AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Amended Covenants; Horse Meadows Subdivision

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Request from Jacob With, Law of the Rockies, representing the Horse Meadows HOA, to amend and restate Horse Meadows Subdivision Covenants

Fiscal Impact:

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 9/28/2018

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok db 9/28/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 9/28/2018 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 9/28/2018

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 5 minutes

Agenda Date: 10/2/2018

Revised April 2015

HORSE MEADOWS SUBDIVISION
AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS

The Horse Meadows Subdivision Homeowners Association, a Colorado nonprofit corporation, a/k/a Horse Meadows Homeowners Association and the undersigned owners, being the Owners of 75% or more of the Lots in the Property, hereby amend and restate the Declaration of Protective Covenants of Horse Meadows Subdivision (the "Original Covenants"), pursuant to Section 12.2 of the Original Covenants, in their entirety as follows:

ARTICLE 1: Dedication

Section 1.1. Property Dedicated. Horse Meadows Subdivision Homeowners Association, a Colorado nonprofit corporation a/k/a Horse Meadows Homeowners Association and the undersigned owners hereby make, declare, and establish the following covenants, restrictions and easements which shall be binding upon and affect the real property more particularly described as:

Horse Meadows, according to the plat thereof recorded in the real property records of Gunnison County, Colorado as Reception No. 571788.

(the **"Property"**)

Section 1.2. Dedication. This Declaration of Protective Covenants (the "Covenants") shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in or to the Property or any Lots, tracts, or parts thereof, their heirs, successors and assigns and their tenants, employees, guests, agents and invitees and shall inure to and be for the benefit of each Owner of the Lot within the Property. These Covenants are imposed for the benefit of all Owners and all future owners of Lots and areas located within the Property and to provide for the preservations of values of the Property and to provide and preserve the covenants, easements, restrictions, assessments, liens and all other matters set forth in the Covenants, all of which are for the benefit of the Property.

Article 2: Definitions

Section 2.1. "Act" means the Colorado Common Interest Ownership Act as set forth at C.R.S. § 38-33.3-101, *et seq.* as amended.

Section 2.2. "Assessments" shall mean such regular, annual, periodic, special, default, or delinquent assessments as levied pursuant to these Covenants and the Act by the Association.

Section 2.3. "**Association**" means the Horse Meadows Subdivision Association, a Colorado nonprofit corporation.

Section 2.4. "Association Documents" means these Covenants, the Regulations, the Articles of Incorporation for the Association, the bylaws for the Association and any other resolution passed by the Board.

Section 2.5. "Board of Directors" or "Board" shall mean the Board of Directors of the Association duly elected and acting according to the Association Documents.

Section 2.6. "Common Area" means all of the real property and improvements shown on the Plat except for the Lots, including without limitation all areas labeled on the Plat as "Open Space".

Section 2.7. "Common Expenses" means expenditures made or liabilities incurred by the Association.

Section 2.8. "Improvement" means any fence, pavement, curb, excavation, dirt moving, road construction, poles, plantings, hedges, walls, lakes, recreational facilities, signs, decks, patios, porches, awnings, enclosures, grading, removal of trees, berm, gate, post, pillar, shed, house, garage, barn, any and other form of building, structure or other development and also includes any alteration of any exterior of any existing building or structure.

Section 2.9. "**Lots**" means collectively the Lots shown on the Plat. The term "**Lot**" means any one of the Lots.

Section 2.10. "Owner" means the owner or owners of a Lot.

Section 2.11. "Plat" means the plat of Horse Meadows recorded in the real property records of Gunnison County, Colorado as Reception No. 571788.

Section 2.12. "Regulations" shall mean such rules, regulations, policies and procedures as may be adopted and amended by the majority vote of the Board. The Regulations may not directly contradict these Covenants, but may further define or expound upon these Covenants and may resolve any ambiguity or uncertainty in these Covenants. To the fullest extent permitted by law, the Regulations shall be interpreted in a manner harmonious with these Covenants.

