and place and the purpose or purposes for which the meeting is being called shall be given by the president or secretary. Notice must be given in writing by mail or, to the extent permitted by law, by electronic mail, facsimile or other form of electronic communication acceptable to the board of directors not less than ten days nor more than 50 days prior to the date of the meeting to each unit owner. If mailed, it shall be sent to the owner at his or her address as it appears in the records of the Association. A copy shall be sent to any first Mortgagee requesting such notice. Proof of such notice shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived by any unit owner before or after meetings. Attendance by a unit owner at any meeting shall constitute a waiver of notice by such unit owner. When a meeting is adjourned for less than 30 days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

2.6 Voting. Each owner of a unit shall have a vote equal to the unit's allocation of undivided interest in the common areas of the Project; provided, however, that Declarant shall have three times the voting rights otherwise allocable to each such unit owned by Declarant until the Transition Date. Declarant shall be entitled to vote as the unit owner of any unit(s) owned by Declarant. The board of directors shall be entitled to vote on behalf of any unit(s) that has been acquired by or on behalf of the Association; provided, however, that the board of directors shall not be entitled to vote such units in any election of directors.

2.7 Casting of Votes and Consents. The voting rights or consent of a unit owner may be cast in person at a meeting of the Association or, at the discretion of the board of directors, by proxy in accordance with paragraph (a) of this Section, by absentee ballot in accordance with paragraph (b) of this Section, by written ballot in accordance with paragraph (c) of this Section, or by any other method specified in the Declaration, these Bylaws or the Idaho Nonprofit Corporation Act, except as otherwise provided in Section 2.8 below.

(a) **Proxies.** A proxy must be dated and signed by the unit owner, is not valid if it is undated or purports to be revocable without notice, and terminates one year after its date unless the proxy specifies a shorter term. The board of directors may not require that a proxy be on a form prescribed by the board of directors. A unit owner may not revoke a proxy given pursuant to this paragraph except by actual notice of revocation to the person presiding over a meeting of the Association or to the board of directors if a vote is being conducted by written ballot in lieu of a meeting. A copy of a proxy in compliance with this paragraph provided to the Association by facsimile, electronic mail or other means of electronic communication utilized by the board of directors is valid.

(b) **Absentee ballots.** An absentee ballot, if authorized by the board of directors, shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by absentee ballot shall include instructions for delivery of the completed absentee ballot, including the delivery location and instructions about whether the ballot may be canceled if the ballot has been delivered according to the instructions. An absentee ballot shall be counted as a unit owner present for the purpose of establishing a quorum. Even if an absentee ballot has been delivered to a unit owner, the unit owner may vote in person at a meeting if the unit owner has returned the absentee ballot and canceled the absentee ballot, if cancellation is permitted in the instructions given under this paragraph.

(c) **Ballot meetings.** At the discretion of the board of directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting by written ballot to the extent and in the manner provided in the Idaho Nonprofit Corporation Act.

(d) **Electronic ballots.** To the extent authorized by the board of directors and permitted by the Idaho Nonprofit Corporation Act, any vote, approval, or consent of a unit owner may be given by electronic ballot.

(e) **Mortgagees.** A unit owner may pledge or assign such owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the unit owner is entitled under these Bylaws and to exercise the unit owner's voting rights from and after the time that the Mortgagee shall give written notice of such pledge or assignment to the board of directors. Any Mortgagee may designate a representative to attend all or any meetings of the Association.

2.8 Votes Involving Major Decisions. For votes of the Association involving a Major Decision, unit owners choosing to vote by proxy or absentee ballot shall be required to vote either in the affirmative or in the negative for the proposed Major Decision. Unit owners shall not be permitted to assign proxy voting discretion to any person or entity that is not a unit owner on matters involving Major Decisions of the Association. The term "Major Decision" shall include the following:

(a) Any vote of the Association to terminate professional management pursuant to Section 3.7 below;

(b) Any vote of the Association to incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$100,000 pursuant to Section 3.6(e) below;

(c) Any vote of the Association proposing to borrow any sum of money in excess of an amount or amounts, aggregated for the calendar year in question, exceeding 15 percent of the estimated budget of the Association pursuant to Section 3.6(h) below; and

(d) Any vote of the Association to approve an amendment to these Bylaws.

2.9 Fiduciaries and Joint Owners. An attorney-in-fact, executor, administrator, guardian, conservator or trustee may vote or grant consent with respect to any unit owned or held in a fiduciary capacity, whether or not the specific right has been transferred to his or her name; provided, that such person shall satisfy the secretary that he or she is the attorney-in-fact, executor, administrator, guardian, conservator or trustee, holding the unit in a fiduciary capacity. Whenever any unit is owned by two or more persons jointly, according to the records of the Association, the vote of such unit may be exercised by any one of the owners, in the absence of protest by a co-owner. In the event of disagreement among the co-owners, the vote of the unit shall be disregarded completely in determining the proportion of votes given with respect to such matter unless a valid court order establishes the authority of a co-owner to vote.

