

PRIVATE ROAD MAINTENANCE AGREEMENT

An Agreement made this original date of August 20th, 2019, applicable to the undersigned parcel owners and users,

RECITALS

WHEREAS, E. Qual Creek Lane is a private road situated in Ada County, State of Idaho, and

WHEREAS, the undersigned parcel owners are the owners or users of the Roadway Property situated in Ada County State of Idaho, commonly known as E. Quail Creek Lane, and described as follows:

(E. Quail Creek Lane, private road of the Dos Callister Subdivision as designated lot on plat)

WHEREAS, the parties desire to enter into an Agreement regarding the costs of maintenance and improvements to E. Quail Creek Lane; and the costs of maintenance and improvements to a common irrigation system; and

WHEREAS, it is agreed that future parcel owners or users will add their signatures to this document;

NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Vehicle and Pedestrian Access Easement. The Roadway Property shall be subject to a perpetual, nonexclusive easement for ingress and egress granting access to all the parcel owners and their occupants, agents, employees, guests, services and emergency vehicles.

2. Utility Easement. The Roadway Property shall be subject to a perpetual, nonexclusive public utility easement for the purpose of permitting above and below ground public utilities to be installed and maintained.

3. Common Irrigation System Access and Use Easement. The owners of the subject property hereby grant to the Subdivision Home Owners Association a perpetual, nonexclusive irrigation utility easement for the purpose of locating above and below ground an irrigation system consisting of pump house, catchment and lines to distribute over, under and through the subject parcels pressurized irrigation water for use by the owners on their separate parcel. Owners of the property are responsible for the costs of maintaining their individual irrigation systems once the common irrigation system water is brought to their respective lots. The pump house and catchment (cistern or other impoundment) is to be located within Lot 1 of the Subdivision with

the irrigation delivery lines located along each side of the roadway located generally within twenty (20) feet roadway running along the roadway to each of the subdivision parcels.

4. Road Agent. A Road Agent shall be elected by a majority of the property owners that are member of the Subdivision Home Owners Association (the “Association”) , and, will serve a term as agreed to by the Association members, and can be replaced or renewed at any time by a simple majority vote of the Association members. The Road Agent shall be responsible for monitoring the condition of the road surface and initiating maintenance activities as needed to maintain the minimum road surface standards. Further duties of the Road Agent shall be to monitor the condition of the common irrigation system and initiate maintenance or repair activities needed to maintain the delivery of irrigation water to all of the parcels.

5. Road Maintenance and Irrigation System Maintenance. Road maintenance and road improvements will be undertaken and made whenever necessary to maintain the road in good operating condition at all times and to insure the provision of safe access by users and emergency vehicles. A majority vote of Association members is required for any road improvements and to accept the bid for any road improvement contract. Before authorizing expenditures for future road improvements, Association members will be notified by the Road Agent, cost estimates will be provided, and a majority agreement will be required. If any parcel owner (Association member) performs improvements, maintenance, repairs or replacements without the approval of the other Association members prior to performing such work, the lot owner performing such work shall become liable for the entire cost thereof, unless such work is deemed an emergency. Before authorizing expenditures for the replacement of the irrigation system the Association members will be notified by the Road Agent, cost estimates will be provided, and a majority agreement will be required before undertaking a replacement of the common irrigation system.

6. Parking. For the safety of the residents, no machinery, trailers, vehicles or other property may be stored or parked upon the Private Road except parking of vehicles for limited periods of time (not to exceed twelve hours).

7. Cost Sharing. Road maintenance and road improvement costs and common irrigation system costs shall be shared equally on a per lot basis for each parcel owner sharing equally between the parcel owners sharing access to the above mentioned road and use of the common irrigation system.

8. Prepayment. Prepayment of maintenance and improvement costs will be made to the road maintenance account by each property owner. Annually, on or before a date as specified by the Road Agent, each parcel owner will contribute the sum of three hundred dollars (\$300.00) their pro-rated share of the estimated annual cost for road maintenance and road improvements. The Road Agent shall send each parcel owner a two week notice of the annual payments due.

9. Definition of a Parcel. A parcel is defined as a land entity having a certified survey map (CSM), a platted subdivision lot number, or a parcel identification number in the case of unplatted lands. Each parcel is assessed and granted (1) vote regardless of the number of owners. If a parcel is owned by more than one person, all of the owners of the parcel will collectively be

referred to as the “parcel owner” for purposes of this Agreement, and will be entitled to one collective vote (i.e. each parcel represents one vote in the matters covered by this Agreement).

10. Future Parcels. Any additional parcels gaining access to the Private Road by way of splitting existing parcels will be bound by all terms and conditions of this agreement, and will be required to pay that portion of the maintenance and improvement costs incurred after the split as determined using the formula contained in Paragraphs No. 7 and No. 8 above. If any additional parcels are created after the original Private Road Maintenance Agreement is signed, the new parcel owners must also sign the agreement. When a parcel is being sold on a land contract, the land contract vendee shall be deemed the owner of record.

11. Checking Account. The Road Agent shall establish and maintain a bank checking account with a local bank, and will prepare and distribute to the herein affected parcel owners an annual income and expense report and a year-end balance sheet, accounting for all funds received and disbursed.

12. Effective Term. This Agreement shall be perpetual, and shall encumber and run with the land as long as the road or common irrigation system remains private.

13. Binding Agreement. This Agreement shall be binding upon the parties hereto, their respective heirs, executors, administrators and assigns.

14. Amendment. This Agreement may be amended only by two-thirds majority consent of all parcel owners and as governed by the Association’s Bylaws.

15. Enforcement. This Agreement may be enforced by a majority of parcel owners. If a court action or lawsuit is necessary to enforce this Agreement, the party commencing such action or lawsuit shall be entitled to reasonable attorney fees and costs, if the party prevails.

16. Disputes. If a dispute arises over any aspect of the improvements, maintenance, repair or replacement, a third party arbitrator shall be appointed to resolve the dispute. The decision of the arbitrator shall be final and binding on all of the lot owners. Contact information for local arbitrators can be obtained through the American Arbitration Association. In selecting a third party arbitrator, each lot shall be entitled to one vote, and the nominee receiving a majority of the votes shall be the arbitrator. All parties shall share in the cost of any arbitration.

17. Notices. Parcel owners under the Agreement shall be notified by mail or in person. If an address of a parcel owner is not known, a certified notice will be mailed to the address to which the parcel owner’s property tax bills are sent.

18. Invalidity. Should any provision in this Agreement be deemed invalid or unenforceable, the remainder of the Agreement shall not be affected and each term and condition shall be valid and enforceable to the extent permitted by law.

19. Other Agreements. This Private Road Maintenance Agreement replaces all previous Private Road Maintenance Agreements regarding the described Private Road.

20. Recording This Document. Original and amended copies of this document, including added signatures, shall be recorded and provided to the Ada County Recorder's office by the Road Agent.

Signed,

David Callister

Date