ARTICLE 3: Planned Community Provisions

Section 3.1. Provisions Required By The Act. The name of the common interest Community is the Horse Meadows Subdivision. The Horse Meadows Subdivision is a planned Community. The Horse Meadows Subdivision is located in Gunnison County, Colorado. The Lots are more particularly described on the Plat, which is incorporated herein by this reference. The Owners of each Lot shall have 1 vote in the Association and shall have responsibility for an equal share of the Common Expenses. Accordingly, each Lot's Owners have 1/10th of the vote in the Association and are responsible for 1/10th of the Common Expenses. All recorded easements, licenses, and similar matters are set forth on the Plat. The Horse Meadows Subdivision are subject to the Act and the Association is entitled to exercise all rights, privileges, powers granted to associations under the Act and any other Colorado law. The Association is the Owner of the Common Area. The President of the Association may sign any amendment to these Covenants on behalf of the Association. Notice of any matters affecting the common interest community may be given to Owners by the Association by posting the same at the entrance to the subdivision or by emailing the same to the most current email address on file for the Owner with the Association or by mailing the same to the current address of the Owner with the Gunnison County Assessor.

Section 3.2. Association Membership. Every person or entity holding an ownership interest in any Lot, and by whatever means acquired, shall automatically become a member of the Association (hereinafter, "Member"), in accordance and in compliance with these Covenants, the articles of incorporation for the Association, and the bylaws for the Association. If ownership of any Lot is jointly held or held in any sort of fractional ownership, then the appertaining membership shall also be jointly held. Notwithstanding the foregoing, however, there shall not be more than one membership for each Lot. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 3.3. Voting. All voting rights of the Association shall be exercised by the Members, each membership being entitled to one (1) vote for the appertaining Lot. If a membership is jointly held, all holders are entitled to participate in the affairs of the Association, but must act unanimously with respect to any vote to be cast for their membership. If the holders of a membership interest that is jointly held fail to act unanimously, they will be treated as having abstained. The Association shall be entitled to presume that the vote, if properly cast, is the united expression of such joint owners, and shall not be required to otherwise inquire as to the authority of any one joint holder to act on behalf of the others. Any designation of a proxy to act for joint holders of a membership must be signed by all such holders.

Section 3.4. Regulation. The Regulations shall contain such matters as are required by the Act and set forth such matters regarding the use of the Common Areas and the Lots as the Board believes appropriate. Specifically, but without limitation, the Regulations may include rules, regulations, policies and procedures regarding hazardous activities, nuisances, noise, pets, parking, trash, debris, landscape maintenance, residence, garages, and accessory building maintenance, lighting, yard maintenance, junk, use of Common Areas and easements, home

occupations, commercial activities, short term rentals, leases, marijuana cultivation and use, smoking, installing and maintaining of Improvements, and business enterprises. The Regulations may define such uses and prohibit them, in whole or in part, on Common Areas and on Lots or may define such uses and permit them upon such terms, conditions, obligations and provisions as the Board believes in the best interests of the Association; provided, however, that such Regulations must be consistent with these Covenants. The Regulations shall also address matters such as enforcement of the Association Documents, imposition of fines, collection of Assessments, and reserve studies and funding. All Owners shall be bound by and comply with the Regulations. All Owners shall be responsible for, and liable to the Association for, any violation of the Association Documents by such Owner and such Owner's agents, guests, invitees, tenants, lessees, contractors, and employees.

ARTICLE 4: Specific And Limited Uses

Section 4.1. Residential Use. The use of the Lots and the remainder of the Property shall be limited to those uses permitted by the Regulations provided, however, that the Property, including the Lots, shall be used for single family residential use except for home occupations permitted by Gunnison County, Colorado and the Regulations. In addition, no Lot may be used for any purpose not approved by Gunnison County as is required in Article 9.

Section 4.2. Animals. Each Owner shall be permitted to have not more than two dogs and two cats; provided, however, that the Board of Directors of the Association may allow a greater number upon a showing of good cause. No vicious animals shall be permitted. Fish and other, similar confined pets that will not be out doors at any time are permitted without numerical limitation. Each Owner shall be entitled to keep and maintain horses or livestock animals, including cows, goats, and sheep, on the Owner's Lot provided that all Lots and animals must be maintained in accordance with grazing standards and practices established in the Regulations or, in the absence of any such provisions in the Regulations, in accordance with the practices and recommendations of the Natural Resources Conservation Service or any successor entity thereto. Notwithstanding the foregoing, however, a minimum stubble height as required by Gunnison County is set forth in Article 9 below.