2.10 Tenants. Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a unit shall be exercised by the owner/landlord.

2.11 Quorum of Unit Owners. At any meeting of the Association, members holding 50 percent of the voting rights, present in person, by proxy or by absentee ballot, if permitted by the board of directors, shall constitute a quorum. The subsequent joinder of a unit owner in the action taken at a meeting by signing and concurring in the minutes of the meeting shall constitute

the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a unit owner or owners. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.12 Majority Vote. The vote of the holders of more than 50 percent of the voting rights, present in person or by proxy at a meeting at which a quorum is constituted, shall be binding on all unit owners for all purposes unless a higher percentage vote is required by law, by the Declaration or by these Bylaws.

2.13 Continued Votes. If at a meeting to consider action on a Major Decision, as defined in Section 2.8, insufficient votes are cast to approve the action, then the action shall be deemed rejected. The meeting or vote may not be continued in order to obtain additional votes. Any further voting on such matter must be taken at a new duly called meeting at which new votes must be cast in person or by proxy.

2.14 Order of Business. The order of business at annual meetings of the Association shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees, if any;
- (f) Election of directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

2.15 Rules of Order. Unless other rules of order are adopted by resolution of the Association or the board of directors, all meetings of the Association shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association.

ARTICLE 3 BOARD OF DIRECTORS

3.1 Number and Qualification. The affairs of the Association shall be governed by a board of directors composed of three interim directors or three regular directors, as provided in Section 3.2 and Section 3.3 of this Article. All directors, other than interim directors appointed by Declarant, shall be owners or co-owners of units of the Project. For purposes of this Section, an officer, employee or agent of a corporation, a member, manager, employee or agent of a limited liability company, or a partner, employee or agent of a partnership may serve on the board if such corporation, limited liability company or partnership is an owner or co-owner of a unit. In addition, a trustee may serve on the board if the trustee holds legal title to a unit for the benefit of the owner of the beneficial interest in the unit; and an executor, administrator, guardian, conservator or other individual appointed by a court to serve in a fiduciary capacity for an owner of a unit, or an officer or employee of an entity if an entity is appointed, may serve on the board.

3.2 Interim Directors. Upon the recording of the Declaration, Declarant shall appoint an interim board of three directors, who shall serve until replaced by Declarant or their successors have been elected by the unit owners as provided below.

3.3 Election and Term of Office. At the turnover meeting called by Declarant pursuant to Section 2.2 of these Bylaws, the interim directors shall resign, and three successors shall be elected. Directors shall hold office until their respective successors have been elected by the unit owners. Election shall be by plurality and directors shall be elected to serve at large.

3.4 Vacancies. Vacancies in the director position caused by any reason other than the removal of a director by a vote of the Association shall be filled with a unit owner by vote of the remaining directors. Each person so elected shall be a director until a successor is elected to fill the unexpired term at the next annual meeting of the Association or the next special meeting of the Association called for that purpose. Vacancies in interim directors shall be filled by Declarant.

3.5 Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors, other than interim directors, may be removed with or without cause by a majority vote of the unit owners present in person or by proxy. A successor shall be so elected at that meeting to fill the vacancy thus created. The unit owners must vote on the removal of each director separately. The notice and agenda of any such meeting shall state that such removal is to be considered, and any director whose removal has been proposed shall be given an opportunity to be heard at that meeting and prior to the vote. A removed director shall remain a director until the vacancy has been filled.

3.6 Powers and Duties. The board of directors shall have all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties that by law or by the Declaration, the Articles or by these Bylaws may not be delegated to the board of directors by the unit owners; provided, however, that the board of directors may not

take any action that could interfere with the sale, lease or other disposition of units owned by Declarant or that could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved for Declarant or that would impose any discriminatory charge or fee against Declarant, without the prior written consent of Declarant. The powers and duties to be exercised by the board shall include, but shall not be limited to the following:

(a) Operation, care, upkeep, maintenance, repair and replacement of the general and limited common areas and Association property;

(b) Determination of the amounts required for operation, maintenance, and other affairs of the Association, and the making of such expenditures;

(c) Preparation and adoption of budgets, preparation, review and update of reserve studies and assessment and collection of the common expenses, all in accordance with the provisions of these Bylaws;

(d) Employment and dismissal of such personnel as necessary for the efficient maintenance, upkeep, and repair of the common areas;