Section 4.3. Specific Prohibitions. The following uses are not permitted by any Owner, including any guest, invitee, licensee, or renter of any Owner, on the Property including on or at any Lot:

a. Posting of any signs other than for sale signs.
b. Installing any exterior lighting or other exterior improvement without approval of the Association or that otherwise is not in compliance with the Gunnison County Land Use Resolution in effect at the time such lighting is first installed.
c. Making any modifications to any Common Area without Association approval.

d. Engaging in any activity or otherwise permitting any offensive noise, which may be further defined by the Association.
e. Parking any abandoned vehicle, which may be further defined by the Association, but shall mean at a minimum any vehicle which has not been driven under its own propulsion for a period of four months or longer.
f. No Improvement or other use of any Lot may be made that violates the Gunnison County Land Use Resolution in effect at the time the Improvement or use is first adopted.

ARTICLE 5: Assessments And Financial Liability

Section 5.1. Creation of Lien. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any deed, is deemed to covenant and agree to pay to the Association: (1) all regular assessments or charges; (2) special assessments and charges; (3) default assessments or charges; (4) late fees, returned check charges, default interest; (5) attorney's fees and costs; and (6) fines imposed against such Owner. All of such amounts shall be fixed, established and collected as determined by the Association. All of such amounts and any other amounts that the Association is entitled to recover against an Owner under the Act or other law shall be a charge and continuing lien upon the Lot against which such assessment is made or that such Owner may own, whichever may be applicable. The Association shall have a lien against each Lot to the fullest extent permitted and provided for by the Act. Such liens shall have the priority provided by the Act and shall be prior and superior to all other liens and interests in the Lots to the fullest extent permitted by law. The recordation of the Original Covenants perfected the Association's lien for Assessments and nothing further shall be required to perfect the Association's lien for assessments.

Section 5.2. Purpose of Assessments. All assessments shall be levied for purposes permitted under Colorado law, including without limitation: maintenance of Common Areas, repair of Common Areas, snow removal from Common Areas, costs and expenses pertaining to the operation of the Association in the performance of its duties, legal fees, accounting fees, manager fees, and any other expense, fee, cost, obligation, debt or liability incurred by the Association upon approval of the Board.

Section 5.3. Regular Assessments. Regular Assessments shall be imposed based upon an annual budget adopted by the Association all as provided by the Act.

Section 5.4. Special Assessments. Special Assessments shall be imposed as provided by the Act and for unbudgeted or unforeseen expenses or for those matters not adequately budgeted for. Any special assessment in excess of $20,000.00 shall be approved by the Members at a meeting called for such purpose.

Section 5.5. Default Assessments. All fines imposed against an Owner by the Association shall be a default assessment. Any expense of the Association which is the obligation

of an Owner or which is incurred by the Association on behalf of the Owner shall be a default assessment.

Section 5.6. Nonpayment of Assessments. Any assessment, whether regular, special or default, which is not paid within thirty days of its due date shall be deemed delinquent. All delinquent assessments shall bear interest at 18% per annum. A late charge of 10% of the delinquent amount shall be charged on all delinquent assessments. The Association shall have all powers of collection and enforcement provided and permitted by law, including without limitation the power to collect delinquent assessments through judicial foreclosure of the lien created by these Covenants, through personal judgment against such delinquent Owner, through referring an account to a collections agency, through the filing of a statement of lien against a delinquent Owners' Lot in the Gunnison County, Colorado Clerk and Recorder's Office, and through such further actions as an association is entitled to take upon compliance with the Act.

Section 5.7. Liability for Assessments. In addition to the personal obligation of each Owner of a Lot to pay all assessments and the Association's lien on a Lot for such assessments, all successors to the ownership of a Lot shall be jointly and severally liable together with the prior Owner or Owners for any and all unpaid assessments, penalties, interest, costs, charges, expenses, attorneys' fees and other amounts secured by such lien.

Section 5.8. Waiver; Indemnification. Each Owner individually and for their family members, owners, and their agents, employees, tenants, guests and invitees expressly covenants and agrees that no cause of action nor claim of any kind shall lie or be taken against the Association, or the members of the board of directors of the Association or the duly appointed representative(s) or agent(s) of said Association for any personal injury, property or other economic damage arising from or in connection with the use of the Common Area by any person, or of any property within the Property unless caused by an intentional or reckless act or omission of the Association. Furthermore, notwithstanding any other provision of these Covenants or any other document of the Association, to the fullest extent permitted by law the Association shall not be liable for any injury, death or damages suffered within a Lot or the Common Area. Each Owner agrees to indemnify and hold the Association harmless from any and all claims, causes of action, debts, damages, demands and liabilities arising out of or relating to the Owner's use of the Common Area, including use of the Common Area by the Owner's guests, except to the extent that such claims, causes of action, debts, damages, demands and liabilities arise out of the Association's intentional or reckless misconduct.

ARTICLE 6: Enforcement of Covenants

Section 6.1. Violations Deemed a Nuisance. Every violation of the Association's Documents, including without limitation these Covenants and the Regulations, shall be deemed to be a nuisance and is subject to all the remedies provided by law for the same, including without limitation abatement thereof.

Section 6.2. Failure to Comply. An Owner's failure to comply with any of the Association's Documents shall be grounds for the imposition of a fine in accordance with and pursuant to the Regulations, an action to recover damages, or for injunctive relief or for specific performance, or any of them.

Section 6.3. Who May Enforce. Any action for the enforcement or interpretation of these Covenants may be brought by the Association in the name of the Association and on behalf of the Owners, and by the Owner of any Lot.

Section 6.4. No Waiver. The failure of the Board, the Association, or any Owner to enforce or obtain compliance as to any violation shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

Section 6.5. **Attorney Fees.** The entitlement and recovery of attorney fees arising out of or relating to any fine process or court action for the enforcement or interpretation of any of the Association Documents shall be as set forth in the Act and, in the absence of any contrary provision in the Act: (i) the Association shall be entitled to recover all attorney fees and costs of collection incurred in collecting Assessments, (ii) the Association shall be entitled to recover all attorney fees and costs of collection incurred, regardless of whether any action is commenced in any court, in enforcing any of the Association Documents or disputing any provisions thereof with any owner, and (iii) in the event of any legal action or arbitration to interpret or enforce any of the provisions of any of the Association Documents or to restrain the violation of any of the Association Documents, whether judicial, nonjudicial or administrative, the prevailing party shall be awarded all reasonable costs, fees and expenses incurred by it in such action, including all reasonable attorneys' fees that it may incur.

ARTICLE 7: Association Duties and Powers

Section 7.1. Association Duties. The Association shall be responsible for all upkeep, repair and replacement of the Common Area and shall maintain adequate insurance on the same. The Association shall be responsible for all upkeep, repair and replacement for all utilities and other improvements located outside of the Lots. The Association shall be responsible for all snow removal from Sydney Court. The Association shall be responsible for all maintenance and improvement of Sydney Court. Sydney Court shall be maintained by the Association such that, at a minimum, it can be utilized by emergency vehicle and common parcel delivery services in the area such as Fed Ex.

Section 7.2. Association Powers. Subject to the specific provisions of these Covenants and the bylaws of the Association, the Association may:

A. Adopt and amend bylaws, policies, procedures and rules and regulations, including a schedule of fines and enforcing the same through a fine process promulgated by the

Association;

B. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for Common Expenses;

C. Hire and terminate managing agents and other employees, agents, and independent contractors;

D. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or on behalf of owners of the Lots;

E. Make contracts and incur liabilities;

F. Regulate the use, maintenance, repair, replacement, and modification of the Common Area;

G. Cause additional improvements to be made as a part of the Common Area;

H. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except that the Common Area may be conveyed or subjected to a security interest only pursuant to law;

I. Grant easements, leases, licenses, and concessions through or over the Common Area;

J. Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Area;

K. Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated;

L. Impose reasonable charges for the preparation and recordation of amendments to these Covenants or statements of unpaid assessments;

M. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

N. Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association;

O. Obtain and maintain insurance on the roof and other general Common Area not a part of a Lot, with such insurance costs being divided by building for any insurance that is for a given building;

P. Adopt and amend rules, regulations, policies and procedures regarding domestic or other pets and livestock, subject to such limitations as may be imposed by any other governing entity; and

Q. Exercise any other powers necessary and proper for the governance and operation of the Association.

Section 7.3. Owner Duties. Each Owner shall maintain his or her Lot in good condition. Each Owner is responsible for maintaining the exterior of any residence on the Lot in good condition. The term "good condition" shall mean that the residence is maintained in such a manner that it is suitable for habitation and in good repair. Visibly faded or cracked exterior elements are not in good repair. Leaking roofs are not in good repair. Broken windows are not in good repair. Visibly faded siding is not in good repair. Each owner shall be responsible for immediately picking up after any pets. Any exterior remodeling or changes in material or color must first be approved by the Association, which shall establish its own rules, regulations, policies and procedures governing such design improvements as well as any other architectural matters.