(e) Employment of legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$10,000 unless the unit owners have enacted a resolution authorizing the incurring of such fees or contract by a vote of 75 percent of the total voting rights of the Association. These limitations shall not be applicable to legal fees incurred in defending the Association and the board of directors from claims or litigation brought against them. The dollar amounts set forth in this paragraph shall increase by ten percent on each fifth anniversary of the recording of the Declaration;

(f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor;

(g) Preparation and distribution of annual financial statements in accordance with these Bylaws and annual preparation and filing of all required income tax returns or forms for the Association;

(h) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the common areas and Association property; provided, however, that (i) the consent of 75 percent of the voting rights shall be required for the borrowing of any sum in excess of an amount or amounts, aggregated for the calendar year in question, exceeding 15 percent of the estimated budget of the Association for that calendar year to cover the operation, care upkeep and maintenance of the common areas, and (ii) no lien to secure repayment of any sum borrowed may be created on any

unit or its appurtenant interest in the common areas without the consent of the owner of such unit. The Association may pledge Association income to secure such borrowing;

(i) Purchasing units of the Project at foreclosure or other judicial sales in the name of the Association, or its designee, on behalf of all the unit owners as provided in these Bylaws, and selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of directors), or otherwise dealing with units of the Project acquired by the Association or its designee on behalf of all the unit owners;

(j) Obtaining insurance pursuant to the provisions of these Bylaws and at least annually reviewing the insurance coverage of the Association;

(k) Making additions and improvements to, or alterations of, the common areas; provided, however, that no such project may be undertaken by the board of directors if the total cost will exceed 15 percent of the estimated budget of the Association for that calendar year to cover the operation, care, upkeep and maintenance of the common areas unless the unit owners have enacted a resolution authorizing the project by a majority vote of the members, except that no such vote shall be required for work that is urgently needed for reasons of life, safety or structural integrity. This limitation shall not be applicable to maintenance, repairs or replacement undertaken pursuant to paragraph (a) above;

(l) Modify, close, remove, eliminate, or discontinue the use of a general common area facility or improvement or portion of the common area landscaping;

(m) Designating one or more committees that, to the extent provided in the resolution designating the committee, shall have the powers of the board of directors in the management of the affairs of the Association. At least one member of each committee shall be a member of the board;

(n) Enforcement by legal means of the provisions of the Idaho Condominium Property Act, the Declaration, the Articles, these Bylaws and any rules and regulations adopted hereunder. Nothing in these Bylaws shall be construed as requiring the Association to take any specific action to enforce violations;

(o) Maintain a current mailing address for the Association, file an annual report, and maintain and keep current the information required to enable the Association to comply with the Idaho Nonprofit Corporation Act; and

(p) Subject to the restrictions in subsection (e) above, initiate or intervene in litigation or administrative proceedings (including mediation under these Bylaws) in the name of the Association, and without joining the individual unit owners, as permitted by the Idaho Condominium Property Act; provided that no litigation or administrative proceeding may be initiated on a matter relating to or affecting the unit of a unit owner unless the unit owner has consented in writing to such action after full disclosure of the potential cost, duration and possible outcomes of the proposed litigation or administrative proceeding. Except for litigation

or administrative proceedings relating to the collection of unpaid assessments, the board shall notify all unit owners prior to instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association the board of directors shall periodically report to the unit owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the board of directors to disclose any privileged communication between the Association and its counsel. The provisions of Idaho Code § 55-1513, concerning actions or litigation by the management body on behalf of two (2) or more of the condominium owners, as the same may be amended, are waived to the extent they may be inconsistent with the express provisions of these Bylaws.

3.7 Managing Agent. On behalf of the Association, the board of directors may employ or contract for a managing agent at a compensation to be established by the board. The board may delegate to the managing agent such duties and powers as the board may authorize. In the absence of such appointment, the board shall act as manager; provided, however, that the board may not discontinue professional management and assume self-management, other than on a temporary basis while diligently seeking to retain a new professional manager, unless the decision to do so is approved by at least 75 percent of the total voting rights of the Association. The managing agent shall have the right to contract with any unit owner, individually or collectively with other unit owners, for personal services for a particular unit or units.

3.8 Contracts Entered into by Declarant or Interim Board. Notwithstanding any other provision of these Bylaws, any management contracts, service contracts or employment contracts entered into by Declarant or the interim board on behalf of the Association shall have a term not in excess of three years.

3.9 Organizational Meeting. Unless otherwise agreed by the board of directors, within 14 days following the annual meeting of the Association or following any meeting at which an election of directors has been held, the board shall hold an organizational meeting at such place and time as shall have been fixed by the directors at the meeting at which the election was held.