ARTICLE 8: Architectural Matters

Section 8.1. No Unapproved Improvements. No Improvement shall be erected, maintained, constructed, excavated, or otherwise put in place, allowed, accomplished or occur on any Lot unless and until approved by the Board in writing.

Section 8.2. General Requirements. No building or structure, except fencing and driveways, may be located outside of the building envelope for each Lot as shown on the Plat. All buildings and structures must be harmonious with the natural environment. All buildings and structures, with the exception of roofs, should be primarily natural wood and earth colors. All buildings and structures should be constructed in accordance with all applicable building and fire codes. No basements are permitted on any building or structure. All buildings must be harmonious with existing buildings within the subdivision. The maximum height of any building or structure shall be 30 feet; provided, however, that chimneys, flag poles and similar architectural features may extend above the height limit a distance of not more than 25% of the height of the building or structure. Height shall be measured from the natural grade of the footprint of the building or structure to its highest point. The Board may promulgate, enact, and amend as part of the Regulations design guidelines that shall further restrict, require, or otherwise govern architectural matters within the Property.

Section 8.3. Submission of Application. Any Owner seeking to erect, maintain, construct, excavate or otherwise put in place or allow any Improvement on his or her Lot shall first submit plans for the Improvement to the Board. Such plans shall include a drawing for the Improvement together with samples of all exterior materials and finishes and colors if applicable (collectively, the **"Application"**). The Application for any residential structure shall include: (i) an electronic copy of a site layout including the driveway and location of the residence as situated within the building envelope, (ii) an electronic copy of a complete set of engineered plans for the residence, and (iii) samples of all exterior finishes, including roofing and siding as well as any other exterior elements.

Section 8.4. Approval. The Board shall, within 30 days of receipt of a complete Application, approve or disprove the Application in writing. If the Application is not approved, the Board shall provide a short statement explaining why it is not approved. If the Board fails to respond to a complete Application within 30 days of receipt of the complete Application, the Application shall be deemed approved. Notwithstanding any of the foregoing, no Application shall be approved if the Application or Improvements constructed pursuant to the Application do not fully comply with the applicable fire code, building code and Gunnison County Land Use Resolution in effect at the time of submission of the complete application.

Section 8.5. Recreational Vehicles. No mobile homes shall be permitted. No more than one each of a camper, trailer house, travel trailer, recreational vehicle, boat, snowmobile, trailer, bicycle, or motorcycle shall be permitted on any Lot unless contained within an enclosure such that it is not visible from adjacent Lots. No trailer house, camper, travel trailer, or recreational vehicle shall be used on any Lot; provided, however, that a camper, travel trailer or recreational vehicle may be used on any Lot for a period of time not to exceed a total of 30 days per year per Lot.

Section 8.6. Continuity of Construction. All construction, reconstruction, alterations, or improvements shall be prosecuted diligently to completion and shall be completed within eighteen months of the commencement thereof, unless an extension is granted by the Board for good cause.

Section 8.7. Partition of Lots. No Lot may be further subdivided or partitioned.

ARTICLE 9: Provisions Required By Gunnison County

Section 9.1. Fence-Out; Ditches. A property owner is required to construct and maintain fencing in order to keep livestock off his/her property. An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the same, and may leave natural debris on the bank.

Section 9.2. Confinement Of Animals. All cats shall be confined indoors at all times. Dogs shall be kept under control at all times, including through kennels, leashes, and other forms of effective restraint.

Section 9.3. Corral Setback. There shall be a 50 foot setback from property lines to corrals.

Section 9.4. Stubble Height. Notwithstanding any other provisions of these Covenants, a minimum stubble height of four inches must be maintained on the entirety of all pasture areas in the subdivision.

Section 9.5. Water Rights; Irrigation. The water rights are to be owned and maintained by the Association, which shall hire or otherwise retain an irrigator for the entire subdivision. The water rights are more particularly described on Exhibit B to the Original Covenants, which is incorporated herein by this reference.

Section 9.6. Dry Hydrant. The Association is required to maintain a dry hydrant with year-round access.