3.10 Regular and Special Meetings. Regular meetings of the board of directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Special meetings of the board may be called by the president and must be called by the secretary at the written request of at least two directors. Notice of any special meeting shall be given to each director, personally or by mail, telephone or, to the extent permitted by the Idaho Nonprofit Corporations Act, by electronic mail, facsimile or other form of electronic communication acceptable to the board at least seven days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. For a period of ten years following closing of the sale of the last unit by Declarant to a person other than a successor Declarant, notices of meetings (including agendas) shall also be given to Declarant in the same manner as given to the directors. Unless other rules of order are adopted by resolution of the Association or the board, all meetings of the board shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association.

3.11 Open Meetings.

(a) All meetings of the board of directors shall be open to unit owners and, for a period of ten years following closing of the sale of the last unit by Declarant to a person other than a successor Declarant, to Declarant or a representative of Declarant, except that, in the discretion of the board, the board may close the meeting to owners other than board members and meet in executive session to consult with legal counsel or to consider personnel matters, including salary negotiations and employee discipline, negotiation of contracts with third parties or collection of unpaid assessments. Except in the case of an emergency, the board shall vote in an open meeting whether to meet in executive session. If the board votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in the executive session shall be included in the minutes of the meeting, and any contract or action considered in executive session shall not become effective unless the board, following the executive session, reconvenes in open meeting and votes on the contract or action, which shall be reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the board of directors may be conducted by telephonic communication or by other means of communication that allows all members of the board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting, except that: (i) for other than emergency meetings, notice of each board's meeting shall be posted at a place or places on the property at least three days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the unit owners of such meeting; and (ii) only emergency meetings of the board may be conducted by telephonic communication or such other means. The meeting and notice requirements of this Section may not be circumvented by chance or social meetings or by any other means.

3.12 Waiver of Notice. Any director may, at any time, waive notice of any meeting of the board of directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board shall constitute a waiver of notice by such director. If all of the directors are present at any meeting of the board, no notice to directors shall be required and any business may be transacted at such meeting.

3.13 Quorum of Board of Directors. At all meetings of the board of directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the board. If at any meeting of the board less than a quorum is present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice to the directors.

3.14 Voting. A director who is present at a meeting of the board of directors at which action is taken on any Association matter is presumed to have assented to the action unless the director votes against the action or abstains from voting on the action because the director claims

a conflict of interest. When action is taken on any matter at a meeting of the board, the vote or abstention of each director present must be recorded in the minutes of the meeting. Directors may not vote by proxy or by secret ballot at meetings of the board, except that officers may be elected by secret ballot.

3.15 Compensation. No director shall receive any compensation from the Association for acting as director.

3.16 Deadlock Resolution. If the board of directors is deadlocked on any matter properly before the board in accordance with these Bylaws, and the matter cannot be settled through direct discussions, the board shall resolve the matter by mediation within ten business days following the date of the meeting. If the board cannot agree upon a mediator, then one shall be selected through the process provided by a recognized mediation service designated by the first director who notifies the others of the mediation service selected. Thereafter, if the matter cannot be resolved by mediation, the matter may be resolved by litigation.

3.17 Liability and Indemnification of Directors, Officers, and Managing Agent. A member of the board of directors or an officer of the Association shall not be liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties as long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. A director appointed under Section 3.2 of these Bylaws shall not be liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act that represents the exercise of authority established in the Declaration, including any action or failure to act requested by Declarant or resulting from any prior or concurrent duty or loyalty owed by such director to Declarant; provided that nothing in this Section limits the liability of Declarant for such actions or failure to act by a director. If any member of the board or any officer of the Association is threatened with or made a party to any proceeding because the individual was or is a director or officer of the Association, the Association shall defend the individual against such claims and indemnify the individual against liability and expenses incurred to the maximum extent permitted by law. Unless a higher standard is set forth in any contract between the Association and any managing agent of the Association, any managing agent of the Association, and its officers and employees, shall not be liable to the Association, the unit owners or any third party on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional misconduct. Prior to the turnover meeting described in Section 2.2, the managing agent shall not be liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act that represents the exercise of authority established in the Declaration, including any action or failure to act requested by Declarant or resulting from any prior or concurrent duty or loyalty owed by such director to Declarant; provided that nothing in this Section limits the liability of Declarant for such actions or failure to act by the managing agent. Unless otherwise provided in any contract between the Association

and any managing agent of the Association, if the managing agent is threatened with or made a party to any proceeding, the Association shall defend the managing agent and its officers and employees against such claims and indemnify the managing agent and its officers and employees from any such claims to the maximum extent permitted by law, unless arising out of gross negligence or intentional misconduct.

3.18 Insurance. The board of directors shall obtain the insurance required in these Bylaws. In addition, the board of directors, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association or unit owners. The board shall conduct an annual insurance review that, if appropriate, shall include an appraisal of all improvements contained in the Project.

ARTICLE 4 OFFICERS

4.1 Designation. The principal officers of the Association shall be the president, the secretary, and the treasurer, all of whom shall be elected by the board of directors. The directors may appoint a vice president, an assistant treasurer, an assistant secretary, and such other officers as in their judgment may be necessary. The president shall be a member of the board of directors, but the other officers need not be directors or unit owners.

4.2 Election of Officers. The officers of the Association shall be elected annually by the board of directors at the organizational meeting of each new board and shall hold office at the pleasure of the board. If any office shall become vacant, the board shall elect a successor to fill the unexpired term at any regular meeting of the board, or at any special meeting of the board called for such purpose.

4.3 Removal of Officers. Upon the affirmative vote of a majority of the directors, any officer may be removed either with or without cause, and a successor may be elected at any regular meeting of the board of directors, or at any special meeting of the board called for such purpose.

4.4 President. The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the board of directors. The president shall have all of the general powers and duties that are usually vested in the chief executive officer of an association, including but not limited to the power to appoint committees from among the unit owners from time to time as the president may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.5 Secretary. The secretary shall keep or supervise the keeping of the minutes of all proceedings of the board of directors and the minutes of all meetings of the Association. He or she shall attend to the giving and serving of all notices to the unit owners and directors and other notices required by law. The secretary shall keep the records of the Association, except for those of the treasurer, and shall perform all other duties that are incidental to the office of secretary of an association and as may be required by the directors or the president. In addition, the secretary

shall act as vice president, taking the place of the president and performing the president's duties whenever the president is absent or unable to act, unless the directors have appointed another vice president.

4.6 Treasurer. The treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial and account records showing all receipts and disbursements, and for the preparation of required financial statements. He or she shall be responsible for overseeing the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the board of directors, and shall disburse or cause to be disbursed funds of the Association upon properly authorized vouchers. The treasurer shall perform all other duties incident to the office of treasurer of an association and such other duties as may be assigned to him or her by the board of directors.

4.7 Execution of Instruments. All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the board of directors and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the president. All checks shall be signed by the managing agent or by the treasurer, or in the absence or disability of the treasurer, by the president or any duly elected assistant treasurer.

4.8 Compensation of Officers. No officer who is a member of the board of directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the unit owners. The board may fix any compensation to be paid to any officers who are not also directors.

ARTICLE 5 BUDGET, EXPENSES, AND ASSESSMENTS

5.1 Budget. The board of directors shall from time to time, and at least annually, prepare a budget for the Association, estimate the common expenses expected to be incurred, less any previous over-assessment and plus any under-assessment, and assess the common expenses to each unit owner in the proportion set forth in the Declaration. The budget shall provide for a reserve fund in accordance with Section **Error! Reference source not found.** below and shall take into account the maintenance required by this Declaration. Within 30 days after adopting the annual budget, the board of directors shall provide a summary of the budget to all owners. If the board fails to adopt an annual budget, the last adopted budget shall continue in effect.

5.2 Determination of Common Expenses. Common expenses shall include:

- (a) Expenses of administration, including management fees.

(b) Expenses of operation, maintenance, repair or replacement of common areas, any other portions of the Project required to be maintained by the Association pursuant to the Declaration or these Bylaws, and any Association property.

(c) Cost of insurance or bonds obtained in accordance with these Bylaws.

(d) A general operating reserve, including an amount sufficient to cover the deductible under the property damage insurance policy.

(e) Reserve for replacements, repairs, and maintenance.

(f) Any deficit in common expenses for any prior period.

(g) Utilities and services for the common areas and other utilities and services with a common meter or commonly billed, such as trash collection, water, and sewer. If the board of directors determines that a particular unit's use of such services is greater than the average of other unit owners, the board may assess to such owner the cost attributable to such extra use.

(h) Any other items properly chargeable as an expense of the Association.

5.3 Assessment of Common Expenses.

(a) **Obligation to pay.** All unit owners shall be obligated to pay common expenses assessed to them by the board of directors on behalf of the Association pursuant to these Bylaws and the Declaration. No unit owner by the owner's own action may claim exemption from liability for contribution toward common expenses by waiver by the owner of use or enjoyment of any of the common areas or by abandonment by the owner of the owner's unit. A unit owner may not claim an offset against an assessment for failure of the Association to perform its obligations and no unit owner may offset amounts owing or claimed to be owing by the Association or Declarant to the unit owner. If the board determines that any loss or cost incurred by the Association is the fault of one or more unit owners, the Association may assess the amount of the loss or cost exclusively against the units of the responsible owners. Declarant shall be assessed as the unit owner of any unsold unit, but such assessments shall be prorated to the date of sale of the unit. The board, on behalf of the Association, shall assess the common expenses against the unit owners from time to time, and at least annually, and shall take prompt action to collect from a unit owner any common expense due that remains unpaid for more than 30 days from the due date for its payment. The board may elect to round assessments to the nearest dollar.