Section. 9.7 Sewage And Wells. The resolution approving the land use change for Horse Meadows Subdivision as recorded in the real property records of Gunnison County, Colorado at reception number 570721 requires that septic systems comply with certain recommendations, be inspected at least once every five years, and that wells are tested annually with copies of test reports provided to Gunnison County Environmental Health. Owners are required to ensure that they are fully in compliance with all requirements of Gunnsion County relating to any individual sewage disposal systems and well testing or monitoring.

Section 9.8 Weed Management. Owners and the Association are required to comply with a weed management plan that addresses the current weed management concerns in the community in accordance with the then modern practices. The weed management plan may be adopted and revised by the Board of Directors of the Association after consulting with the appropriate weed management coordinator for Gunnison County. In the absence of any other plan, the weed management plan shall be as set forth in Exhibit C to the Original Covenants, which is incorporated herein by this reference.

Section 9.9 Enforcement By County. Gunnison County may enforce the provisions of these Covenants.

Section 9.10 Use. No Lot may be used for any purpose that was not approved by Gunnison County in its Resolution Approving Land Use Change Permit No. 2004-18 as recorded

at reception number 570721 of the Gunnison County, Colorado real property records unless approval is obtained from Gunnison County and the Association.

Section 9.11 Lighting. All exterior lighting must comply with the requirements of Gunnison County at the time of installation. All exterior lighting fixtures shall be full cutoff, fully-shielded, shielded by roof elements, or effectively recessed.

Section 9.12 Roofing. No roof shall contain untreated cedar wood shake shingles or other combustible roofing material.

Section 9.13 Solid-Fuel Burning Devices. Only one solid-fuel burning device shall be permitted per residence. All solid-fuel burning devices must comply with all applicable requirements of the Gunnison County Land Use Resolution and any applicable fire code and/or building code at the time of installation.

ARTICLE 10: Duration; Amendment

Section 10.1. Duration. These Covenants shall be perpetual in duration.

Section 10.2. No Waiver. The conditions, restrictions, stipulations, agreements and covenants herein contained may not be waived, abandoned, terminated or amended except upon the approval of the Association and the Owners of the Lots.

Section 10.3. Amendment. These Covenants and the Plat may be amended only in accordance with the provisions for amendment set forth in the Act and such amendment shall be effective against the holders of mortgages and holders of deeds of trust encumbering the Lots, notwithstanding the fact that such holders have not approved such amendment. No amendment may be made to any of the provisions or sections of Article 9 or this section without the written approval of the Board of County Commissioners of Gunnison County.

ARTICLE 11: MISCELLANEOUS

Section 11.1. **Construction.** These Covenants, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of these Covenants is determined to be invalid, unenforceable or prohibited by any court, the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 11.2. Plural and Singular. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the

singular and the use of any gender shall include all genders.

Section 11.3. Jurisdiction. The exclusive proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of these Covenants or the Plat shall be the County Court or District Court of Gunnison County, Colorado.

Section 11.4. Conflicts. In the event of any conflict between these Covenants and the Plat, these Covenants control and prevail.

IN WITNESS WHEREOF, the Horse Meadows Subdivision Homeowners Association, a Colorado nonprofit corporation a/k/a Horse Meadows Homeowners Association and the undersigned owners, being the Owners of 75% or more of the Lots in the Property have adopted this amended and restated declaration of protective covenants as of the _____ day of _____, 2018.

Horse Meadows Subdivision Homeowners Association,
a Colorado nonprofit corporation a/k/a Horse Meadows Homeowners Association

By: _____
Karen Stock, its President

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this ___ day of _____, 2018, by Karen Stock as President of Horse Meadows Subdivision Homeowners Association, a Colorado nonprofit corporation a/k/a Horse Meadows Homeowners Association**.**

Witness my hand and official seal.
My commission expires: _____.

_____
Notary Public

[OWNER APPROVAL ON FOLLOWING PAGES]

OWNER APPROVAL: The undersigned hereby approves and ratifies and confirms the above Horse Meadows Subdivision Amended and Restated Declaration of Protective Covenants:

_____ _____

Signature Date

_____

Printed Name

Lot Number: _____

APPROVAL OF HORSE MEADOWS SUBDIVISION
AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted on this ____ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Phil Chamberland,
Chairperson

ATTEST:

_____
Gunnison County Clerk and Recorder