(b) **Working capital fund.** At the time of closing of the initial sale of each Unit to a person other than a successor Declarant, and thereafter on any subsequent sale of a Unit, the purchaser shall make a contribution to the working capital of the Association equal to one (1) months' regular association assessments for the unit, which sums shall be held in a segregated working capital fund established in the name of the Association. Such contribution

shall be in addition to the regular monthly common expense assessment and shall not be considered as an advance payment of regular assessments. Declarant may not use the working capital fund to defray any of Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association. After the turnover meeting, the board of directors, at its discretion, may use working capital funds for unexpected operating expenses, extraordinary items of maintenance, repair or replacement or capital additions, or may deposit all or a portion of such funds into the reserve account.

(c) **Commencement of regular operating expense assessments.** Regular monthly assessments for common operating expenses for units in the first stage of the Project shall commence upon closing of the first sale of a unit in such stage of the Project and for subsequent stages, if any, shall commence for all units in such stage upon recording of the applicable Supplemental Declaration.

(d) **Annexation of additional stages.** If additional units are annexed to the Project, the board of directors shall promptly prepare a new budget reflecting the addition to the Project and shall re-compute any previous assessment covering any period after the closing of the sale of the first unit in the new stage.

5.4 Special or Extraordinary Assessments.

(a) **Special assessments for capital improvements.** In the case of any duly authorized capital improvement to the common areas, the board of directors may by resolution establish separate assessments for the same, which may be treated as capital contributions by the unit owners, and the proceeds of which shall be used only for the specific capital improvements described in the resolution. The Association shall not assess units owned by Declarant for additional capital improvements to the Project without the written consent of Declarant as long as Declarant owns more than three units then annexed to the Project or as long as the time specified in the Declaration for annexing additional stages has not expired.

(b) **Other special or extraordinary assessments.** If the board of directors determines that the assessments established upon adoption of the budget as provided in Section 5.3 above will be insufficient to pay the common expenses, or the board determines that additional funds will be needed to meet unexpected or unbudgeted common expenses, the board may levy an additional special or extraordinary assessment. Such assessment shall be allocated to each unit in the same proportion set forth in the Declaration and may be payable in installments over a specified period, in a lump sum, or in a lump sum with option to pay in installments with interest, as determined by the board.

5.5 Default in Payment of Assessments.

(a) **Interest.** In the event of default by any unit owner in paying any assessments to the Association, including assessed common expenses and any other charge imposed or levied by the Association pursuant to the provisions of the Declaration, the Articles, these Bylaws or the Idaho Condominium Property Act, such unit owner shall be obligated to pay

interest at the rate of 12 percent per annum on such assessment from the due date thereof, or at such greater rate as may be established by the board of directors from time to time, not to exceed the maximum lawful rate, if any.

(b) Late Charges and Expenses. The defaulting unit owner shall pay a late charge for any assessment not paid within ten days of its due date in the amount of five percent of the delinquent payment, or such other reasonable late charge or administrative fee, or both, as may be established by the board of directors from time to time by resolution that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing address designated by the unit owner in writing, together with all expenses incurred by the Association in collecting such unpaid assessments, including attorneys' fees (whether or not suit is instituted, and at trial or any appeal or petition for review therefrom).

(c) Acceleration; Suspension of Services. If the assessment is not paid within 30 days of its due date, to the extent permitted by applicable law, the board of directors may declare any remaining installments of assessments for the balance of the fiscal year immediately due and payable and may terminate the right to receive utility and communication services paid for out of assessments or the right of access to and use of recreational and service facilities of the Project until assessments have been brought current.

(d) Enforcement. The board of directors shall have the right to recover for the Association such assessments, together with such charges, interest and expense of the proceeding, including attorneys' fees, by an action brought against such unit owner or by foreclosure of the lien upon the unit provided for in the Idaho Condominium Property Act. As security for the payment of all such obligations, each unit owner hereby grants to the Association a lien with power of sale upon such owner's unit and the right to collect the rents, issues and profits of such owner's unit provided, however, that the unit owner shall retain the right, prior to any default by the unit owner in performance of the unit owner's obligations under the Declaration and these Bylaws, to collect and retain the rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten days written notice to the unit owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply them, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of the indebtedness to the Association, and in such order as the Association may determine. Such action shall not cure nor waive any such default or invalidate any act done pursuant to these Bylaws. This assignment of rents shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first or second Mortgage on any unit to do the same or similar acts.

(e) Notices to First Mortgagees. The board of directors shall notify Mortgagees of a unit of any default in the payment of assessments or charges as may be required in the Declaration.

5.6 Foreclosure of Liens for Unpaid Assessments. In any suit brought by the Association to foreclose a lien on a unit because of unpaid assessments, the unit owner shall be required to pay a reasonable rental for the use of the unit during the pendency of the suit, and the plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect such rental. The board of directors, acting on behalf of the Association, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the unit. A suit or action to recover a money judgment for unpaid assessments shall be maintainable without foreclosing the liens securing them and without waiving such liens.

5.7 Statement of Assessments. The board of directors shall advise each unit owner in writing of the amount of assessments payable by such owner, and furnish copies of each budget on which such assessments are based to all unit owners and, if requested in writing, to their Mortgagees. The board shall promptly provide any unit owner who makes a request in writing with a written statement of the owner's unpaid assessments.

5.8 Priority of Lien; Mortgages. To the extent provided by the Idaho Condominium Property Act, any lien of the Association against a unit for assessments shall be subordinate to tax and assessment liens, Mortgages of record when the applicable notice of assessment was recorded, and labor or materialmen's liens. Unless otherwise provided by applicable law, if the purchaser or Mortgagee of a unit obtains title to the unit as a result of foreclosure of such a Mortgage of record, such purchaser or Mortgagee, its successors and assigns, shall not be liable for assessments that are chargeable to such unit and that became due prior to the acquisition of title to the unit by such purchaser or Mortgagee. Any unpaid share of assessments shall be a common expense and be reallocated on a pro rata basis for all units, including such Mortgaged unit. The purchaser or Mortgagee of such Mortgaged unit shall not be relieved of the obligation to pay further assessments.

5.9 Voluntary Conveyance. In a voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the unit up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of an owner or an owner's agent, for the benefit of a prospective purchaser, the board of directors shall make and deliver a statement of the unpaid assessments against the prospective grantor or the unit effective through a date specified in the statement, and the grantee in that case shall not be liable for any unpaid assessments against the grantor not included in the written statement.

ARTICLE 6 RECORDS AND AUDITS

6.1 General Records. The board of directors and the managing agent, if any, shall keep detailed records of the actions of the board and the managing agent, minutes of the meetings of the board and minutes of the meetings of the Association. The board shall maintain a Book of Resolutions containing the rules, regulations and policies adopted by the Association,

board, and the managing agent. The board shall maintain a list of owners entitled to vote at meetings of the Association and a list of all Mortgagees of units.

6.2 Financial Records and Accounts. The board of directors or its designee shall keep within the State of Idaho financial records sufficient for proper accounting purposes and as required by applicable law. All assessments shall be deposited and maintained in the name of the Association in one or more separate federally insured accounts, including certificates of deposit, at a national bank or other bank licensed to do business in the State of Idaho. Such funds may be used to purchase obligations of the United States government. All expenses of the Association shall be paid from the Association's bank account.

6.3 Assessment Roll. The assessment roll shall be maintained in a set of accounting records in which there shall be an account for each unit. The account shall designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessment comes due, the amounts paid on the account and the balance due on the assessments.

6.4 Payment of Invoices. The treasurer or managing agent shall pay all invoices for all budgeted items and for any nonbudgeted items up to \$1,000 signed by the president, managing agent, or other person authorized by the board of directors. Any invoices for nonbudgeted items in excess of \$1,000 (or such other amount as may be established by the board) shall require the authorization of the president. Any checks written on reserve accounts must be signed by a member of the board.

6.5 Reports and Audits. An annual financial statement consisting of a balance sheet and income and expense statement for the preceding fiscal year shall be rendered by the board of directors to all unit owners and to all Mortgagees of units who have requested it within 90 days after the end of each fiscal year.

6.6 Notice of Sale, Mortgage, Rental or Lease. Upon the sale, mortgage, rental or lease of any unit, such unit owner shall promptly inform the secretary or managing agent, if any, of the name and address of the vendee, Mortgagee, lessee, or tenant.

6.7 Availability of Records. During normal business hours or under other reasonable circumstances, the Association shall make reasonably available for examination and, upon written request, available for duplication, by unit owners, lenders and holders, insurers or guarantors of any first Mortgage that make the request in good faith for a proper purpose, current copies of the Declaration, Articles, Bylaws, other rules concerning the Project, amendments or supplements to such documents, and the books, records, financial statements and current operating budget of the Association. The Association, within ten business days after receipt of a written request by a unit owner, shall furnish copies of such documents to the requesting unit owner. Upon written request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The board of directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a

reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs incurred to furnish the information.

6.8 Statement of Assessments Due. The Association shall provide, within ten business days of receipt of a written request from an owner, a written statement that provides: (a) the amount of assessments due from the owner and unpaid at the time the request was received, including regular and special assessments, fines and other charges, accrued interest, and late payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed rate charge for late payment. The Association is not required to comply with this Section if the Association has commenced litigation by filing a complaint against the owner and the litigation is pending when the statement would otherwise be due.

ARTICLE 7 AMENDMENTS TO BYLAWS

7.1 How Proposed. Amendments to the Bylaws shall be proposed by either a majority of the board of directors or by unit owners holding 30 percent of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

7.2 Adoption. A resolution adopting a proposed amendment may be proposed by either the board of directors or by the unit owners and may be approved by the unit owners at a meeting called for this purpose or by ballot vote. Unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. To be effective, any amendment must be approved by unit owners holding more than 50 percent of the voting rights in the Association (not merely 50 percent of the voting rights present in person or by proxy at a meeting at which a quorum is constituted), and by Mortgagees to the extent Mortgagee approval is required by the Declaration, except that (a) any amendment of any provision of these Bylaws that is also contained in the Declaration must be approved by the same voting requirement for amendment of such provision of the Declaration, (b) any amendment relating to age restrictions, pet restrictions, limitations on the number of persons who may occupy units, or limitations on the rental or leasing of units must be approved by unit owners holding 75 percent of the voting rights in the Association; and (c) any amendment to a requirement in these Bylaws for a vote of more than 50 percent of the total voting rights of the Association must be approved by such higher percentage of the total voting rights of the Association. Until ten years from the date of closing of the sale of the last unit by Declarant to a person other than a successor Declarant, to be effective, any amendment to these Bylaws must also be approved in writing by Declarant. Following the turnover meeting, to be effective, any amendment to these Bylaws adversely and materially affecting the Commercial Units must also be approved in writing by the Commercial Director.

7.3 Regulatory Amendments. Notwithstanding the provisions of Section 7.2 above, until the turnover meeting as described in Section 2.2 has occurred, Declarant shall have the right

(but not the obligation) to amend these Bylaws in order to comply with the requirements of the Federal Housing Administration; the United States Department of Veterans Affairs; the Rural Development or the Farm Service Agency of the United States Department of Agriculture; the Federal National Mortgage Association; the Government National Mortgage Association; the Federal Home Mortgage Loan Corporation; any department, bureau, board, commission or agency of the United States or the State of Idaho; the City of Caldwell and the Canyon County, Idaho; or any corporation wholly owned, directly or indirectly by the United States or the State of Idaho that insures, guarantees or provides financing for a condominium project or units in a condominium project.

7.4 Execution and Recording. An amendment shall not be effective until certified by the president and secretary of the Association as being adopted in accordance with these Bylaws and the provisions of the Idaho Condominium Property Act and recorded in the office of the Recorder of Canyon County, Idaho.

ARTICLE 8 MISCELLANEOUS

8.1 Notices. All notices to the Association or to the board of directors shall be sent in care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the board of directors may designate from time to time. All notices to any unit owner shall be sent to such address as may have been designated by such owner from time to time, in writing, to the board, or, if no address has been designated, then to the owner's unit. Unless otherwise required by law, in the discretion of the board, any notice, information or other written material required to be given to a unit owner or director under the Declaration or these Bylaws or pursuant to the Idaho Condominium Property Act, may be given by electronic mail, facsimile or other form of electronic communication acceptable to the board.

8.2 Waiver. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.


8.3 Action Without a Meeting. Any action that the Idaho Condominium Property Act, the Idaho Nonprofit Corporation Act, the Declaration or these Bylaws require or permit the owners or directors to take at a meeting or by ballot may be taken without a meeting or ballot if a consent in writing setting forth the action so taken is signed by all the owners or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the owners or directors, shall be filed in the records of minutes of the Association.

8.4 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.


8.5 Conflicts. These Bylaws are intended to comply with the Idaho Condominium Property Act and the Declaration. In case of any irreconcilable conflict, such statute and the Declaration shall control over these Bylaws or any rules and regulations adopted hereunder.

IN WITNESS WHEREOF, the Association, through its President and Secretary, hereby certify that the foregoing Bylaws, consisting of 21 pages including this page, was duly adopted as of April 13, 2022, as the Bylaws of the Association, by the vote or written consent of Members representing 100 percent of the total voting power in the Association.

HELENA CONDOMINIUM
ASSOCIATION, INC., an Idaho nonprofit
corporation:

By: 

Casey Wilson, President

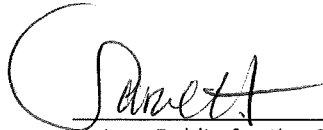
By: 

Jake Pedersen, Secretary

STATE OF Idaho)
) ss.
COUNTY OF Ada)

On this 21st day of June, 2022, before me, a Notary Public in and for said State, personally appeared Jake Pedersen, known or identified to me to be the member of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for the State of _____

Residing at: _____

My Commission Expires: _____

